

EXPLANATORY STATEMENT

Select Legislative Instrument 2005 No. 48

Issued by the authority of the Minister for Employment and Workplace Relations.

Occupational Health and Safety (Commonwealth Employment) Act 1991

Occupational Health and Safety (Commonwealth Employment) (National Standards) Amendment Regulations 2004 (No. 2) Amendment Regulations 2005 (No. 1)

The *Occupational Health and Safety (Commonwealth Employment) Act 1991* (the Act) establishes a statutory framework to secure the health and safety of Commonwealth Government employees (including employees of Commonwealth agencies, statutory authorities and Government Business Enterprises) while at work.

Subsection 82(1) of the Act provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 23(1) of the Act provides that the regulations may make provision relating to any matter affecting, or likely to affect, the occupational health and safety of employees or contractors, or other persons at or near a workplace.

The purpose of the Regulations is to extend the commencement date of recently made amendments by a period of three months. This will provide additional time for consultation with relevant stakeholders, such as Commonwealth employers, and manufacturers, suppliers and erectors of plant.

The National Occupational Health and Safety Commission (NOHSC), established under section 6 of the *National Occupational Health and Safety Commission Act 1985* (the NOHSC Act), develops National Standards and Codes of Practice to promote uniformity in Australian occupational health and safety schemes. These National Standards and Codes of Practice do not have legislative force of themselves; they are given legislative force by relevant State, Territory or Commonwealth occupational health and safety legislation.

The *Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994* (the Principal Regulations) give legislative force to various National Standards declared by NOHSC to the extent that they are capable of relating to Commonwealth employment. Regulations have been made implementing National Standards in relation to occupational noise, plant, manual handling, hazardous substances, safe working in confined spaces and certification standards for users and operators of industrial equipment.

Currently, Part 4 of the Principal Regulations incorporates the NOHSC National Standard titled *National Occupational Health and Safety Commission National Standard for Plant* (National Standard for Plant). Part 4 of the Principal Regulations aims to protect the health and safety of persons from hazards arising from plant (defined in the Act to include any machinery, equipment or tool) and systems of work associated with plant. The main features of Part 4 are the

provisions of licensing, design registration, risk assessment and control and employer, manufacturer, supplier and erector duties.

Following consultation with stakeholders, the Safety Rehabilitation and Compensation Commission (SRCC) recommended amendments to plant licensing arrangements. The SRCC also recommended a number of other clarification and streamlining amendments – relating to licensing of short-term plant hire and maintenance inspections. These amendments are contained in the *Occupational Health and Safety (Commonwealth Employment) (National Standards) Amendment Regulations 2004 (No. 2)*, SR 2004 No. 378. The Regulations were made by the Governor-General on 16 December 2004 and are due to commence on 1 April 2005.

On 10 February 2005, the Chairman of the Standing Committee on Regulations and Ordinances (the Committee) wrote to the Minister for Employment and Workplace Relations seeking his advice as to whether express time limits for notification of decisions should apply to the SRCC in various provisions of SR 2004 No. 378. Specifically, these relate to the SRCC notifying employers of the decision to:

- Grant or not grant a licence to operate plant (paragraph 4.43(1)(c));
- Renew or not renew a licence to operate plant (paragraph 4.43(2)(c));
- Vary or not vary a licence to operate plant (paragraph 4.46(3)(c));
- Grant or not grant a special licence to operate plant (paragraph 4.58(1)(c));
- Renew or not renew a special licence to operate plant (paragraph 4.58(2)(c)); and
- Vary or not vary a special licence to operate plant (paragraph 4.62(3)(c)).

To address this matter, further consultations have been proposed. The Regulations defer the commencement date of the provisions in SR 2004 No. 378 from 1 April 2005 to 1 July 2005. This will allow sufficient time for consultation between the Department of Employment and Workplace Relations and NOHSC, employers and other relevant parties in relation to the changes.

The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments. The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.