



# Preparing for Australia's Work Health & Safety laws

1 January 2012 will see the introduction of harmonised Work Health and Safety laws across Australia. It's important that businesses take action to meet obligations under the new legislation and continue to manage their risks for workplace health and safety, as explained by Jo Kitney.

**T**he countdown is on and after months of public consultation and drafting of legislation by Safe Work Australia, the model Work Health and Safety Act, Work Health and Safety Regulations and Codes of Practice are due to be implemented on 1 January 2012. Although Victoria and Western Australia have requested a delay in implementation, all other states and territories are planning a commencement on this date.

Similar to existing legislation, the Work Health and Safety Act sets the context and obligations for the management of health and safety at work, with the Regulations prescribing management for issues such as risk management, health and safety representation, hazardous work (i.e. noise, manual tasks, confined space and electrical safety), plant and structures, hazardous chemicals and major hazard facilities.

Codes are being released in stages, with first stage Codes to be implemented on 1 January 2012. These first stage codes include hazardous substances, manual tasks, preventing falls and how to manage workplace health and safety risks. Second stage codes have recently been released for public comment and until such time that new Codes are implemented, existing Codes within states and territories will continue to apply.

Important inclusions in the Work Health and Safety legislation are listed below:

## Key inclusions in the new WHS legislation

- The use of 'so far as reasonably practicable' to prevent risk to health and safety.
- Positive duty of care for directors and officers.
- Heavier penalties for breaches of duty.
- Definitions of 'worker' and 'PCBU' (person in control of the business or undertaking).
- Requirement to monitor workers' health and conditions at work.
- Obligation to consult, co-operate and coordinate on WHS matters with workers.
- Health and safety representatives' powers to issue PINS and direct a work stoppage.

- Removal of Workplace Health and Safety Officers (WHSO's) (in Queensland).
- Codes of Practice admissible in a court as evidence.

## Compliance and enforcement

Compliance and enforcement will follow the current tiered approach within each state or territory, with WHS regulators providing support to businesses to encourage and assist compliance (the 'educator'), issuing improvement and prohibition notices to direct compliance (the 'regulator' or 'enforcer') and, for cases of negligence in meeting duties of care, regulator and court sanctions including prosecutions, injunctions, infringement notices and enforceable undertakings (the 'prosecutor').

Guidance indicates there will be no 'grace period' after commencement of the new legislation, with limited transitional provisions for matters such as prosecutions, appointment of health and safety representatives and notices issued before the repeal of the current legislation.

## What can businesses do to prepare?

By 1 January 2012 businesses will need to take action to meet the new legislation. Preparing for it and rolling out updated or new WHS arrangements will, for many businesses, take time, planning and good project and change management. Key actions to help guide businesses to prepare for the new WHS legislation are listed below.

## Key actions for businesses

1. Allocate responsibility and resource and lay down a plan for preparing for the new WHS legislation.
2. Obtain copies of the new legislation and understand continued and changed obligations.
3. Identify and work with key internal and external stakeholders for WHS.
4. Decide who will be considered a 'worker' and an 'officer' within the business.
5. Revise the corporate governance processes for Boards, CEOs and executive management.

6. Conduct a due diligence audit or gap analysis to identify areas for action.
7. Review and revise WHS management system policies, procedures, tools and templates.
8. Roll out and implement revised WHS management across operational areas.
9. Conduct management briefings and provide training and information for workers on the new WHS arrangements.
10. Monitor and review actions taken to ensure effective change management and compliance.

## Further information

Information on the new legislation is available from Safe Work Australia, with copies of the Act, Regulations and Codes of Practice for each state or territory available for download. If you haven't already done so, take time to contact your state or territory, have a look at the new legislation and put in place the plans for your business to be prepared for Australia's new Work Health and Safety Laws:

**Safe Work Australia:** 02 6121 5317

[www.safeworkaustralia.gov.au](http://www.safeworkaustralia.gov.au)

**ACT:** 1300 366 979

[www.comcare.gov.au](http://www.comcare.gov.au)

**New South Wales:** 13 10 50

[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

**Northern Territory:** 1800 019 115

[www.worksafe.nt.gov.au](http://www.worksafe.nt.gov.au)

**Queensland:** 1300 369 915

[www.deir.qld.gov.au](http://www.deir.qld.gov.au)

**South Australia:** 1300 365 255

[www.safework.sa.gov.au/whs](http://www.safework.sa.gov.au/whs)

**Tasmania:** 1300 366 322

[www.wst.tas.gov.au](http://www.wst.tas.gov.au)

**Victoria:** 1800 136 089

[www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au)

**Western Australia:** 1300 307 877

[www.commerce.wa.gov.au](http://www.commerce.wa.gov.au) **AMT**

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