

Occupational Health and Safety (Commonwealth Employment) (National Standards) Amendment Regulations 1999 (No. 2) 1999 No. 86

EXPLANATORY STATEMENT

Statutory Rules 1999 No. 86

Issued by the authority of the Minister for Employment, Workplace Relations and Small Business

Occupational Health and Safety (Commonwealth Employment) Act 1991

Occupational Health and Safety (Commonwealth Employment) (National Standards) Amendment Regulations 1999 (No. 2)

Subsection 82(1) of the *Occupational Health and Safety (Commonwealth Employment) Act 1991* (the Act) provides that the Governor-General may make regulations required or permitted by the Act to be made.

The Act provides for the health and safety of Commonwealth employees and others at work and establishes a framework within which Commonwealth employers, employees and involved unions cooperate to address health and safety issues. The Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations (the Regulations) impose a number of specific duties and obligations which are intended to identify, reduce and control potential risks to occupational health and safety in relevant workplaces.

The amendments are to Part 4 of the Regulations. The object of Part 4 is to protect employees, and others, from hazards arising from plant (machinery, equipment and tools) and the systems of work associated with plant.

The amendments relate to the requirement that employers must be licensed before certain items of plant can be operated at work. Exemptions from the requirement to hold a licence may be given on the basis that an employer holds an appropriate licence under State or Territory law. These exemptions may also be issued with conditions attached to them (for example that the employer continues to hold the relevant State or Territory licence).

The amending regulations:

- * remove a provision that allowed a licence to take effect on a date after the licence was issued; and,
- * ensure that the decision to impose, add, vary or revoke a condition that applies to an exemption from licensing will be expressly subject to review in the Administrative Appeals Tribunal.

Details of the amendments are attached.

The Regulations commence on gazettal.

ATTACHMENT

DETAILS OF THE OCCUPATIONAL HEALTH AND SAFETY (COMMONWEALTH EMPLOYMENT) (NATIONAL STANDARDS) AMENDMENT REGULATIONS 1999 (No.2)

Regulation 1 - Name of regulations

This is a formal provision that provides the name for the amending regulations.

Regulation 2 - Commencement

This regulation provides that the amending regulations commence on gazettal.

Regulation 3 -Amendment of Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations

Regulation 3 is a formal provision which provides that the Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations (the Regulations) are amended as set out in Schedule 1.

SCHEDULE 1 **Amendments**

Item 1 - Regulation 4.44

The object of Part 4 of the Regulations is to protect employees, and others, from hazards arising from plant (machinery, equipment and tools) and the systems of work associated with plant. To further this object, Regulation 4.40 requires employers to be licensed before certain specified items of plant can be operated at work.

Regulation 4.44 provides for the commencement of a licence to operate specified plant. The provision currently states that the licence can come into force on the day it is granted, or on a later date stated in the licence. The ability to issue a licence operating from a later date was necessary before 1 January 1997, when the requirement to have a licence was first imposed under the Regulations.

Item 1 of Schedule 1 removes the provision that allows the licence to come into effect on a later date. The provision is no longer necessary, and is removed to avoid possible uncertainty about the date on which a licence comes into force.

Item 2 - Regulation 4.63

Regulation 4.63 specifies the decisions made under the Regulations that are subject to review by the Administrative Appeals Tribunal (AAT).

Under regulation 4.40A, an employer may apply for an exemption from the requirement to hold a licence to operate specified plant. Exemptions may be given on the basis that an employer holds an appropriate licence under State or Territory law. Regulation 4.40B provides that an exemption may be given subject to conditions that promote the objects of the Part. The imposition of a condition under subregulation 4.40B(1), or the addition, variation or revocation of a condition under subregulation 4.40B(3) are currently not expressly subject to review.

Item 2 of Schedule 1 substitutes a new Regulation 4.63.

Paragraphs 4.63(b), (c) and (d) are the new paragraphs that ensure that the decision to impose, add, vary or revoke a condition on an exemption is subject to review by the AAT.

Paragraphs 4.63(a), (e) - (k) replicate the existing paragraphs of Regulation 4.63 with

appropriate renumbering . This corrects the sequence of paragraph numbering in Regulation 4.63 so

that the list of reviewable decisions is in numerical order.