

Work Health & Safety Harmonisation - Are You Ready?

We are now less than 2 months from the introduction of new Work Health and Safety legislation in Australia. Progress towards National harmonisation has been effective in some states / territories whilst others have requested an extension to the deadline for introduction of the new laws that were proposed to commence on the 1st of January 2012.

Queensland, New South Wales, ACT and the Commonwealth have passed bills to enact the Work Health and Safety Act 2011 whilst bills are currently with parliament for Tasmania, South Australia and the Northern Territory who have indicated an intent to commence with the Act in 2012. The Victorian and West Australian Governments have requested an extension in the commencement of legislation in their states.

The new Act defines some important duties that apply to persons conducting a business or undertaking (PCBU) and "officers" of the business. Importantly, there is a requirement for officers to exercise due diligence in the management of Work Health and Safety (WHS) within the business which can be demonstrated through understanding the hazards that may impact on workers (and others) and the methods to eliminate or reduce the risk.

The Model WHS Regulations issued by Safe Work Australia are likely to be adopted in one form or another in the coming months and compliance with these Regulations and Model Codes of Practice are a way that an "officer" can demonstrate due diligence has been applied. Given the disparity in legislation between the states at present, the new legislation will have differing implications.

Some key changes that are likely to affect states that have already passed the Work Health and Safety Act are summarised below.

Asbestos

- A requirement for asbestos inspections to be undertaken of buildings constructed up until 31st December 2003 (QLD currently only require pre 1990 buildings to be assessed).
- A requirement for asbestos inspections to be undertaken prior to demolition or refurbishment of a building constructed prior to 31st December 2003.
- A requirement for an asbestos assessors licence to be held by persons undertaking monitoring and inspection work on friable asbestos removal processes (ACT is currently the only state to have a similar system in place).
- There is a requirement for class A asbestos removalists to have a certified WHS management system (this requirement doesn't exist under current legislation).



Construction Work

- The requirement for appointing a principal contractor (PC) to manage construction work in Queensland has been increased from \$80,000 to \$250,000 to be in line with requirements already existing in other states.
- There will no longer be a requirement for the formal notification of the PC to the state WHS Authority.
- There is a new requirement for a PCBU to obtain underground essential service information prior to excavation work.



Dangerous Goods

- The removal of the requirement to hold a flammable and combustible liquids licence for storage of dangerous goods above minor quantities in QLD (this licence requirement was not present in any other state).
- Use of the term “hazardous chemicals” to define hazardous substances and dangerous goods with existing individual state specific legislation to be repealed.
- The adoption of the Globally Harmonised System for Classification and Labelling of Chemicals (GHS) over a transitional period of 5 years.

Falls from Height

- Further definition of requirements to manage the risk of falls from height.

Occupational Noise

- A requirement for PCBUs to undertake audiometric testing of workers who are frequently required to wear hearing protection to protect against excessive noise levels.



Plant Safety

- A requirement for registrable plant items to be registered every 5 years (Current legislation requires annual registration).
- The requirement for the registration of air conditioning units / cooling towers will change depending on current state based requirements.

Remote and Isolated Work

- A new requirement for the PCBU to implement measures to manage communications for workers in remote and isolated work situations.

The most effective way to ensure that your systems comply with the new requirements and that you are discharging your obligations as a PCBU and Officer is to undertake a gap analysis audit. This process will allow for the identification of deficiencies and provide a “road map” to compliance.

If you have any questions on how this legislation may affect your business or how you can establish systems to be in compliance with the legislation contact Wade Russell on 0405 582 700.