



Fact Sheet – Joint Venture Arrangements

The Scheme

The Work Health and Safety Accreditation Scheme (the Scheme) operates such that only builders who are accredited under the Scheme can enter into head contracts for building work that is funded directly or indirectly by the Commonwealth or a corporate Commonwealth entity, subject to certain thresholds. Refer to fact sheets on directly and indirectly funded building work for a full explanation of Scheme thresholds.

What is a joint venture?

The *Building and Construction Industry (Improving Productivity) (Accreditation Scheme) Rules 2019* (the Rules) define a **joint venture** as being:

an unincorporated enterprise that is constituted by two or more persons in common and in which:

- a) *each member is not an individual; and*
- b) *at least one member is an accredited person and at least one member is not an accredited person.*

Who requires accreditation in a joint venture?

The head contractor(s) conducting 'building work' in joint venture arrangements require Scheme accreditation.

How can an unaccredited builder be part of a joint venture?

Section 26(g) of the Rules provides for an unaccredited builder to enter into contracts for projects funded by the Commonwealth or a corporate Commonwealth entity, as part of a joint venture arrangement with an accredited builder, subject to specific requirements being satisfied.

Requirements of section 26(g)

If some, or all, of the building work is to be carried out by an unaccredited builder, the joint venture must provide the following information and undertakings to the Federal Safety Commissioner (FSC) before entering into a contract:

- Details of the joint venture partners and the project they are seeking to contract.
- The accredited member in the joint venture arrangement must provide undertakings, in writing, to take full responsibility for Work Health and Safety for the life of the project and that the building work will be carried out in accordance with its WHS Management System (WHSMS) for the life of the project.
- The other builder(s) in the joint venture is required to provide undertakings, in writing, that it will carry out the building work in accordance with the accredited builder's WHSMS for the life of the project and that it will participate fully in any audit of the accredited member's WHSMS and its implementation on site.

Upon receipt of the above information the FSC will confirm the requirements of section 26(g) have been met and provide a written confirmation to the joint venture members.

Please note, joint ventures are required to provide undertakings to the FSC for each project they are seeking to enter into contract for.

When should section 26(g) undertakings be submitted?

The Rules specify that the FSC must be given copies of the undertakings before a contract is entered into.

Assessing if the undertakings have met the requirements of section 26(g) is a relatively quick process (often within 1 – 2 weeks); however, companies are encouraged to contact the OFSC as soon as the possibility of tendering for a Scheme project as part of a joint venture becomes apparent, to allow the maximum amount of time to complete the process.

Is there a prescribed format for section 26(g) documentation?

There is no prescribed format for documentation and written undertakings relating to section 26(g) requirements. However, evidence, statements or undertakings against each of the requirements of section 26(g) must be included.

Are there any general requirements for joint ventures?

When an accredited company, as part of a joint venture, enters into a contract for a Scheme project, it is required to contact the Office of the Federal Safety Commissioner (OFSC) with the following information:

- The entity's name.
- The project being undertaken.
- Any companies that are party to the joint venture who are carrying out building work (as defined in section 6 of the Act).
- Details of the WHSMS in place on the project.

Reporting and auditing responsibilities

Joint ventures vary in composition and complexity and the OFSC will determine reporting and auditing arrangements on a case by case basis.

For further information:

- Visit the FSC website at www.fsc.gov.au
- Contact the FSC Assist Line on **1800 652 500**
- Contact the OFSC via email at ofsc@jobs.gov.au

This fact sheet was last updated 16 January 2020. The OFSC has prepared this fact sheet for general information only, and it does not replace professional advice. This fact sheet is derived from a variety of sources and has been prepared without taking into account your individual objectives, situations or needs. You should consider your personal circumstances, and if appropriate, seek independent legal, financial or other professional advice before acting. The OFSC has endeavoured to ensure the currency and completeness of the information in this fact sheet at the time of publication; however, this information may change over time. The OFSC expressly disclaims any liability caused, whether directly or indirectly, to any person in respect of any action taken on the basis of the content of this fact sheet.