

Work Health and Safety (Codes of Practice) (Scaffolding) Amendment Notice 2021

Explanatory Notes for SL 2021 No. 54

made under the

Work Health and Safety Act 2011

General outline

Short title

Work Health and Safety (Codes of Practice) (Scaffolding) Amendment Notice 2021

Authorising law

Section 274(4) of the *Work Health and Safety Act 2011*

Policy objectives and the reason for them

In June 2015 employer and worker representatives made a joint submission to the then Treasurer, Minister for Employment and Industrial Relations and Minister for Aboriginal and Torres Strait Islander Partnerships requesting a review of construction-related codes of practice including the *Scaffolding Code of Practice 2009*. The purpose of the review was to ensure the codes of practice are responsive to industry needs and safety concerns and reflect best practice in the construction industry.

The *Scaffolding Code of Practice 2009* is over 10 years old, and it is considered timely for it be updated and remade to ensure it reflects current industry best practice, technological advancements and is consistent with the model Work Health and Safety laws implemented in Queensland in 2012.

Achievement of policy objectives

The notice achieves the policy objectives by revoking the *Scaffolding Code of Practice 2009* and approving the *Scaffolding Code of Practice 2021*.

Consistency with policy objectives of authorising laws

Making the *Scaffolding Code of Practice 2021* is consistent with the object in the *Work Health and Safety Act 2011* to provide a framework for continuous improvement and progressively higher standards in work health and safety.

Inconsistency with policy objectives of other legislation

No inconsistencies with policy objectives of other legislation have been identified.

Alternative ways of achieving policy objectives

The policy objectives can only be achieved by the notice.

Benefits and costs on implementation

The majority of the amendments to the Scaffolding Code of Practice are considered minor in nature or otherwise reflective of current best practice in the scaffolding industry and are not expected to increase regulatory burden or go beyond existing regulatory requirements.

There are some anticipated increased costs associated with the following new requirements:

- for an engineer to undertake the initial inspection of certain high risk scaffolds;
- provision of two means of access and egress for external perimeter scaffolds with a Top Working Platform more than 8m high and a length of more than 60 lineal metres. One of them should be suitable for emergency stretcher access;
- that when there is a change in direction between landings the step height from the scaffold stair module on to the working platform should be no more than 300mm; and
- that non-destructive testing of high stress areas of suspended scaffold components should be done every three years.

The cost to industry of the requirement for an engineer to undertake the initial inspection of certain types of high risk scaffold is not expected to be significant and is outweighed by the reduced risk of inadequately designed or installed high risk scaffold collapsing.

The requirement for two means of access and egress ensures that if one becomes temporarily unavailable, workers can be safely evacuated from the scaffold in case of an emergency. The requirement does not apply to smaller scaffolding installations, including scaffolding on detached housing. The costs to industry are not expected to be significant as the requirement already exists in the *Formwork Code of Practice 2016*.

The cost to industry that will result from the requirement to minimise the step height to no more than 300mm is expected to be outweighed by the potential benefit of reducing the number of falls on scaffolding. Falls are the most common cause of serious injuries to scaffolding workers. This amendment to the code has a delayed commencement of twelve months to allow time for industry to transition to the new requirement.

The recommendation that non-destructive testing (NDT) of suspended scaffold components provides guidance to duty holders on when non-destructive testing of high stress areas should be undertaken in order to identify cracks that may not be easily visible. The cost to swing stage scaffolding businesses is outweighed by the safety benefits, as the failure of critical welds on a swing stage scaffold can have catastrophic consequences.

Consistency with fundamental legislative principles

The *Work Health and Safety (Codes of Practice) (Scaffolding) Amendment Notice 2021* does not conflict with fundamental legislative principles.

Consultation

A Scaffolding Industry Steering Committee, which included worker representatives, employer representatives and government representatives, was established in September 2017 to review and update the *Scaffolding Code of Practice 2009*. Consultation was undertaken with representatives from the following organisations as part of their participation on the Committee:

- Construction, Forestry, Maritime Mining and Energy Union
- Master Builders Association Queensland
- Scaffolding Association of Queensland
- Housing Industry Association
- Safeguard Scaffold
- Cogent Scaffolding
- Acrow
- Hutchinson Builders;
- Paynter Dixon;
- Laing O'Rourke; and
- Aussafe.

Members of the Steering Committee are supportive of the proposed changes to the code of practice.

Notes on Provisions

Clause 1 provides the short title of the notice.

Clause 2 states that this notice commences on 1 July 2021.

Clause 3 states that this notice amends the *Work Health and Safety (Codes of Practice) Notice 2011*.

Clause 4 amends Schedule 1 (Codes of Practice) to omit Schedule 1, part 1, entry 12 (Scaffolding Code of Practice 2009) and renumbers entries 13 to 17 as entries 12 to 16. The clause also inserts under 'Part 2 Codes of practice approved on or after 23 October 2017' a new entry numbered 22A (Scaffolding Code of Practice 2021) which was approved as a code of practice by Ministerial Instrument 2021 No. 3. The clause also renumbers Schedule 1, part 2, entries 22A to 25 as entries 23 to 26.

Clause 5 amends schedule 2 (Revoked codes of practice) by inserting Scaffolding Code of Practice 2009 into the list of revoked codes of practice. This is given effect on 1 July 2021 by Ministerial Instrument 2021 No. 4.

Clause 6 amends Schedule 3 (Dictionary) to insert definitions of the relevant Ministerial Instruments.