

Safety Alert

107 – Codes of practice update

Date

17 May 2023

Between 30 March 2022 and 30 March 2024 the Work Health and Safety laws are transitioning from the Occupational Health & Safety Act 1984 (OSH Act) to the new Work Health & Safety Act 2020 (WHS Act).

WorkSafe announced:

“Transition arrangements allow for codes of practice approved under the Occupational Safety and Health Act 1984 and Mines Safety and Inspection Act 1994 to continue being in effect as if approved by the Minister under the WHS Act. Codes of practice will be published on the department’s website after they are approved by the Minister”.

What is a code of practice?

WorkSafe defines a code of practice as:

“A code of practice provides detailed information on how you can achieve the standards required under WHS law. Codes of practice do not replace the law, but can help you understand what you need to do to comply with specific regulations and provide a healthy and safe workplace”.

In short, they are a cheat sheet to ensuring you are remaining compliant to the WHS laws.

What does the Code of Practice mean for you?

The WHS Act outlines the 'Duties of workers' as:

28. Duties of workers

While at work, a worker must —

- *(a) take reasonable care for the worker's own health and safety; and*
- *(b) take reasonable care that the worker's acts or omissions do not adversely affect the health and safety of other persons; and*
- *(c) comply, so far as the worker is reasonably able, with any reasonable instruction that is given by the person conducting the business or undertaking to allow the person to comply with this Act; and*
- *(d) cooperate with any reasonable policy or procedure of the person conducting the business or undertaking relating to health or safety at the workplace that has been notified to workers.*

The penalties for not complying with your Duties are in the WHS Act as:

Subdivision 3 — Other offences and penalties

31. Failure to comply with health and safety duty — Category 1

(2) A person commits an offence (a Category 1 offence) if —

- *(a) the person has a health and safety duty otherwise than as a person conducting a business or undertaking; and*

- (b) the person fails to comply with that duty; and
- (c) the failure causes the death of, or serious harm to, an individual.

Penalty for this subsection:

- (a) for an individual, if the offence is committed by the individual as an officer of a person conducting a business or undertaking, imprisonment for 5 years and a fine of \$680 000;
- (b) for an individual, if paragraph (a) does not apply, imprisonment for 5 years and a fine of \$340 000;
- (c) for a body corporate, a fine of \$3 500 000.

Keeping these in mind, the WHS Act also states the following:

275. Use of codes of practice in proceedings

(2) An approved code of practice is admissible in the proceeding as evidence of whether or not a duty or obligation under this Act has been complied with.

(3) The court may —

- (a) 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
- (b) rely on the code in determining what is reasonably practicable in the circumstances to which the code relates.

(4) Nothing in this section prevents a person from introducing evidence of compliance with this Act in a manner that is different from the code but provides a standard of work health and safety that is equivalent to or higher than the standard required in the code.

In short, if you do not read and follow the code of practice and any other reasonable safety instruction and procedures from EGT, host employer, or supervisor and something goes wrong based on your actions, you could be held liable and need to answer to a court. If found guilty as above, the penalties are severe.

How to access approved codes of practice

[Approved codes of practice are available on WorkSafe's website.](#)

There are many different codes of practice, however the most common for our industry are the following:

CONFINED SPACES 	CONSTRUCTION WORK 	FIRST AID IN THE WORKPLACE 
HAZARDOUS MANUAL TASKS 	HOW TO MANAGE AND CONTROL ASBESTOS IN THE WORKPLACE 	HOW TO MANAGE WHS RISKS 
LABELLING OF WORKPLACE HAZARDOUS CHEMICALS 	MANAGING NOISE AND PREVENTING HEARING LOSS AT WORK 	MANAGING RISKS OF HAZARDOUS CHEMICALS IN THE WORKPLACE 
MANAGING RISKS OF PLANT IN THE WORKPLACE 	MANAGING THE RISK OF FALLS AT WORKPLACES 	MANAGING THE RISK OF FALLS IN HOUSING CONSTRUCTION 
MANAGING THE RISKS OF RESPIRABLE CRYSTALLINE SILICA FROM ENGINEERED STONE IN THE WORKPLACE 	MANAGING THE WORK ENVIRONMENT AND FACILITIES 	PSYCHOSOCIAL HAZARDS IN THE WORKPLACE 
VIOLENCE AND AGGRESSION AT WORK 	WORKPLACE BEHAVIOUR 	WHS CONSULTATION, COOPERATION AND COORDINATION 

Further information

- [WorkSafe](#)
- [WorkSafe's approved codes of practice](#)
- [WA's WHS laws](#)

Feedback

For further information regarding this Safety Alert, please contact EGT on (08) 6241 6100 or speak with your Field Officer.