



Queensland

# **Workplace Health and Safety and Another Regulation Amendment Regulation (No. 1) 2010**

## **Explanatory Notes for SL 2010 No. 153**

made under the

*Dangerous Goods Safety Management Act 2001*  
*Workplace Health and Safety Act 1995*

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## **General outline**

### **1 Authorising law**

Section 187 of the *Dangerous Goods Safety Management Act 2001*.  
Section 38 of the *Workplace Health and Safety Act 1995*.

### **2 Policy objective of the legislation**

The Department of Justice and Attorney-General has identified a number of minor and technical amendments to the *Workplace Health and Safety Regulation 2008* and the *Dangerous Goods Safety Management Regulation 2001* that need to be addressed to ensure the continued efficient and effective operation of Queensland's health and safety arrangements.

### **3 How policy objectives will be achieved**

The Amendment Regulation achieves its objectives by:

- Recognising dangerous goods and hazardous substances classified and labelled in accordance with the Globally Harmonised System of Classification and Labelling of Chemicals (GHS) as compliant with Queensland dangerous goods and hazardous substances requirements;
- Addressing an anomaly in the application of asbestos regulations to buildings that were not subject to local government approval which will ensure that all pre-1990 workplace buildings are captured;
- Extending the rural exemption for high risk work and earthmoving and particular crane occupations under part 3 of the regulation indefinitely until the new model health and safety laws are enacted in Queensland;
- Extending the transition period for adoption of the national units of competency and national assessment instruments for high risk work for an additional 12 months to allow registered training organisations adequate time to apply for scope of registration to deliver the new units; and
- Updating references to Australian Standards to take account of any new editions of Australian Standards or joint Australian/New Zealand Standards.

#### **4 Consistency with authorising Act and other legislation**

The objective of the *Workplace Health and Safety Act 1995* is to prevent a person's death, injury or illness being caused by a workplace, by workplace activities or by plant or substances. This objective is achieved by establishing a framework for preventing or minimising a person's exposure to the risk of death, injury or illness caused by a workplace, by workplace activities or by plant or substances. The objective of the *Dangerous Goods Safety Management Act 2001* is to protect the safety of persons, and prevent harm to property and the environment, from hazardous materials. The proposed amendments are consistent with the objectives of the *Workplace Health and Safety Act 1995* and the *Dangerous Goods Safety Management Act 2001*.

#### **5 Possible alternative approach**

The policy objective can only be achieved by regulatory amendment.

## **6 Benefits and costs of implementing the legislation**

### Hazardous Substances and Dangerous Goods – Globally Harmonised System (GHS) of Classification and Labelling of Chemicals

At the Heads of Workplace Safety Authorities meeting in June 2009, it was agreed, as an interim measure, to recognise dangerous goods and hazardous substances labelled in accordance with the GHS as being acceptable until the GHS is implemented in Australia in 2015. This agreement has been supported by Safe Work Australia. This proposed amendment provides for recognition of the GHS to all chemical products that are being imported, prepared for export, or manufactured in Queensland as an alternative option to compliance with current legislation. This will align Queensland regulations with other jurisdictions and relieve importers, manufacturers and suppliers using GHS of the costs of relabelling products to meet current legislative requirements.

### Asbestos

Queensland has had requirements for asbestos removal in place for at least the past 20 years. A clear commitment of the Queensland Government is the management and control of asbestos containing material in government buildings to protect the health and well being of workers, contractors and the community. The *Asbestos Management and Control Policy for Government Buildings* already adopts and supports the application of the *National Code of Practice for Management and Control of Asbestos* (national code) referred to in the regulation. Therefore the impact of this proposal will be minimal but will provide consistency in the application of the national code and certainty for the inspectorate.

### Extension of the rural exemption for high risk work licences

There will be no impact from this proposal since it extends the existing rural exemption from holding a license to do high risk work. The exemption will be extended indefinitely until the model health and safety laws are enacted in Queensland.

### Extension of transition period for adoption of the national units of competency and national assessment instruments for high risk work

This amendment will allow Registered Training Organisations (RTOs) an additional 12 month period to transition to the national units of competency and national assessment instruments. To date RTOs have been unable to transition as the national documents are not in a final form. As a result it is necessary to allow for the Queensland units of competency to continue to

be used until these national documents are ready for use. This will not prevent the national units of competency or assessment instruments from being delivered earlier than 1 July 2011 when these national documents are finalised.

#### Australian Standards Update

This is a technical amendment and there will be no impacts from this proposal.

## **7 Fundamental legislative principles**

The CAmdendment Regulation raises no fundamental legislative principle issues. The Amendment Regulation has been drafted with regard to the fundamental legislative principles and is considered to comply with these principles.

## **8 Consultation**

Members of the Workplace Health and Safety Board and the Industry Sector Standing Committees were consulted and support the package of proposed amendments. Key stakeholders included:

#### Unions

Queensland Council of Unions  
Australian Workers' Union (Queensland)  
Construction, Forestry, Mining and Energy Union (Queensland)  
Builders' Labourers Federation  
Civil Contractors Federation

#### Employer Associations

Australian Industry Group  
Commerce Queensland  
Housing Industry Association  
Queensland Master Builders Association  
Growcom  
Queensland Farmers Federation

#### Others

The Department of Public Works

## Notes on provisions

### Part 1 Preliminary

#### Short title

Clause 1 provides the short title of the regulation.

#### Commencement

Clause 2 provides that sections 9 and 12 commence on 1 September 2010.

### Part 2 Amendment of Dangerous Goods Safety Management Regulation 2001

#### Regulation amended

Clause 3 states that part 2 amends the *Dangerous Goods Safety Management Regulation 2001*.

#### Amendment of s 9 (Packing and marking by manufacturer or importer)

Clause 4 amends section 9 that provides that the manufacturer or importer has an obligation to safely pack, label and supply dangerous goods or combustible liquids. The clause provides that where dangerous goods are labelled in accordance with the Globally Harmonised System of Classification and Labelling of Chemicals (GHS) they are considered to meet the labelling requirements of this section.



joint Australian/New Zealand Standards up to and including 1 September 2009.

### **Amendment of s 16 (Meaning of *assessment instrument*)**

Clause 10 amends section 16 that gives effect to the national assessment instruments for licensing purposes in Queensland. The clause extends the current transition period for adoption of the national assessment instruments for an additional 12 months from 1 July 2010 to 1 July 2011. In addition the clause clarifies that if after 1 July 2011 there is no nationally approved assessment available, then it will be the assessment instrument issued by the chief executive.

### **Amendment of s 17 (Meaning of *unit of competency*)**

Clause 11 amends section 17 that gives effect to the national units of competency for licensing purposes. The clause extends the current transition period for adoption of the national units of competency for an additional 12 months from 1 July 2010 to 1 July 2011. The clause also clarifies that if after 1 July 2011 no national unit of competency exists in Schedule 5A, that the Queensland unit of competency in Schedule 5 will continue to apply.

### **Amendment of s 144 (On-site management of Asbestos Containing Material (ACM))**

Clause 12 amends section 144 that applies to on-site management of ACM in Queensland. The clause extends the application of the asbestos regulations to buildings that were not subject to local government approval which will ensure that all pre-1990 workplace buildings are captured.

### **Insertion of new s 187A**

Clause 13 inserts a new section that provides a definition of the GHS.

### **Amendment of s 188 (Meaning of hazardous substance)**

Clause 14 amends section 188 which provides the meaning of a hazardous substance. The clause inserts another meaning of a hazardous substance as a substance that has been classified in accordance with the GHS.

### **Amendment of s 190 (Preparing, amending and reviewing material safety data sheet (MSDS))**

Clause 15 amends section 190 which places a workplace health and safety obligation on an importer or manufacturer of a hazardous substance for use at a workplace to prepare an MSDS for a substance. The clause provides that where an importer or manufacturer has a MSDS prepared in accordance with the GHS this meets the requirements of this section. However the MSDS must contain local importer or manufacturer contact information.

### **Amendment of s 196 (Labelling containers)**

Clause 16 amends section 196 that requires a supplier to ensure a label is fixed to a hazardous substance's container when the substance is supplied. The clause provides that where a hazardous substance is labelled in accordance with the GHS it is considered to meet the requirements of this section.

### **Amendment of s 353 (Rural industry exemption)**

Clause 17 amends section 353 that exempts a relevant person in rural industry from complying with certain provisions of the regulation. The clause removes the reference to '31 August 2010' from the section in relation to part 3 of the Regulation.

### **Amendment of sch 5 (Classes of high risk work and unit of competency for the classes)**

Clause 18 amends Schedule 5 that states the classes of high risk work and units of competency for the classes. The clause amends a reference to the incorrect class of work.

### **Amendment of sch 18 (Dictionary)**

Clause 19 amends the dictionary to include references to the ‘GHS’ and the GHS in ‘risk phase’ and ‘safety phrase’.

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#### ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Justice and Attorney-General.

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