

SUMMARY

OF THE OHS REGULATION 2001



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It must be noted that while this document summarises the provisions of the Regulation it is not intended to be used as a substitute for the Regulation, is not a legal document and does not cover every Clause of the Regulation. Employers and others who have responsibilities under the *Occupational Health and Safety Act 2000* should consult the full Regulation to determine their OHS obligations and responsibilities.

1 INTRODUCTION

Introductory comments

The *Occupational Health and Safety Regulation 2001 (the Regulation)* aims to support the *Occupational Health and Safety Act 2000* in achieving reductions in the incidence of workplace injuries and disease. It replaces all regulations made under the *Occupational Health and Safety Act 1983*. It also replaces the *Construction Safety Act 1912* and all its related regulations and a number of regulations made under the *Factories, Shops and Industries Act 1962*. Much of the legislation being replaced is outdated and overly prescriptive.

The Regulation adopts a performance-based approach to occupational health and safety whilst maintaining prescribed controls in highly hazardous areas. The removal of overly prescriptive provisions from *the Regulation* is consistent with government policy for more efficient regulation established by the Regulatory Review Unit of the NSW Cabinet Office¹.

The best practice approach requires that regulatory proposals:

- have clear objectives and focus only on fixing identified problems;
- regulate ends not means;
- minimise the number of government agencies involved;
- promote certainty through clearly stated criteria for the assessment of applications for approvals, permits, licences, etc and publicly indicated timeframes for the assessment process;
- are simple for users to understand;
- are easy to enforce;
- have a high voluntary compliance rate;
- are subject to regular review;
- do not restrict competition;
- maximise benefits and minimise costs;
- use commercial incentives rather than command and control rules, for example by:
 - information provision
 - encouraging quality assurance backed up by a statute only where necessary
 - providing accessible legal remedies so that consumers, rather than government, can act to enforce their rights without prohibitive costs
 - shifting risk management from government to the private insurance market.

¹These policy requirements were established by the Regulatory Review Unit of the NSW Cabinet Office for NSW agencies and are set out in the publication *From Red Tape to Results – Government Regulation: A Guide to Best Practice*.

These best practice requirements also reflect the Council of Australian Governments *Principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standard Setting Bodies*.

Furthermore, *the Regulation* emphasises a risk management approach. Under this risk management approach, there is a legal requirement to manage risks in the workplace. The risk management approach is described in Chapter 2 of *the Regulation*.

Purpose of this document

This document presents a summary in simple terms of the main provisions of *the Regulation*. It briefly describes in plain English what each chapter of *the Regulation* is about and outlines key responsibilities and requirements for managing risks in, or related to, the workplace. The purpose of this Guide is to direct the reader to areas of interest in *the Regulation*.

Penalty levels

Penalty levels apply at various places in *the Regulation* for the purposes of determining the maximum penalty for an offence against a provision of *the Regulation*. These penalties are described as Level 1, 2, 3 or 4. The following levels of penalty apply and the maximum fine for each penalty level is set out in Clause 3(2) of Chapter 1 of *the Regulation*.

Level 1 – 20 penalty units

Level 2 – 30 penalty units

Level 3 – 100 penalty units

Level 4 – 250 penalty units

(A penalty unit currently equals \$110.)

Guidance material

In addition to the guidance material listed in the 'margin notes' to *the Regulation*, WorkCover has developed a range of new guidance material to assist employers and others to comply with the new provisions of *the Regulation*. Where applicable, new guidance material is listed at the end of the summary for each chapter. Information on transitional arrangements for implementation of the new provisions of *the Regulation* has been included in section 3 of this Guide. For copies of any documents referred to in this Guide or to find out about the full range of guidance material on occupational health and safety issues, contact WorkCover's Client Contact Centre by phoning 13 10 50 or by e-mail: contact@workcover.nsw.gov.au

2 SUMMARY OF THE OHS REGULATION 2001

Chapter 1 – Preliminary information

Chapter 1 sets out basic information about *the Regulation*. It describes the application of *the Regulation* and explains some important terms such as the meaning of 'control' of risks. It also includes a number of definitions that are commonly used throughout *the Regulation* and explains penalty levels.

Application

While *the Regulation* applies to all places of work, its application to mines is limited. The only provisions that apply to mines are Chapter 3 - Workplace Consultation, parts of Chapter 6 - Hazardous Substances (specifically Parts 6.1, 6.2 and 6.3) and parts of Chapter 12 - Miscellaneous (specifically Clauses 357 and 358 relating to notifications and administrative provisions). The *Mines Inspection Act 1901* and the *Coal Mines Regulation Act 1982* set out the health and safety requirements that apply to mines.

Meaning of 'control' of risks

The meaning of 'control' of risks provided in Chapter 1 is an important description. There is often confusion about what is meant by 'control' of risks. There is an obligation to control all risks to health and safety if it is not possible to eliminate them. Measures to minimise or control risks must be taken in the following order:

Substitution – use a less hazardous process, plant or substance to do the same work in order to eliminate or reduce the potential for injury or illness;

Isolation – separate the hazard from the person put at risk – this can be done with physical barriers, distance or time;

Engineering – minimise the risk by using engineering controls. Examples of these include

- using automatic controls or guarding on plant
- changing the design of the workplace and
- using extractive ventilation;

Administration – organise safer work practices, provide appropriate training, instruction and supervision and put systems in place to manage health and safety;

Personal Protective Equipment – this should not be solely relied upon and should only be used as a last resort to control risks.

These obligations are in addition to specific risk control measures mentioned in *the Regulation*.

A combination of the above-mentioned measures could be taken to minimise the risk to the lowest practicable level if no single measure is sufficient for the purpose.

The Regulation also covers instances where responsibilities are held by more than one person.

An example would be an employee of a labour hire company who carries out work at a host employer's workplace. In such instances each party retains responsibility for occupational health and safety matters and the responsibility is to be discharged in a co-ordinated manner.

Chapter 2 – Places of work - risk management & other matters

Chapter 2 requires employers and self-employed persons to adopt a risk management approach to managing workplace health and safety and is the foundation of *the Regulation*. It places obligations on employers to identify all foreseeable hazards in the workplace, assess the risks that these hazards pose to health and safety and to eliminate or control those risks.

Employers' responsibilities to provide training, supervision, personal protective equipment, first aid facilities and amenities for employees are outlined in this chapter. It also details requirements for employers and others to make arrangements for emergencies.

Chapters 4, 5, 6, 7 and 8 provide further details on mandatory risk controls. These further chapters build on the core obligations presented in Chapter 2. Where possible, the later chapters set performance standards rather than specifying particular control measures. Self-employed persons are also required to comply with these provisions.

Hazard Identification and Risk Assessment

An employer must identify hazards that could harm their employees or any other person at their workplace. If a hazard is identified, an employer must assess the risk that someone may be harmed by that hazard.

The Regulation identifies a number of factors from which hazards must be identified. These include the work premises, work practices and systems, shift working arrangements, plant, hazardous or biological substances, manual handling, the working environment and the potential for violence.

Employers must ensure that they have procedures in place to identify hazards at certain specific times – such as before new chemicals or plant are introduced into the workplace or before changes are made to work practices.

Risk Control

An employer must eliminate risks, or if this is not reasonably practical, control the risk to the fullest extent possible. When controlling risks for certain hazards, an employer must comply with the specific risk controls set out in Chapters 4 to 8. Personal protective equipment should only be used to minimise risks if there are no other practical ways to prevent an injury or disease.

In addition, Chapter 2 outlines the responsibilities of employers to:

- review risk assessments and control measures
- provide instruction, training and information
- provide supervision
- provide and maintain personal protective equipment
- obtain information
- provide for emergencies
- provide amenities
- maintain amenities and accommodation
- provide first aid facilities and personnel.

The chapter provides a list of items to be included in a first aid kit and classifies first aid kits into categories.

New Guidance Material

New guidance material relevant to Chapter 2 includes:

- WorkCover NSW Health and Safety Code of Practice for Risk Assessment.
- Workplace Safety Kit – this kit provides advice on how to implement a systematic approach to managing occupational health and safety.
- A Brief Guide to the Workplace Safety Kit.
- Small Business Health and Safety Starter Kit.
- WorkCover NSW Health and Safety Guide: Risk Management at Work.
- WorkCover NSW Health and Safety Guide: First Aid in the Workplace.
- WorkCover NSW Health and Safety Fact Sheet: First Aid in the Workplace – an example for small to medium businesses.
- WorkCover NSW Health and Safety Code of Practice: Workplace Amenities.

Chapter 3 – Workplace consultation

Chapter 3 of *the Regulation* expands on the new consultation requirements found in the *Occupational Health and Safety Act 2000*. It sets out procedures for the establishment and maintenance of consultation arrangements as well as for resolving matters that may present a risk to health and safety. Requirements for the provision of training for OHS committees and OHS representatives are also included in this chapter.

An employer must consult with their employees to enable the employees to contribute to the making of decisions affecting their health, safety and welfare at work. Such decisions would include changing work systems or practices, purchasing new plant or substances, undertaking risk assessments or introducing risk control measures.

Consultation involves providing employees with relevant information and giving them the opportunity to express their views. These views are to be valued and taken into account by the employer.

Consultation can take place through an OHS committee, an OHS representative or in accordance with other arrangements that have been agreed upon by the employer and the employees.

An important new principle to note is that OHS committees or OHS representatives are now elected to represent 'workgroups' rather than workplaces. A workgroup is the group of employees represented by a particular OHS committee or OHS representative.

Workgroups are to be determined in a way that ensures they effectively represent the employees in the workgroup and regular and meaningful communication is undertaken with those employees. The diversity of employees must be taken into account when determining workgroups. This means the employer must consider factors such as the hours the employees work, including shift work, the nature of the hazards, the location of the employees and the different types of work being undertaken.

Chapter 3 provides guidance on setting up consultation arrangements, the formation of OHS committees, the functions of OHS committees and OHS representatives and the training of committee members and OHS representatives. This chapter establishes a base for proactive action in occupational health and safety and incorporates workgroups in the decision-making process for matters related to occupational health and safety.

New Guidance Material

New guidance material relevant to Chapter 3 includes:

WorkCover NSW Health and Safety Code of Practice: OHS Consultation – this Code will assist employers and others to comply with the new consultation provisions of *the Regulation*.

Chapter 4 – Work premises and working environment

Chapter 4 sets requirements for managing risks found in work premises and the working environment. This includes all places of work, whether indoors, outdoors or mobile. The chapter outlines the general duties and obligations of controllers of premises to identify hazards arising from work premises, assess the risks posed by those hazards and to eliminate or control those risks.

Chapter 4 also places responsibilities on employers (including self-employed persons) to control risks arising from the working space, lighting, heat and cold, noise, the atmosphere, working at heights, fire and explosion, electricity and confined spaces.

An important distinction is made in this chapter between the 'controller' of work premises and the 'user' of those premises. This distinction gives rise to the structure of the chapter, which is in four parts.

- **Part 4.1** - deals with preliminary matters and the definition of certain terms that are used exclusively in Chapter 4. A definition for a controller of premises is provided.
- **Part 4.2** - deals with the responsibilities of controllers of premises in relation to hazard identification, risk assessment, risk control and the provision of general information with particular reference to fall prevention, electricity and asbestos installed in the workplace.
- **Part 4.3** - deals with the use of places of work and the responsibilities of employers in relation to working space, lighting, heat and cold, noise, atmospheric conditions, working at heights, electricity, the prevention of fire and explosion, and work in confined spaces.
- **Part 4.4** - deals with manual handling. This part sets out the responsibilities of employers to identify, assess and eliminate or control risks arising from all forms of manual handling. This includes moving animate or inanimate objects, the use of equipment and all forms of bodily movement.

New Guidance Material

New guidance material relevant to Chapter 4 includes:

- WorkCover NSW Health and Safety Code of Practice to Provide Practical Guidance to Meet the Obligations of the Occupational Health and Safety Regulation 2001 – this Code references a number of Australian Standards that are relevant in meeting the requirements of *the Regulation*.
- WorkCover NSW Health and Safety Code of Practice: Work in Hot or Cold Environments.
- WorkCover NSW Health and Safety Fact Sheet: Work in Hot Environments.
- WorkCover NSW Health and Safety Fact Sheet: Work in Cold Environments.

Chapter 5 – Plant

Chapter 5 sets out the requirements for managing risks arising from plant. Plant is the term used for all machinery, tools, appliances and equipment. It covers a diverse range of items from office equipment to industrial machinery. Examples of plant include tractors, lifts, amusement devices, forklifts, printing presses, hand tools, ladders and computers.

Chapter 5 specifies risk control measures for the design, manufacture, supply and use of plant, including the maintenance and repair of plant. The chapter implements the *National Standard for Plant* prepared by the National Occupational Health and Safety Commission. In line with the *National Standard* the chapter sets out risk management obligations for all people involved in the life cycle of plant - from design and manufacture, through supply and use, to dismantling and disposal. Chapter 5 also specifies obligations for the registration of certain items of plant and certain plant designs.

It is important to note that Chapter 5 also applies to plant affecting public safety, whether or not the plant is at a place of work or for use at work. The specific types of plant identified in *the Regulation* that affect public safety are:

- boilers;
- pressure vessels;
- lifts; and
- amusement devices.

The Regulation establishes a registration system for certain plant designs and items of plant. The hire, lease or use of certain items of plant is prohibited unless the plant has a current design registration number or current item registration number. This registration system is part of a national registration system for plant.

Chapter 5 also sets requirements for the review of risk assessments, the provision of information and the keeping of certain records relating to particular items of plant.

New Guidance Material

New guidance material relevant to Chapter 5 includes:

- WorkCover NSW Health and Safety Guide: Plant.
- WorkCover NSW Health and Safety Fact Sheet: Plant Hire and Lease – what suppliers must know.
- WorkCover NSW Health and Safety Code of Practice to Provide Practical Guidance to Meet the Obligations of the Occupational Health and Safety Regulation 2001 – this Code references a number of Australian Standards that are relevant in meeting the requirements of *the Regulation*.

Chapter 6 – Hazardous substances

Chapter 6 sets out specific risk control measures for hazards arising from the manufacture, supply and use of hazardous substances. The need for employers to carry out health surveillance on employees exposed to hazardous substances and the need for employers and medical practitioners to retain records is also covered in this chapter.

In the main, the provisions of Chapter 6 continue the regulatory provisions of the *Occupational Health and Safety (Hazardous Substances) Regulation 1996*. Chapter 6 also includes new requirements for carcinogenic substances that are based on the *National Model Regulations for the Control of Workplace Hazardous Substances, Part 2 – Scheduled Carcinogenic Substances*.

Chapter 6 does not apply to radioactive substances covered by the *Radiation Control Act 1990* or to infectious substances. It also does not apply to the transport of hazardous substances as this is covered by other legislation and guidelines.

The key areas covered in Chapter 6 include:

- determining whether a substance is hazardous – using specified criteria, manufacturers of substances are required to determine whether a substance is a hazardous substance;
- the preparation of material safety data sheets (MSDS) – MSDS are prepared by the manufacturer and include information on the recommended use of a substance, its physical and chemical properties, relevant health hazard information and information concerning the precautions to be followed in relation to the safe use and handling of the substance;
- the provision of information through labelling – labels must contain specific information such as the chemical or generic name of each ingredient contained in the substance. The label clearly identifies the hazardous substance and sets out the name, address and emergency telephone number of the supplier;
- the provision of health surveillance – health surveillance provided by the employer must be carried out under the supervision of an authorised medical practitioner chosen by the employer after consultation with relevant employees; and
- the keeping of certain records.

Chapter 6 also specifies a range of prohibited uses for certain hazardous substances.

Part 6.3 of the chapter identifies certain carcinogenic substances that are particularly hazardous and classifies these carcinogens as either 'notifiable carcinogenic substances' or 'prohibited carcinogenic substances'. Anyone intending to use these substances is required to give WorkCover notice of the intention to use the substance – this requirement is found in Chapter 12. Suppliers can only provide these carcinogenic substances to persons who can provide evidence that WorkCover has been notified. Suppliers must also keep a record of the carcinogenic substances that they have supplied.

Chapter 7 – Hazardous processes

Chapter 7 builds on the requirements for employers to identify hazards and assess, control and review risks arising from the hazards identified. It provides specific detail on managing the following hazardous processes:

- spray painting;
- abrasive blasting;
- welding (includes metal welding, fusion welding, spot and braze welding and thermal cutting);
- electroplating and other processes involving cyanide;
- working with molten metal and exposure of persons to heat and infra-red and ultra-violet radiation generated by molten metal work;
- lead processes and lead risk work; and
- electrical work and electrical installations.

The responsibilities of the employer to ensure that there is minimal risk of exposure of persons to atmospheric contaminants arising from these hazardous processes is emphasised throughout this chapter. Measures to reduce exposure such as substitution of less hazardous processes, engineering controls, improving ventilation and the use of personal protective equipment is provided throughout the chapter. Parts 5.4 (Working with plant) and 6.4 (Use of hazardous substances) of *the Regulation* contain information also relevant to the hazards addressed in this chapter.

New Guidance Material

New guidance material relevant to Chapter 7 includes:

Spray Painting

- WorkCover NSW Health and Safety Guide: Spray Painting.
- WorkCover NSW Health and Safety Fact Sheet: Spray Painting – What apprentices need to know.

Electrical Work

- WorkCover NSW Health and Safety Code of Practice to Provide Practical Guidance to Meet the Obligations of the Occupational Health and Safety Regulation 2001 – this Code references a number of Australian Standards that are relevant in meeting the requirements of *the Regulation*.
- WorkCover NSW Health and Safety Code of Practice for Low Voltage Electrical Work.

Chapter 8 – Construction work

Chapter 8 is devoted entirely to construction work. This is due to the high level of risk that the construction industry poses to the health and safety of workers, visitors and members of the public. Chapter 8 sets out specific risk control measures for construction work, including demolition, excavation, diving and work involving asbestos. The chapter also includes requirements to ensure all construction work employees undertake specific OHS training.

Special work arrangements are included in Chapter 8 for demolition work, asbestos removal work and certain specified high risk construction work, as well as construction work that has a value greater than \$250,000.

OHS induction training for construction workers

Part 8.2 requires principal contractors and employers to ensure that all employees carrying out construction work undertake specific OHS induction training related to the construction work they are performing. When changes to the worksite, involving a change in the activities performed by the employees, occur, principal contractors and employers must ensure that employees receive adequate training to enable the work to be carried out safely despite the changes.

The OHS induction training for construction work covered in Part 8.2 provides for three levels of training being:

- general health and safety induction training;
- work activity-based health and safety induction training; and
- site specific health and safety induction training.

Principal contractors and employers must also keep records of training for each employee.

Special workplace arrangements for construction work

Part 8.3 establishes requirements for managing risks at construction sites. It identifies the responsibilities of the owner of the site, the principal contractor and any sub-contractors. It also specifies various safety plans, documents and records that must be created and maintained.

The intention of Part 8.3 is to clarify the lines of responsibility for OHS management on construction projects where there may be multiple sub-contractors.

Part 8.3 applies to any construction work where the cost of the project exceeds \$250,000. It also applies, irrespective of the cost, to demolition work or asbestos removal work and to certain specified high risk construction work. Principal contractors are to ensure that sub-contractors provide safe work method statements in all these circumstances while sub-contractors must not commence work until they have provided a safe work method statement to the principal contractor.

Principal contractors are also required to keep and maintain a register of all hazardous substances used at the worksite.

Control of risks arising during construction work

Chapter 8 covers a range of responsibilities for employers in regard to the control of risks that arise during construction work. The risks covered include falling objects, structural collapse and site security. Particular control measures are also specified for construction work involving excavation, demolition or diving work and work involving asbestos.

Part 8.4 requires compliance with the 'SAA Compressed Air Code' where work in compressed air is being undertaken and compliance with Australian Standard AS2397 – 1993 - '*Safe use of lasers in the building and construction industry*' in situations where lasers are being used.

Chapter 9 – Certification of workers

Chapter 9 prohibits a person from doing a variety of specified work (called 'scheduled work') unless they hold a certificate of competency for that work. It also establishes an administrative system for assessing competencies and issuing certificates of competency.

Certificates of competency are required for work involving:

- scaffolding, dogging and rigging;
- crane and hoist operation;
- truck-mounted concrete-placing booms;
- boilers;
- steam turbines;
- reciprocating steam engines;
- load-shifting machines;
- application of pesticides (except when used for agricultural and horticultural purposes);
- the use of fumigants;
- formwork; and
- the operation of explosive-powered tools.

A trainee may do any kind of work requiring a certificate of competency if the work is done within a recognised course of training and is under the supervision of a supervisor. Trainees are required to keep a record of their training.

This chapter covers the procedure for assessing competencies, including the accreditation of assessors and the issue of certificates, the conditions where exemptions from the requirements of this chapter apply and the conditions for suspension or cancellation of certificates of competency.

Chapter 10 – Licensing of certain businesses

Chapter 10 establishes an administrative system for the licensing of businesses carrying out asbestos and demolition work and sets the requirements for obtaining a licence. Licensing ensures that the level of competence required to control specific hazards exists at work sites. This system allows WorkCover to monitor and control the activities of the licence holder, so that high-risk tasks are carried out in accordance with the conditions of the licence.

In addition to being licensed, individuals and organisations intending to carry out some types of demolition work and most types of friable asbestos removal work are required to notify WorkCover of this proposed work and be issued with a permit to do the work. Chapter 11 deals with such permits and should be read by any person intending to carry out demolition or asbestos removal work, so as to determine whether a permit is needed.

Chapter 10 provides that a person must not carry on the business of licensed work (i.e. demolition or asbestos removal work) without a licence, nor must they employ, direct or allow another person to do licensed work unless that person holds a licence relating to that work.

Chapter 11 – Permits for certain work

Chapter 11 of *the Regulation* requires persons or organisations intending to carry out certain demolition work and most types of friable asbestos removal work to obtain a permit for that work from WorkCover. This requirement is in addition to the requirement to obtain a licence for demolition or asbestos removal work under Chapter 10 of *the Regulation*.

Some types of demolition work and most types of friable asbestos removal work require stringent risk controls and therefore WorkCover requires that a permit is obtained, in addition to a licence, to carry out the specific job.

The permit system ensures that work activities are planned to meet the circumstances of each particular job that is undertaken. On application for a permit, an operator must specify the nature and extent of the work being undertaken and advise WorkCover of the proposed work methods to be used. This system also allows WorkCover to impose conditions on how the work must be performed to ensure that the operator controls the risks associated with a particular work site or activity.

Chapter 12 – Miscellaneous

Notifications

Chapter 12 sets out the requirements for the notification of accidents and other matters such as uncontrolled explosions, fire, escape of gas or damage to plant that impedes safe operation. These notification requirements are in addition to the occurrences prescribed in Section 86 of the *Occupational Health and Safety Act 2000*. The chapter also requires the notification of certain types of work prior to that work being undertaken.

Employers or occupiers of the place of work are to make these notifications. Notification must be made on an approved form provided by WorkCover as soon as practicable but not later than 7 days after the incident. Copies of notifications must be kept for at least 5 years and made available to WorkCover inspectors if requested.

Exemptions and Reviews

Chapter 12 sets administrative provisions relating to the granting of exemptions from the requirements of *the Regulation* and the review of decisions made in relation to matters covered in *the Regulation*.

'Non-disturbance occurrences'

The *Occupational Health and Safety Act 2000* requires that where an accident or incident results in the death of a person at the workplace, the occupier of the place of work must not disturb the place (or plant at the place) for a period of 36 hours - (or a shorter period if authorised by WorkCover). This time period allows WorkCover, the police and other relevant organisations to inspect the site and gather information that can be used to determine the cause or causes leading to the incident. Chapter 12 specifies situations that are classed as 'non-disturbance occurrences' in addition to fatalities.

Continuation of certain Factories, Shops and Industries provisions

Certain parts of the *Factories, Shops and Industries Act 1962* and the *Factories (Health and Safety) General Regulation 1913* are preserved under this chapter.

The provisions of Part 3 of the *Factories, Shops and Industries Act 1962* which related to shops and of the *Factories (Health and Safety) General Regulations 1913* applicable to shops continue to have effect under *the Regulation*.

3 TRANSITIONAL & SAVINGS ARRANGEMENTS

WorkCover has developed transitional arrangements for new requirements within *the Regulation* and savings arrangements for the continuation of certain existing arrangements, such as the continuation of current certificates of competency. Details of the transitional and savings arrangements are provided in the following 'Table of Transitional and Saving Arrangements'.

While duty holders will be expected to implement the new provisions from the commencement of *the Regulation*, WorkCover will not take enforcement action during the transitional periods for non-compliance with provisions that have transitional arrangements. No transitional arrangements are contained in Chapters 1 or 7.

Transitional and savings arrangements are generally provided:

- in those situations where a risk management approach is being introduced for the first time;
- for implementation of consultation; and
- for the continuation of existing arrangements, such as registration, recording, notification, certification, licensing and exemption regimes.

TABLE OF TRANSITIONAL & SAVINGS ARRANGEMENTS

Chapter 2 Places of work

CLAUSE NO.	ISSUE	RESPONSIBLE PERSON	TEXT	EXPLANATION
9(4)	Identification of hazards	Employer	<p>An employer with more than 20 employees is not required to comply with Clause 9 within the period of 12 months after its commencement (except to the extent that the clause applies to hazards involving hazardous substances or manual handling).</p> <p>An employer with 20 or less employees is not required to comply with Clause 9 within the period of 24 months after its commencement (except to the extent that the clause applies to hazards involving hazardous substances or manual handling).</p>	<p>Depending on the number of employees, employers are allowed either 12 or 24 months to implement risk management arrangements (i.e. arrangements for hazard identification, risk assessment and risk control). The implementation period does NOT apply to risk management arrangements for hazardous substances and manual handling, which are already required under current legislation.</p>

Chapter 2 Places of work continued

CLAUSE NO.	ISSUE	RESPONSIBLE PERSON	TEXT	EXPLANATION
10(4)	Assessment of risk	Employer	<p>An employer with more than 20 employees is not required to comply with Clause 10 within the period of 12 months after its commencement (except to the extent that the clause applies to risks involving hazardous substances or manual handling).</p> <p>An employer with 20 or less employees is not required to comply with Clause 10 within the period of 24 months after its commencement (except to the extent that the clause applies to risks involving hazardous substances or manual handling).</p>	<p>Depending on the number of employees, employers are allowed either 12 or 24 months to implement risk management arrangements (i.e. arrangements for hazard identification, risk assessment and risk control). The implementation period does NOT apply to risk management arrangements for hazardous substances and manual handling, which are already required under current legislation.</p>
11(4)	Elimination or control of risks	Employer	<p>An employer with more than 20 employees is not required to comply with Clause 11 within the period of 12 months after its commencement (except to the extent that the clause applies to risks involving hazardous substances or manual handling).</p> <p>An employer with 20 employees or less is not required to comply with Clause 11 within the period of 24 months after its commencement (except to the extent that the clause applies to risks involving hazardous substances or manual handling).</p>	<p>Depending on the number of employees, employers are allowed either 12 or 24 months to implement risk management arrangements (i.e. arrangements for hazard identification, risk assessment and risk control). The implementation period does NOT apply to risk management arrangements for hazardous substances and manual handling, which are already required under current legislation.</p>

Chapter 3 Consultation

CLAUSE NO.	ISSUE	RESPONSIBLE PERSON	TEXT	EXPLANATION
32(1) & (2)	Implementation of consultation arrangements	Employer	<p>Sub-clause 32(1) of <i>the Regulation</i> provides that OHS consultation arrangements must be implemented within 12 months after the commencement of the <i>Occupational Health and Safety Act 2000</i>, except in the circumstances provided under sub-clause 32(2) of <i>the Regulation</i>.</p> <p>Sub-clause 32(2) of <i>the Regulation</i> provides that an OHS committee established under the <i>Occupational Health and Safety Act 1983</i> may (but need not) be retained for the purposes of OHS consultation arrangements. If a current committee is retained, replacement OHS consultation arrangements must be implemented:</p> <ul style="list-style-type: none"> a) within 3 months after the end of the term of office of the members of the committee; or b) within 2 years of the commencement of <i>the Regulation</i>; <p>whichever first occurs.</p>	<p>Employers have 12 months to put in place OHS consultation arrangements, where they don't already exist.</p> <p>An OHS committee that already exists, under the <i>Occupational Health and Safety Act 1983</i>, may be retained. However, any existing consultation arrangements must be replaced either within 2 years of the commencement of the <i>Occupational Health and Safety Act 2000</i>, or within 3 months of the end of the OHS committee members' term of office, whichever occurs first.</p>
32(4)	OHS consultation training courses	OHS committee; OHS training providers	<p>Until the expiration of 3 months after the commencement of <i>the Regulation</i>, a course of training that complies with the <i>Occupational Health and Safety (Committees in Workplaces) Regulation 1999</i> is taken to be a course of training for the purposes of Clause 31 of <i>the Regulation</i>.</p> <p>[Clause 31 relates to the training that is to be undertaken by members of OHS committees and OHS representatives.]</p>	<p>For 3 months after commencement of <i>the Regulation</i>, any course that complies with the <i>Occupational Health and Safety (Committees in Workplaces) Regulation 1999</i> will be recognised as meeting the requirements for OHS consultation training under <i>the Regulation</i>.</p>

Chapter 4 Work premises and working environment

CLAUSE NO.	ISSUE	RESPONSIBLE PERSON	TEXT	EXPLANATION
33(2)	Risk management by controllers of premises – general duties and duties concerning asbestos	Controller of premises	<p>A controller of premises is not required to comply with Divisions 1 and 4 of Part 4.2 of <i>the Regulation</i> within the period of 12 months after their commencement.</p> <p>[Division 1 of <i>the Regulation</i> relates to the general duties of controllers of premises to manage risks and Division 4 of <i>the Regulation</i> relates to the duties of controllers to manage risks of asbestos.]</p>	<p>Controllers of premises have 12 months to implement risk management practices generally and, in particular, for asbestos.</p> <p>It should be noted that there is NO 12 month implementation period for risk management measures related to fall prevention and electricity.</p>

Chapter 5 Plant

CLAUSE NO.	ISSUE	RESPONSIBLE PERSON	TEXT	EXPLANATION
98(3)	Risk management for manufacture of plant	Manufacturer	A manufacturer is not required to comply with Clauses 100 - 103 of <i>the Regulation</i> within the period of 12 months after commencement of those clauses.	Manufacturers of plant have 12 months to implement risk management practices.
120(4)	Requirements relating to the sale and transfer of plant	Sellers or transferors of plant	<p>A person who sells or transfers plant is not required to comply with Division 2 of Part 5.3 of <i>the Regulation</i> within the period of 12 months after commencement of that Division.</p> <p>[Division 2 of Part 5.3 of <i>the Regulation</i> relates to the sale or transfer of plant.]</p>	Sellers and transferors of plant have 12 months to implement requirements covering the sale and transfer of plant.
120(5)	Hazard identification and risk assessment by hirers and lessors of plant	Hirers and lessors of plant	<p>A person who hires or leases plant to another person is not required to comply with Clauses 124 and 125 of Division 3 of Part 5.3 of <i>the Regulation</i> within the period of 12 months after commencement of those clauses.</p> <p>[Division 3 of Part 5.3 of <i>the Regulation</i> relates to the hiring and leasing of plant.]</p>	Hirers and lessors of plant have 12 months to implement the requirements to identify and assess risks associated with the plant that they hire or lease.
127(3)	Control of risks by hirers and lessors of plant	Hirers and lessors of plant	A person who hires or leases plant to another person is not required to comply with sub-clause 127(2)(c) of <i>the Regulation</i> within the period of 12 months after commencement of the clause.	Hirers and lessors of plant have 12 months to implement the requirement to ensure that any plant which they hire, that is required to have design registration, does have a current design registration number.

Chapter 5 Plant continued

CLAUSE NO.	ISSUE	RESPONSIBLE PERSON	TEXT	EXPLANATION
127(4)	Control of risks by hirers and lessors of plant	Hirers and lessors of plant	A person who hires or leases plant to another person is not required to comply with sub-clause 127(2)(d) of <i>the Regulation</i> within the period of 12 months after commencement of the clause (except to the extent that sub-clause 127(2)(d) of <i>the Regulation</i> applies to lifts and amusement devices).	Hirers and lessors of plant have 12 months to implement the requirement to ensure that any item of plant which they hire, that is required to be registered, does have a current item registration number. [This implementation period does not apply to lifts and amusement devices.]
132(1) & 133(1)	Provision of and obtaining of information by hirers and lessors of plant	Hirers and lessors of plant	A person who hires or leases plant to another person is not required to comply with sub-clauses 132(1) and 133(1) of <i>the Regulation</i> within the period of 12 months after the commencement of these clauses.	Hirers and lessors of plant have 12 months to implement requirements to provide and obtain information.
134(4)	Lifts and amusement devices previously registered	–	For the purposes of <i>the Regulation</i> , a lift or an amusement device registered under the <i>Construction Safety Regulations 1950</i> immediately prior to the commencement of Part 5.4 of <i>the Regulation</i> is taken to be plant registered under Subdivision 2 of Division 3 of Part 5.2 of <i>the Regulation</i> .	Recognition of existing registrations for lifts and amusement devices.
135 (a) - (i)	Installation, erection and commissioning of plant – particular risk control measures	Employer	An employer is not required to comply with sub-clauses 135(a) to (i) of <i>the Regulation</i> within the period of 12 months after commencement of Clause 135. [Note: there is NO implementation period for the requirements of sub-clause 135(j) which relate to amusement devices.]	Employers have 12 months to implement certain specific requirements relating to the management of risks associated with the installation, erection and commissioning of plant.
136(1)	Design registration requirements for the use of plant	Employer	An employer is not required to comply with sub-clause 136(1) of <i>the Regulation</i> within the period of 12 months after commencement of the clause. This excludes existing registration requirements, ie. lifts and amusement devices.	Employers have 12 months to implement the requirement to ensure that any newly designed and manufactured plant that they use, which is required to have design registration, has a current design registration number.

Chapter 5 Plant continued

CLAUSE NO.	ISSUE	RESPONSIBLE PERSON	TEXT	EXPLANATION
136(2)	Item registration requirements for the use of plant	Employer	An employer is not required to comply with sub-clause 136(2) of <i>the Regulation</i> within the period of 12 months after commencement of the clause. This excludes existing registration requirements ie. lifts and amusement devices.	Employers have 12 months to implement the requirement to ensure that any plant that they use, which is required to be registered, does have a current item registration number.
138	Dismantling, storage and disposal of plant - particular risk control measures [competent person]	Employer	An employer is not required to comply with Clause 138 of <i>the Regulation</i> within the period of 12 months after commencement of the clause.	Employers have 12 months to implement the requirement for plant to be dismantled, stored and disposed of by a competent person, and to provide this person with available information.

Chapter 6 Hazardous substances

CLAUSE NO.	ISSUE	RESPONSIBLE PERSON	TEXT	EXPLANATION
160(1)	Records kept by suppliers of carcinogenic substances	Supplier of carcinogenic substances	Clause 160 of <i>the Regulation</i> does not apply to the supply of a prohibited or notifiable carcinogenic substance within the period of 12 months after commencement of the clause.	Suppliers have 12 months to implement requirements relating to the keeping of records on the supply of carcinogenic substances.
165(1)	Health surveillance	Employer	An employer is not required to provide health surveillance within the period of 12 months after commencement of Clause 165 in the case of exposure of an employee to benzene, chromium (inorganic), creosote or pentachlorophenol (PCP).	Employers have 12 months to implement the requirement to provide health surveillance for employees exposed to the named substances.
169	Records of exposure to carcinogenic substances	Employer	An employer is not required to keep records of employees exposed to carcinogenic substances within the period of 12 months after commencement of Clause 169 of <i>the Regulation</i> .	Employers have 12 months to implement the requirement to record details of employees exposed to carcinogenic substances.
170(2)	Information for employees exposed to carcinogenic substances, to be provided on termination of employment	Employer	Sub-clause 170(1) of <i>the Regulation</i> does not apply to an exposure or likely exposure to a carcinogenic substance that occurred before, or within 12 months after, the commencement of Clause 170 of <i>the Regulation</i> .	Exemption for employers from the requirement to provide details of exposure to carcinogenic substances to employees who were exposed prior to and within 12 months of commencement of <i>the Regulation</i> .

Chapter 8 Construction work

CLAUSE NO.	ISSUE	RESPONSIBLE PERSON	TEXT	EXPLANATION
210(1)	Appointment of principal contractor - Exemption for existing contracts	Principal contractor	Sub-clause 210(1) does not apply to a place of work if the contract to undertake the work referred to in the contract was entered into before the commencement of Clause 210.	Contracts in existence at the time of commencement of <i>the Regulation</i> are exempt from the requirement to appoint a Principal Contractor.
216(2)	OHS induction training	Employer	An approval by WorkCover of OHS induction training for the purposes of Part 15 of the <i>Construction Safety Regulations 1950</i> (being an approval in force immediately before the commencement of Clause 216) is taken to be an approval by WorkCover of the training for the purposes of <i>the Regulation</i> .	Recognition of previous approvals granted by WorkCover for induction training recognised under the <i>Construction Safety Act 1912</i> .

Chapter 9 Certification of workers

CLAUSE NO.	ISSUE	RESPONSIBLE PERSON	TEXT	EXPLANATION
265	Definition of certificates of competency	Licensing authority	The following 'Note' appears after the definition of <i>certificate of competency</i> . 'Note: This definition includes former certificates of competency, licences and permits taken to be certificates of competency issued under this Part. See Clauses 268 (Former authorities) and 269 (Recognised qualifications.)'	Recognition of existing certificates of competency.

Chapter 9 Certification of workers continued

CLAUSE NO.	ISSUE	RESPONSIBLE PERSON	TEXT	EXPLANATION
268	Former authority	Licensing authority	<p>Clause 268 provides that a <i>former authority</i> means:</p> <ul style="list-style-type: none"> • a certificate of competency in force under an Act or regulation repealed by the <i>Occupational Health and Safety Act 2000</i> immediately before that repeal (being a certificate of competency of a kind that could be issued under Part 9.1 of <i>the Regulation</i>); and • a pest control operator's licence, or fumigation permit, in force under the <i>Occupational Health and Safety (Pest Control) Regulation 1988</i> immediately before its repeal. <p>Unless sooner cancelled, a former authority is taken to be a certificate of competency issued under Part 9.1 of <i>the Regulation</i> authorising the doing of the same kind of work to which the authority relates until the expiration of the term (if any) for which the authority was issued.</p>	Certificates and licences issued under former regulations will be taken to be certificates of competency accepted under <i>the Regulation</i> .
299	Definition of certificates of competency	Licensing authority	The following 'Note' appears after the definition of <i>certificate of competency</i> . 'Note: This definition includes former certificates of competency issued under this Part. See Clause 300.'	Recognition of existing certificates of competency.
300(1)	Former certificates of competency	Licensing authority	In Clause 300, <i>former certificate of competency</i> means a certificate of competency in force under an Act or regulation repealed by the <i>Occupational Health and Safety Act 2000</i> immediately before the repeal (being a certificate of competency of a kind that could be issued under Part 9.2 of <i>the Regulation</i>).	Recognition of existing certificates of competency.

Chapter 10 Licensing of certain businesses

CLAUSE NO.	ISSUE	RESPONSIBLE PERSON	TEXT	EXPLANATION
330(1) & (2)	Demolition licensing	Licensing authority	Class 1 (Unrestricted) and Class 2 (Restricted) licences to carry out demolition work, in force immediately before the repeal of the <i>Occupational Health and Safety (Demolition Licensing) Regulation 1996</i> , are taken to be licences granted under Chapter 10 of <i>the Regulation</i> authorising the carrying on of the business of demolition work.	Recognition of existing licences for demolition. An existing licence continues in force: <ul style="list-style-type: none"> • for the term for which it was granted; or • for a period of 2 years from the commencement of <i>the Regulation</i>. whichever is the lesser period. [Sub-clause 330(5) of <i>the Regulation</i> .]
330(3) & (4)	Asbestos removal licensing and registration	Licensing authority	<p>A licence to carry on the business of friable asbestos removal work in force immediately before the repeal of the <i>Occupational Health and Safety (Asbestos Removal Work) Regulation 1995</i> is taken to be a licence granted under Chapter 10 authorising the carrying on of the business of friable asbestos removal work.</p> <p>A certificate of registration as a bonded asbestos removal contractor in force immediately before the repeal of the <i>Occupational Health and Safety (Asbestos Removal Work) Regulation 1995</i> is taken to be a licence granted under Chapter 10 authorising the carrying on of the business of bonded asbestos removal work.</p>	Recognition of existing licences and certificates of registration for asbestos removal work. <p>An existing licence or certificate continues in force:</p> <ul style="list-style-type: none"> • for the term for which it was granted; or • for a period of 2 years from the commencement of <i>the Regulation</i>; whichever is the lesser period. [Sub-clause 330(5) of <i>the Regulation</i> .]

Chapter 11 Permits for certain work

CLAUSE NO.	ISSUE	RESPONSIBLE PERSON	TEXT	EXPLANATION
340(1)	Demolition work	Licensing authority	A written permission to do demolition work given under Regulation 84AB or 84AH of the <i>Construction Safety Regulations 1950</i> and in force immediately before the repeal of those regulations is taken to be a permit granted under Chapter 11 of <i>the Regulation</i> to do the same work.	Recognition of existing permissions to do demolition work.
340(2)	Asbestos removal	Licensing authority	A permit to do friable asbestos removal work granted under the <i>Occupational Health and Safety (Asbestos Removal Work) Regulation 1995</i> and in force immediately before the repeal of that regulation is taken to be a permit granted under Chapter 11 of <i>the Regulation</i> to do the same work.	Recognition of existing permits for friable asbestos removal work.

Chapter 12 Miscellaneous

CLAUSE NO.	ISSUE	RESPONSIBLE PERSON	TEXT	EXPLANATION
345(4) & (5)	Notice to WorkCover of the proposed use of carcinogenic substances	Employer	<p>Any proposed work involving the use of carcinogenic substances that has been notified to WorkCover by an employer in accordance with the <i>Occupational Health and Safety Act 1983</i> is taken to be notified to WorkCover by the employer for the purposes of Clause 345 of <i>the Regulation</i>.</p> <p>An employer is not required to comply with sub-clause 345(1)(a) of <i>the Regulation</i> within the period of 12 months after the commencement of Clause 345 to the extent that it applies to:</p> <ul style="list-style-type: none"> • the therapeutic use of cyclophosphamide; or • the use of benzene as a feed stock containing more than 50 per cent of benzene by volume; or • the use of chloromethyl ether, technical grade. 	<p>Recognition of current notifications relating to the use of carcinogenic substances.</p> <p>Employers have 12 months to comply with the requirement to notify the proposed use of certain carcinogenic substances in certain named situations.</p>

Chapter 12 Miscellaneous continued

CLAUSE NO.	ISSUE	RESPONSIBLE PERSON	TEXT	EXPLANATION
345(6)	Notice to WorkCover of proposed use of lead	Employer	An employer is not required to comply with sub-clause 345(1)(b) of <i>the Regulation</i> within the period of 3 months after the commencement of Clause 345 of <i>the Regulation</i> . [Sub-clause 345(1)(b) of <i>the Regulation</i> refers to lead risk work.]	Employers have 3 months to implement the requirement to notify WorkCover of proposed work involving lead.
350	Phasing out of former exemptions	Employer	Any exemption given, issued, or made under an Act or a provision of an Act referred to in Clause 15 of Schedule 3 to the <i>Occupational Health and Safety Act 2000</i> and continued in force by the operation of that clause ceases to have effect at the end of the period of 12 months after the commencement of <i>the Regulation</i> . [Clause 15 of Schedule 3 of the <i>Occupational Health and Safety Act 2000</i> refers to existing notices, exemptions, etc granted under former Acts.]	Allows current exemptions to continue for 12 months.
359(2)	Continuation of former shop provisions	Employer	Former shop provisions under the <i>Factories, Shops and Industries Act 1962</i> and the <i>Factories (Health and Safety) General Regulations 1913</i> continue to have effect under <i>the Regulation</i> .	Allows for the continuation of Part 3 of the <i>Factories, Shops and Industries Act 1962</i> and the <i>Factories (Health and Safety) General Regulations 1913</i> that applied to shops immediately before commencement of <i>the Regulation</i> .

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