



# **Fair Work (Building Industry— Accreditation Scheme) Amendment Regulation 2012 (No. 1)<sup>1</sup>**

**Select Legislative Instrument 2012 No. 235**

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I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Fair Work (Building Industry) Act 2012*.

Dated 27 September 2012

QUENTIN BRYCE  
Governor-General

By Her Excellency's Command

WILLIAM RICHARD SHORTEN  
Minister for Employment and Workplace Relations

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**1 Name of regulation**

This regulation is the *Fair Work (Building Industry—Accreditation Scheme) Amendment Regulation 2012 (No. 1)*.

**2 Commencement**

This regulation commences on the day after it is registered.

**3 Amendment of *Fair Work (Building Industry—Accreditation Scheme) Regulations 2005***

Schedule 1 amends the *Fair Work (Building Industry—Accreditation Scheme) Regulations 2005*.

**Schedule 1 Amendments**

(section 3)

**[1] Regulation 3, definition of *AS 1885.1-1990***

*omit*

**[2] Regulation 3, definition of *claims incident rate***

*omit*

**[3] Regulation 3, definition of *lost time injury frequency rate***

*omit*

**[4] Regulation 3, definition of *Occupational Health and Safety Management System***

*omit*

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**[5] Regulation 3, definition of *OH&S***

*omit*

**[6] Regulation 3**

*insert*

***joint venture*** means an unincorporated enterprise that is constituted by 2 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.

***OHSAS 18001:2007*** means OHSAS 18001:2007 Occupational Health and Safety Management Systems — Specifications.

***WHS*** means workplace health and safety.

***Workplace Health and Safety Management System, or WHSMS,*** means a system that complies with requirements set out in AS/NZS 4801:2001.

**[7] Regulation 3, note**

*omit*

- accredited person (subsection 35 (7))

*insert*

- accredited person (subsection 35 (8))
- builder (subsection 35 (8))

**[8] Regulation 3, note**

*omit*

- Commonwealth authority (subsection 35 (7))
- Commonwealth building contract (subsection 35 (7))

*insert*

- Commonwealth authority (subsection 35 (8))

**[9] Paragraph 6 (2) (a)***substitute*

- (a) whether the applicant's WHSMS:
- (i) has been certified to AS/NZS 4801:2001 as in force when this paragraph commences; or
  - (ii) has been certified to OHSAS 18001:2007 as in force when this paragraph commences;

**[10] Subparagraph 16 (b) (i)***omit*

the applicant

*insert*

the accredited person

**[11] Subparagraph 24 (1) (g) (ii)***omit*

~~2008–09.~~

*insert*

2008–09;

**[12] After paragraph 24 (1) (g)***insert*

- (h) building work which forms part of a project and which is carried out in the following circumstances:
- (i) the project is undertaken by a joint venture;
  - (ii) the building work is to be carried out, in whole or in part, by a builder who:
    - (A) is not an accredited person; and
    - (B) is well-established outside Australia as a builder; and
    - (C) has applied for accreditation under the accreditation scheme; and

- (D) is not currently operating in Australia as a head contractor; and
  - (E) has been unable to provide a site at which the builder's WHSMS is in operation for the purposes of an on-site audit by the Federal Safety Commissioner;
- (iii) an accredited person in the joint venture (the ***accredited member***) has given:
- (A) an undertaking, in writing, to take full responsibility for WHS for the life of the project; and
  - (B) an undertaking, in writing, that the building work will be carried out in accordance with its WHSMS for the life of the project;
- (iv) each builder who carries out the building work, in whole or in part, has given an undertaking, in writing, that it will carry out the building work in accordance with the accredited member's WHSMS for the life of the project;
- (v) each builder who is not an accredited person has given an undertaking, in writing, that it will participate fully in any audit of the accredited member's WHSMS and the way in which it is implemented on-site;
- (vi) before a person enters into a contract for building work in relation to the project on behalf of the joint venture, the person gives the Federal Safety Commissioner copies of the undertakings.

**[13] Subregulation 24 (2), definition of *subcontractor***

*substitute*

***subcontractor***, in relation to building work, means a person who carries out some or all of the building work under a contract with a builder.

**[14] Further amendments**

| <i>Provision</i>     | <i>omit</i> | <i>insert</i> |
|----------------------|-------------|---------------|
| Paragraph 6 (1) (d)  | OH&S        | WHS           |
| Paragraph 6 (3) (a)  | OH&S        | WHS           |
| Paragraph 6 (3) (b)  | OH&S        | WHS           |
| Paragraph 6 (3) (d)  | OH&S        | WHS           |
| Paragraph 6 (3) (e)  | OH&S        | WHS           |
| Paragraph 6 (3) (f)  | OH&S        | WHS           |
| Paragraph 9 (d)      | OH&S        | WHS           |
| Paragraph 9 (g)      | OH&S        | WHS           |
| Paragraph 9 (h)      | OH&S        | WHS           |
| Paragraph 9 (i)      | OH&S        | WHS           |
| Subregulation 11 (1) | OH&S        | WHS           |
| Paragraph 14 (1) (a) | OH&S        | WHS           |

**Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See [www.comlaw.gov.au](http://www.comlaw.gov.au).