

Work Health and Safety (Codes of Practice) (Stevedoring and Other Matters) Amendment Notice 2022

Explanatory Notes for SL 2022 No. 196

made under the

Work Health and Safety Act 2011

General outline

Short title

Work Health and Safety (Codes of Practice) (Stevedoring and Other Matters) Amendment Notice 2022

Authorising law

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

Policy objectives and the reason for them

Making the *Work Health and Safety (Codes of Practice) (Stevedoring and Other Matters) Amendment Notice 2022* (WHS Amendment Notice) fulfils a requirement under section 274 of the WHS Act for the Minister to give public notice of the approval, variation or revocation of a code of practice.

The WHS Amendment Notice amends the *Work Health and Safety (Codes of Practice) Notice 2022* (WHS Notice) as follows:

1. approves the *Managing Risks in Stevedoring Code of Practice 2023* (2023 Stevedoring code);
2. revokes the *Managing Risks in Stevedoring Code of Practice 2018* (2018 Stevedoring code);
3. varies the *Abrasive Blasting Code of Practice 2021*;
4. varies the *Confined Spaces Code of Practice 2021*;
5. varies the *How to Manage and Control Asbestos in the Workplace Code of Practice 2021*;
6. varies the *How to Safely Remove Asbestos Code of Practice 2021*;
7. varies the *Labelling of Workplace Hazardous Chemicals Code of Practice 2021*;
8. varies the *Managing Noise and Preventing Hearing Loss at Work Code of Practice 2021*;
9. varies the *Managing respirable dust hazards in coal-fired power stations Code of Practice 2018*;

10. varies the *Managing Risks of Hazardous Chemicals in the Workplace Code of Practice 2021*;
11. varies the *Preparation of Safety Data Sheets for Hazardous Chemicals Code of Practice 2021*;
12. varies the *Spray Painting and Powder Coating Code of Practice 2021*; and
13. varies the *Welding Processes Code of Practice 2021*.

The 2018 Stevedoring code is an approved model code of practice and was adopted in Queensland without amendment. Under section 274(4) of the WHS Act, the 2018 Stevedoring code is due to expire on 31 March 2023, five years after it was made. The 2023 Stevedoring code — which commences on 31 March 2023 — will maintain the current health and safety standards in Queensland and consistency of standards across the stevedoring industry nationally.

On 24 November 2022, the *Work Health and Safety Amendment Regulation 2022* (WHS amendment regulation) was made, which amends the *Work Health and Safety Regulation 2011* with several updates from the national model WHS Regulation. The WHS amendment regulation commences on 1 January 2023. Ten codes of practice must be varied as a consequence of the WHS amendment regulation being introduced (items 3, 4, 5, 6, 7, 8, 10, 11, 12 and 13 above). Each of these ten codes of practice require minor variations to reflect the definitional changes to the national model WHS Regulation regarding hazardous chemicals.

In addition, on 1 October 2022, a revised workplace exposure standard (WES) for respirable coal dust took effect. From that date, the WES for respirable coal dust was reduced from a time-weighted average (TWA) of 3 milligrams per cubic metre (mg/m³) to a TWA of 1.5mg/m³. Implementing the revised workplace exposure standard for respirable coal dust requires minor variations to the *Managing respirable dust hazards in coal-fired power stations Code of Practice 2018* (item 9 above) to change references to the previous WES of 3 mg/m³ to the new standard of 1.5 mg/m³.

The variations to the codes of practice at items 3 to 13 above take effect on 1 January 2023.

Achievement of policy objectives

The WHS Amendment Notice achieves the policy objective of making new subordinate legislation that enables the Minister to give notice of the approval, variation, or revocation of codes of practice under section 274 of the WHS Act.

Consistency with policy objectives of authorising laws

The WHS Amendment Notice gives effect to the code of practice amendments outlined above, which is consistent with the policy objectives of the WHS Act to protect workers and other persons against harm to their health, safety and welfare through the elimination or minimisation of risks arising from work.

Inconsistency with policy objectives of other legislation

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

Benefits and costs on implementation

The WHS Amendment Notice does not impose costs on industry or the community. There are minimal costs to government associated with drafting and making the WHS Amendment Notice.

Consistency with fundamental legislative principles

The WHS Amendment Notice does not conflict with fundamental legislative principles.

Consultation

The Office of Best Practice Regulation (OBPR) was consulted about the 2023 Stevedoring code. OBPR advised that only a limited Sunset Review of the 2018 Stevedoring Code was required, given the code will be reviewed by Safe Work Australia in 2023. OBPR supports remaking the 2018 Stevedoring code with no substantive amendments.

Varying the eleven codes of practice (items 3 - 13 above) is by the Minister giving notice of the variations under section 274 of the WHS Act. OIR has not consulted with OBPR because varying the eleven codes falls into agency-assessed exclusion categories (a) *Regulatory proposals that make consequential amendments* and (g): *Regulatory proposals that are of a machinery nature of The Queensland Government Guide to Better Regulation*.

OBPR was not consulted in relation to the WHS Amendment Notice. As the WHS Amendment Notice is merely the legislative mechanism to record codes of practice approved by the Minister, the department applied a self-assessable exclusion from undertaking further regulatory impact analysis as it falls into the agency-assessed exclusion category (g): *Regulatory proposals that are of a machinery nature*.

Notes on Provisions

Short title

Clause 1 sets out the short title of the notice.

Commencement

Clause 2 states that Part 2 of the notice commences on 1 January 2023 and Part 3 of the notice commences on 31 March 2023.

Notice amended

Clause 3 states that the notice amends the *Work Health and Safety (Codes of Practice) Notice 2022*.

Amendment of sch 1 (Approved codes of practice)

Clause 4 inserts section 5(aa) in the *Work Health and Safety (Codes of Practice) Notice 2022* to provide that a variation date listed in schedule 1 is also the date on which the relevant ministerial instrument commenced.

Amendment of sch 1 (Approved codes of practice)

Clause 5 amends Schedule 1 of the *Work Health and Safety (Codes of Practice) Notice 2022* with the Ministerial Instruments stated in the entry.

Amendment of sch 2 (Dictionary)

Clause 6 renumbers Schedule 2 of the *Work Health and Safety (Codes of Practice) Notice 2022*.

Amendment of sch 4 (Approved codes of practice)

Clause 7 amends the *Work Health and Safety (Codes of Practice) Notice 2022* to provide that if the entry for the code of practice in schedule 1 states that it has been approved as a code of practice by a ministerial instrument on or after 1 August 2022, the inclusion of the approval in schedule 1 is notice for the purposes of section 274(4) of the WHS Act that the ministerial instrument stated in the entry approving the code of practice has been made by the Minister.

Amendment of s 5 (Variation of approved codes of practice)

Clause 8 renumbers section 6 of the *Work Health and Safety (Codes of Practice) Notice 2022*.

Insertion of new s 5A

Clause 9 provides for the insertion of a new section 5A in the *Work Health and Safety (Codes of Practice) Notice 2022* for the Minister to revoke an approved code of practice by Ministerial Instrument.

Renumbering of ss 5A and 6

Clause 10 renumbers sections 5A and 6 of the *Work Health and Safety (Codes of Practice) Notice 2022*.

Amendment of sch 1 (Approved codes of practice)

Clause 11 amends Schedule 1 of the *Work Health and Safety (Codes of Practice) Notice 2022* with the Ministerial Instruments stated in the entry.

Insertion of new sch 1A

Clause 12 inserts new schedule 1A in the *Work Health and Safety (Codes of Practice) Notice 2022* for revoked codes of practice.

Amendment of sch 2 (Dictionary)

Clause 13 amends schedule 2 of the *Work Health and Safety (Codes of Practice) Notice 2022* to include additional items in the dictionary.