

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Employment

*Work Health and Safety Act 2011*

*Work Health and Safety Codes of Practice*

This explanatory statement relates to the following individual codes of practice made under the *Work Health and Safety Act 2011* (the WHS Act):

1. Abrasive Blasting
2. Confined Spaces
3. Construction Work
4. Demolition Work
5. Excavation Work
6. First Aid in the Workplace
7. Hazardous Manual Tasks
8. How to Manage and Control Asbestos in the Workplace
9. How to Manage Work Health and Safety Risks
10. How to Safely Remove Asbestos
11. Labelling of Workplace Hazardous Chemicals
12. Managing Electrical Risks at the Workplace
13. Managing Noise and Preventing Hearing Loss
14. Managing the Risk of Falls at Workplaces
15. Managing Risks of Hazardous Chemicals in the Workplace
16. Managing Risks of Plant in the Workplace
17. Managing the Work Environment and Facilities
18. Preventing Falls in Housing Construction
19. Safe Design of Structures
20. Preparation of Safety Data Sheets for Hazardous Chemicals
21. Spray Painting and Powder Coating
22. Welding Processes
23. Work Health and Safety Consultation, Co-operation and Co-ordination

For the purposes of this explanatory statement, these 23 individual codes of practice have been collectively referred to as the Work Health and Safety Codes of Practice (or the codes of practice).

Section 274 of the WHS Act provides, in part, that the Minister may approve a code of practice and may vary or revoke an approved code of practice. An approved code of practice is admissible in proceedings as evidence of whether or not a duty or obligation under the WHS Act has been complied with (s 275(1)). A court may have regard to the code as evidence of what is known about a hazard or risk, risk assessment or risk control to which the code relates and may rely on the code in determining what is reasonably practicable in the circumstances to which the code relates (ss 275(2) and 275(3)).

Safe Work Australia has developed 23 model codes of practice for adoption by the Commonwealth, State and Territory governments in accordance with the *Inter-governmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety*. The Commonwealth has previously adopted the model codes of practice in two compilations, the *Work Health and Safety Codes of Practice 2011* and *Work Health and Safety Codes of Practice 2012*.

These compilations will be revoked and the codes of practice remade as 23 separate instruments to improve accessibility of the codes on the ComLaw website and streamline the process for making future updates to the codes.

The content of most of the codes of practice will remain unchanged. However, the following 17 codes of practice have been revised and updated to correct minor technical and drafting errors:

- Managing the Risk of Falls at Workplaces
- Demolition Work
- Managing Noise and Preventing Hearing Loss at Work
- How to Manage and Control Asbestos in the Workplace
- Excavation work
- First Aid in the Workplace
- Spray Painting and Powder Coating
- Labelling of Workplace Hazardous Chemicals
- Preparation of Safety Data Sheets for Hazardous Chemicals
- Managing the Risks of Plants in the Workplace
- Managing Electrical Risks in the Workplace
- Construction Work
- Confined Spaces
- Hazardous Manual Tasks
- How to Safely Remove Asbestos
- Welding Processes
- Preventing Falls in Housing Construction

Details of these amendments are listed in [Attachment B](#) and on the final page of each code of practice.

Prior to approving a code of practice, or varying or revoking an approved code of practice, the Minister must be satisfied that the code of practice or variation or revocation has been developed in consultation with the Commonwealth, State and Territory governments, unions and employer organisations (s 272(2)). The revised codes of practice implement changes developed and agreed to by Safe Work Australia, which is comprised of representatives from the Commonwealth, each State and Territory, the Australian Council of Trade Unions, Australian Industry Group and the Australian Chamber of Commerce and Industry.

In accordance with subsections 274(5) and 274(6) of the WHS Act, the Minister has also notified the revocation and approval of the codes of practice in newspapers and copies of the codes of practice (and applied, adopted and incorporated documents) are available for inspection, without charge, at Comcare offices during normal business hours.

A Statement of Compatibility with Human Rights has been completed for the codes of practice, in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*. The Statement's assessment is that the amendments in the codes of practice are compatible with human rights. A copy of the Statement is at [Attachment A](#).

The codes of practice are legislative instruments for the purposes of the *Legislative Instruments Act 2003*.

The Office of Best Practice Regulation advised that a Regulation Impact Statement was not required (OBPR ID: 19145).

The codes of practice commence the day after they are registered on the Federal Register of Legislative Instruments.

## Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### Work Health and Safety Codes of Practice

This Statement of Compatibility with Human Rights relates to the following individual codes of practice made under the *Work Health and Safety Act 2011* (the WHS Act):

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23. Work Health and Safety Consultation, Co-operation and Co-ordination

For the purposes of this Statement of Compatibility with Human Rights, these 23 individual codes of practice have been collectively referred to as the Work Health and Safety Codes of Practice (or the codes of practice). The codes of practice are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### Overview of the Legislative Instrument

Safe Work Australia has developed 23 model codes of practice for adoption by the Commonwealth, State and Territory governments in accordance with the *Inter-governmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety*. The Commonwealth has previously adopted the model codes of practice in two compilations, the *Work Health and Safety Codes of Practice 2011* and *Work Health and Safety Codes of Practice 2012*.

These compilations will be revoked and the codes of practice remade as 23 separate instruments to improve accessibility of the codes on the ComLaw website and streamline the process for making future updates to the codes.

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- Managing the Risk of Falls at Workplaces
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- First Aid in the Workplace
- Spray Painting and Powder Coating
- Labelling of Workplace Hazardous Chemicals
- Preparation of Safety Data Sheets for Hazardous Chemicals
- Managing the Risks of Plants in the Workplace
- Managing Electrical Risks in the Workplace
- Construction Work
- Confined Spaces
- Hazardous Manual Tasks
- How to Safely Remove Asbestos
- Welding Processes
- Preventing Falls in Housing Construction

Details of these amendments are listed in [Attachment B](#) as well as on the final page of each code of practice. The revisions made to the codes of practice are limited to correcting minor technical and drafting errors and do not raise any human rights issues.

### **Human rights implications**

This legislative instrument does not engage any of the applicable rights or freedoms.

### **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**Michaelia Cash, Minister for Employment**

Technical amendments to Codes of Practice for the Commonwealth jurisdiction:

Code of Practice	Page No.	Amendment
Managing the Risk of Falls at Workplaces	5	Section 1.1 – chapter reference amended to Chapter 10.
	40	Figure 31 adjusted so the self-closing gate is not at the top of the access ladder.
Demolition Work	14	Section 3.5 – text amended as the National Occupational Licensing System has been discontinued.
Managing Noise and Preventing Hearing Loss at Work	37	Appendix C – Table C1, the color coding in row 84 column 10h* (100) and row 83 column 12*h (96) `changed from red to yellow.
How to manage and control asbestos in the workplace	10	Section 1.2 – the following text has been added to the final dot point in the table:  ‘reduce the risk of the exposure to asbestos to below the exposure standard and notify the regulator about the emergency.’
	26	The hyperlink has been updated.  <i>Assessment of Site Contamination National Environmental Protection Measure (NEPM)</i>  <a href="http://www.nepc.gov.au/nepms/assessment-site-contamination">www.nepc.gov.au/nepms/assessment-site-contamination</a> >
	29	Section 5.4 – text amended in 15 <sup>th</sup> dot point to specify that the title of the health monitoring guide is ‘ <a href="#">Health Monitoring for Exposure to Hazardous Chemicals - Guide for persons conducting a business or undertaking</a> ’
	62	The symbol ‘mm’ amended to ‘µm’ in the first row of the table.
Excavation Work	17	Section 4.1 – text in first paragraph amended so the two sentences are joined by ‘unless’.
	40	Section 6.2 – Figure 15 number 1 – text changed from 600 mm to 1000 mm and ‘both sides’ changed to ‘the side’.
First Aid in the Workplace	11	Section 3.2 – text amended to read:  ‘Further information on the design and use of signs is available in AS 1319 - <i>Safety Signs for the Occupational Environment.</i> ’

Code of Practice	Page No.	Amendment
	12	Section 3.3 – text amended from ‘automatic defibrillators’ to ‘automated external defibrillators’.
	14	Section 3.5 – text amended as the nationally endorsed first aid units of competency have been superseded by new units.
	24	Appendix D - text amended in second paragraph under sub-heading ‘Contaminated Items’ to read:  ‘Guidance on the design, construction, colour and markings of sharps containers is provided in...’
	24	Appendix D – references to Australian Standards under sub-heading ‘Contaminated Items’ have been amended.
Spray Painting and Powder Coating	12	Removed ‘In addition’ at the start of the 2 <sup>nd</sup> paragraph in section 2.2.
	35	Regulation 66 amended to simplify the wording.
	9	Regulation 382 amended to ensure consistency with the technical amendment made to the model WHS Regulations. The following dot point was removed from the grey box.  <ul style="list-style-type: none"> <li>• free silica (crystalline silicon dioxide)</li> </ul>
	19	Section 3.1 – text amended by adding ‘or’ at the end of the first dot point.
Labelling of Workplace Hazardous Chemicals	25	Appendix A – definition of ‘In Transit’ amended to ensure consistency with WHS Regulations.
	105 App I	The hyperlinks have been updated.  <ul style="list-style-type: none"> <li>• <a href="#">ADG Code, class labels and publication information</a> <a href="http://www.ntc.gov.au/heavy-vehicles/safety/australian-dangerous-goods-code/">www.ntc.gov.au/heavy-vehicles/safety/australian-dangerous-goods-code/</a></li> <li>• <a href="#">Model Code of Practice: Preparation of Safety Data Sheets</a> <a href="http://www.safeworkaustralia.gov.au/sites/swa/about/publications/pages/safety-data-sheets-hazardous-chemicals-cop">www.safeworkaustralia.gov.au/sites/swa/about/publications/pages/safety-data-sheets-hazardous-chemicals-cop</a></li> <li>• <a href="#">GHS hazard pictograms for download</a> <a href="http://www.unece.org/trans/danger/publi/ghs/pictograms.html">www.unece.org/trans/danger/publi/ghs/pictograms.html</a></li> </ul>

Code of Practice	Page No.	Amendment
		<ul style="list-style-type: none"> <li>• <a href="http://www.unece.org/trans/danger/publi/ghs/ghs_welcome_e.html">GHS revision 3 – Official text and corrigenda:</a> <a href="http://www.unece.org/trans/danger/publi/ghs/ghs_welcome_e.html">www.unece.org/trans/danger/publi/ghs/ghs_welcome_e.html</a></li> <li>• <a href="http://apvma.gov.au/registrations-and-permits/labelling-codes">Labelling codes for Agricultural and Veterinary chemicals</a> <a href="http://apvma.gov.au/registrations-and-permits/labelling-codes">apvma.gov.au/registrations-and-permits/labelling-codes</a></li> <li>• <a href="http://www.tga.gov.au/industry/scheduling-poisons-standard.htm">SUSMP publication information</a> <a href="http://www.tga.gov.au/industry/scheduling-poisons-standard.htm">www.tga.gov.au/industry/scheduling-poisons-standard.htm</a></li> <li>• <a href="http://www.unece.org/trans/danger/danger.html">UN Model Regulations for the Transport of Dangerous Goods</a> <a href="http://www.unece.org/trans/danger/danger.html">www.unece.org/trans/danger/danger.html</a></li> </ul>
Preparation of safety data sheets for hazardous chemicals	6	Section 1.3 – text amended in the table to read:  Must provide the current SDS to any person, if the person is likely to be affected by the chemical or asks for the SDS.
	95 App.E	The hyperlinks have been updated. <ul style="list-style-type: none"> <li>• <a href="http://www.nicnas.gov.au/regulation-and-compliance/aics">Australian Inventory of Chemical Substances (AICS) (NICNAS)</a> <a href="http://www.nicnas.gov.au/regulation-and-compliance/aics">www.nicnas.gov.au/regulation-and-compliance/aics</a></li> <li>• <a href="http://www.nicnas.gov.au/chemical-information">Chemical Assessment Reports (NICNAS)</a> <a href="http://www.nicnas.gov.au/chemical-information">www.nicnas.gov.au/chemical-information</a></li> <li>• Exposure Standards (Workplace Exposure Standards for Airborne Contaminants)</li> <li>• <a href="http://www.unece.org/trans/danger/publi/ghs/ghs_welcome_e.html">Globally Harmonized System of Classification and Labelling of Chemicals (GHS) (United Nations)</a> <a href="http://www.unece.org/trans/danger/publi/ghs/ghs_welcome_e.html">http://www.unece.org/trans/danger/publi/ghs/ghs_welcome_e.html</a></li> <li>• <a href="http://www.echemportal.org">Global Portal to Information on Chemical Substances (OECD)</a> <a href="http://www.echemportal.org">www.echemportal.org</a></li> <li>• <a href="http://hsis.safeworkaustralia.gov.au/">HSIS database</a> <a href="http://hsis.safeworkaustralia.gov.au/">http://hsis.safeworkaustralia.gov.au/</a></li> <li>• <a href="http://echa.europa.eu/reach_en.asp">Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) (ECHA)</a> <a href="http://echa.europa.eu/reach_en.asp">http://echa.europa.eu/reach_en.asp</a></li> </ul>
Managing risks	3	Section 3.4 added to Table of Contents.



Code of Practice	Page No.	Amendment
of plant in the workplace	4	Wording in paragraph 3 of Scope and application '[under development]' after 'The Code of Practice: Safe Design, Manufacture, Import and Supply of Plant' removed.
	8	Section 1.3 – wording in fifth paragraph '[under development]' after 'The Code of Practice: Safe Design, Manufacture, Import and Supply of Plant' removed.
	16-17	Section 3.1 – second hand plant text updated.
	27	Section 4.1 – wording in Figure 2 'Food mixer with an interlocking arm' removed.
	30	Section 4.1 – wording in Figure 7 'Presence – sensing safeguard system' removed.
	39-41	Appendix A revised in line with Schedule 5 amendments to the WHS Regulations.
Managing Electrical Risks in the Workplace	28	Section 5.1 – two references changed from 'safe work procedure' to 'safe work principle'.
Construction Work	5	Scope and application amended to reflect that additional material on housing construction has been included.
	34-36	Table of examples of construction work has been moved from section 1.1 to Appendix A.
	8	New section 1.2 titled 'What is not construction work'.
	8	New section 1.3 titled 'What is a structure'.
	8	Examples of structures in housing construction inserted.
	9	New section 1.4 titled 'What is high risk construction work'.
	9	New section 1.5 titled 'What is a construction project'.
	10	Minor changes to language and additional information about principal contractors added to new section 1.5 'What is a construction project'.
	10	New Section 1.6 titled 'Other terms used in this code' – includes definitions of builder, subcontractor, owner-builder and designer.
	11	Section 1.7 is titled 'Who has health and safety duties relating to

Code of Practice	Page No.	Amendment
		construction work’.
	11	Section 1.7 ‘Who has health and safety duties relating to construction work’ now has specific information on multiple and shared duties, including targeted information for the housing construction sector.
	11	New Section 1.8 titled ‘What is required to manage risks in construction’ (was section 2.2 in previous version).
	12	Section 1.8 includes specific information on consulting with other duty holders and examples.
	16	Section 2 is now titled ‘Specific duties relating to construction work’.
	16	Section 2.1 is now titled ‘Persons conducting a business or undertaking’ and includes the previous sections on ‘designers’, ‘person that commissions construction work’, ‘principal contractor’, ‘persons who have management or control of a workplace at which construction work is carried out’, ‘persons carrying out high risk construction work’ and ‘other duties’. Some of these have been subject to minor amendments.
	16	Footnote added to clarify application of WHS duties to principal contractors.
	18	New Section 2.2 titled ‘Officers’.
	19	New Section 2.3 titled ‘Workers’.
	19	New Section 2.4 titled ‘Other persons’.
	21	Section 3.3 ‘Controlling the risks’ includes additional introductory paragraph about specific control measures to control risks and provides an example.
	21	Minimising the risk by substituting one of the following control measures (substitution) – example of substituting a manual task with a material hoist or craning material has been replaced with an example involving substitution of solvent-based paint with water-based paint.
	21	Minimising the risk by substituting one of the following control measures (engineering controls) – additional examples included.
	22	Minimising the risk by using administrative controls now includes additional example about scheduling tasks.

Code of Practice	Page No.	Amendment
	22	Combination of control measures – additional text added before examples.
	22	Combination of control measures – additional example included for housing construction industry.
	24	Section 4.1 ‘What is a SWMS’ text has been amended.
	24	Section 4.1 ‘Who is responsible for preparing a SWMS’ text has been amended.
	25	Section 4.2 ‘Preparing a SWMS’ has been revised.
	26	Section 4.3 ‘Implementing a SWMS’ has additional text about monitoring the SWMS.
	27	‘Keeping the SWMS and making it available’ – text has been amended.
	27	Section 4.4 ‘Reviewing a SWMS’ – text has been amended.
	28	Section 5.1 ‘What is a WHS management plan’ – text has been amended.
	28	Section 5.2 ‘What must the WHS management plan contain’ – text has been amended. Title in previous version was ‘Preparing a WHS management plan contain?’
	28	Section 5.3 ‘How to prepare a SWMS’ has been amended and refers to further information in appendices.
	29	Section 5 – addition of Section 5.4 ‘Informing people about the WHS management plan’.
	29	Addition of Section 5.5 ‘Reviewing and revising a WHS management plan’.
	29	Section 5.6 ‘Keeping the WHS management plan’.
	50	Information on preparing WHS management plans moved to Appendix F.
	30	Section 6 ‘Information, training, instruction and supervision’ – additional text included.
	31	Section 6.1 ‘General construction induction training’ – text has been amended.

Code of Practice	Page No.	Amendment
	31	'General construction induction training cards' – text has been amended, including addition of an example for housing construction.
	31	Section 6.2 is now titled 'Workplace specific induction training' and text has been amended.
	32	Section 6.3 'Other training' – text has been amended.
	32	Section 6.4 'Supervision' – text has been amended.
	33	Section 7 – 'General workplace management arrangements' – text amended to refer to principal contractor instead of PCBU as in previous version of code.
	33	Section 7 'General workplace management arrangements' – significant amounts of text moved to appendix.
	34	New Appendix A: Examples of construction work
	37	New Appendix B: Examples of high risk construction work
	39	New Appendix C: Design duties
	43	New Appendix D: Safe Work Method Statement Template
	47	New Appendix E: Safe Work Method Statement Example
	50	New Appendix F: Preparing a WHS Management Plan
	52	New Appendix G: WHS Management Plan Template
	54	New Appendix H: Sample Completed WHS Management Plan
	57	New Appendix I: Housing construction workplace management arrangements
	64	New Appendix J: General construction workplace management arrangements
Confined spaces	5	Section 1 – text amended in fourth dot point to read 'asphyxiation resulting from oxygen deficiency or immersion in a free-flowing material, such as grain, sand, fertiliser, <b>water or other liquids</b> '.
Hazardous Manual Tasks	23	Section 4.1 'Hierarchy of control' table – text amended to read 'Train workers to use control measures implemented when carrying out <b>manual</b> tasks'.

Code of Practice	Page No.	Amendment
How to safely remove asbestos	5	Foreword amended to include following text:  The WHS Act and Regulations may be complied with by following another method, such as a technical or an industry standard, if it provides an equivalent or higher standard of work health and safety than the code.
	10	Section 1.3 – text amended in first dot point under sub-heading ‘ <i>Examples of Class A or B licensed asbestos removal work</i> ’ to read:  The area to be removed is 12 m <sup>2</sup> in total so the person must be a licensed asbestos <b>removalist and the material to be removed is non-friable so the</b> work can be done by a Class A or Class B licensed asbestos removalist.
	36	Text amended in the first dot point of box to read ‘ <b>Warning:</b> do not reuse...’
	63	Text amended in the note to specify that an <b>asbestos removal</b> clearance certificate must be completed by the independent licensed asbestos assessor.
Welding Processes	5	Section 1.2 – text has been amended to read:  Designers, manufacturers, importers and suppliers of plant or substances used in welding must ensure, so far as is reasonably practicable, that the plant or substance is without risks to health and safety.
	17	Section 3.6 – text amended in the fifth dot point to reflect the requirements in Australian Standard AS 4839.
	17	Section 3.6 – text amended in the seventh dot point to read:  ‘Keep all sources of heat and ignition away from gas cylinders, even if the cylinders do not contain flammable material’.
Preventing Falls in Housing Construction	19	Text amended in paragraph after Figure 4 to read:  ‘Where trenching works present a risk of a person falling into the trench, any such risk should be controlled by...’