

New Legislation

In July 2008, a formal agreement was made between the Commonwealth and all states and territories (with the exception of Western Australia) to implement harmonised work health and safety laws in each jurisdiction.

The model laws have been developed by the Commonwealth, in consultation with the states and territories and it is expected that each state and territory will implement their own legislation that mirrors the model laws.

The WHS laws are due to come into effect on 1 January 2012.

In addition to the Work Health and Safety (WHS) Act and the Work Health and Safety (WHS) Regulations, there are also model Codes of Practice under development to provide support and guidance on different issues in work health and safety.

Purpose/Objectives

The purpose of the model WHS Act and other WHS legislation is to introduce a nationally consistent set of laws covering health and safety at work. Currently, there are numerous variations between the laws of each state and territory, and this can lead to confusion for businesses and employees, as well as different standards of safety depending where the work is carried out.

The main object of the model Work Health and Safety Act is to:

‘provide for a balanced and nationally consistent framework to secure the health and safety of workers and workplaces’.

Key Changes

Key changes in the new WHS Act compared with existing NSW OHS legislation will include:

- Changes in terminology e.g. from ‘occupational health and safety’ to ‘work health and safety’;
- A broadening in the definition of who is a worker;
- A broadening of persons with health and safety duties;
- Requirement for all duty holders to consult with others;

Changes from OHS Representatives, OHS Committees and authorised representatives to

- Health and Safety Representatives (HSRs), Health and Safety Committees (HSCs) and WHS entry permit holders with different role and functions;
- The introduction of a positive duty for ‘officers’ (such as directors of a company) e.g. proactive safety activities;
- No longer a need to undertake a risk assessment in all situations;
- Unions may still prosecute breaches, under certain circumstances

Achieving the object of the WHS Act

The main object of the WHS Act is ‘to provide for a balanced and nationally consistent framework to secure the health safety and welfare of workers and workplaces and is to be achieved by:

- protecting workers and others from harm to their health, safety and welfare by elimination or minimisation of risks arising from work (or specified substances or plant);
- providing for fair and effective workplace representation (e.g. HSRs), consultation, co-operation and issue resolution on work health and safety;

- encouraging unions and employer organisations to assist in achieving a healthier and safe workplace;
- promoting the provision of health and safety advice, information, education and training;
- effective and appropriate use of compliance and enforcement measures;
- monitoring and review of persons with duties and powers under the WHS Act;
- providing a framework that ensures continuous improvement and higher standards for work health and safety; and
- maintaining and strengthening the national harmonisation laws and facilitating a consistent national approach to work health and safety.

Additional Information

Additional information can be found at the following links:

Safe Work Australia: www.safeworkaustralia.gov.au – Model legislation and supporting information

WorkCover NSW: www.workcover.nsw.gov.au – Advice and assistance with WHS legislation and work health and safety requirements.

NSW Business Chamber: www.nswbc.com.au – Advice, assistance, information, training and consulting services