

LEGISLATION

Practical Guidance to the Approved Codes of Practice

This information bulletin provides guidance to Approved Codes of Practice under the [Workplace Health and Safety Act 2007](#). Please refer to Section 61 and Section 62 of the Act. Further Information can be found in information bulletin 09.01.15 Legislation – the legislative framework.

Approved codes of practice

Sometimes additional information is needed to assist people with duties under occupational health and safety (OHS) and other workplace legislation and standards to work out how they might comply with their legal obligations on particular matters. An approved code of practice adopted under the Act outlines practical ways of complying with workplace health and safety laws. While an approved code of practice doesn't have the same status as law, that is, you don't have to follow what it says and you can actually decide to meet your obligations another way, it provides practical guidance on how to control risk.

While you don't have to comply with a code of practice, you may be required (in the case of a workplace accident, for example) to show that the risk management system you have chosen to use achieves the same or a better safety outcome than if you had followed the approved code of practice.

However, if you do follow an approved code of practice, you can be confident that you will achieve the minimum standards required to meet your obligations under the Workplace Health and Safety Act and Regulations.

On their own, standards and codes of practice have no primary legal status. They can, however, be used as evidence in court. This places an obligation on anyone who did not follow the steps set out in the standard or code to satisfy the court that they achieved the requirements of the Act in another equally effective way.

An approved code of practice can relate to workplaces generally; or a particular class of workplaces; or a particular workplace.

A code of practice if it relates to workplaces generally or a particular class of workplaces – takes effect when approved by the Minister; and if it relates to a particular workplace – takes effect when approved by the Authority.

Examples of approved codes of practice

NOHSC2002 National Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC:2002(2005)], AS 1715 Selection, use and maintenance of respiratory protective devices. AS 1170 Minimum design loads on structures.

Please refer to information bulletin 09.01.03 Legislation - Approved Codes of Practice. For a list of all approved codes of practice.

What the Act says

Section 61 – Codes of practice

1. A code of practice provides practical guidance on how to comply with a duty or duties under this Act.
2. A code of practice may relate to:
 - (a) workplaces generally; or
 - (b) a particular class of workplaces; or
 - (c) a particular workplace.
3. A code of practice:
 - (a) if it relates to workplaces generally or a particular class of workplaces – takes effect when approved by the Minister; and
 - (b) if it relates to a particular workplace – takes effect when approved by the Authority.
4. An approval is to be effective for a period stated in the instrument of approval.
5. The Minister or the Authority (as the case requires) may extend the period of approval from time to time.
6. An approved code of practice is to be accessible on the Authority's website.
7. An employer must keep an approved code of practice available for inspection at reasonable times by a worker or other person at a workplace to which the code of practice relates.

Maximum penalty: 20 penalty units.

Section 62 – Compliance with code of practice ~~as a defence to be defence~~

If an employer or other person is prosecuted for non-compliance with a particular statutory duty, and a code of practice governing compliance with the relevant duty was in force at the time of the alleged non-compliance, it is a defence to the charge to establish that the defendant complied with the code of practice in relevant respects.

An employer must keep an approved code of practice available for inspection at reasonable times by a worker or other person s at a workplace to which the code of practice relates.

Maximum penalty: 20 penalty units.

Related information bulletins

[09.01.03](#) Legislation - Approved codes of practice

[09.01.15](#) Legislation – Legislative framework

For further information please contact NT Worksafe on 1800 019 115 or go to worksafe.nt.gov.au