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Occupational Health and Safety Act 2004 (Vic.) places general occupational health and safety (OHS) duties on employers, the self-employed, employees, designers, manufacturers, suppliers and other duty holders. Duties of Employers: Employers have a duty of care to protect the health and safety of all their employees while at work. They must do this by providing and maintaining a working environment that is safe and without risks to the employees health. Employers must eliminate risks by doing the following: Making sure all machinery, equipment and tools are suitable for their purpose, guarded where necessary and maintained to a safe standard. Making sure safe work systems are in place, by having safe operating processes and procedures, working arrangements and measures to prevent fatigue and stress. Maintaining a safe workplace environment with adequate facilities. Having procedures in place for safe handling, storage and transport of plant and substances. Monitor the health of employees and their working conditions. Duties of Employees: Employers put in place procedures and work practices to provide information, training and supervision to meet their responsibility under the OHS&A Act. Employees must cooperate with their employers efforts by doing the following: Following all workplace policies and procedures to the best of their ability. Attend OHS&A training and consultation, and follow the advice and instructions provided. Use the equipment supplied by their employer, including the correct PPE. Help prevent workplace incidents by reporting risks or hazards to supervisors or managers. [Index][Table][Search][Search this Act][Notes][Notepup][Previous][Next][Download][Help] Purposes The main purposes of this Act are (a) to create a legislative framework to give effect to the objects of this Act, and (b) to repeal the Occupational Health and Safety Act 1985, and (c) to provide for matters of transitional nature, and make consequential amendments. AustLII. Copyright Policy| Disclaimers| Privacy Policy| Feedback Under the OHS Act2004, employers must (so far as is reasonably practicable) provide and maintain a safe, risk-free working environment for their employees (s21) and independent contractors (s21(3)). Section20 of the OHS Act 2004 provides guidance about the application of the reasonably practicable qualifier. Under section20(1), an employer must eliminate a risk to health and safety if it is reasonably practicable to do so. The employer is only permitted to reduce a risk to health and safety if it is not reasonably practicable to eliminate it. The application of the reasonably practicable qualifier requires the balancing of risk on the one hand with the cost of removing or reducing the risk on the other hand (s20(2) OHS Act 2004). Employers must also: monitor employee health; keep information and records on the health and safety of employees; employ or engage qualified people to provide health and safety advice; monitor workplace conditions; and inform employees (in appropriate languages) of how, and to whom, a health and safety enquiry or complaint may be made (s22 OHS Act 2004).Under section25 of the OHS Act2004, while at work an employee must: take reasonable care of their own health and safety and of the health and safety of anyone else who may be affected by their acts or omissions at the workplace; and cooperate with their employer in relation to the employers health and safety obligations.Under section26 of the OHSAct2004, a person who manages or has control over a workplace must (so far as is reasonably practicable) ensure that the means of entering and leaving the workplace are safe and without risks to health. This duty can extend to an entity or person who holds the legal authority to carry out work at a site (see, for example, Keilor Meltton Quarries v TheQueen [2020] VSCA169).Manufacturers and suppliers of plant for use at a workplace must ensure, as far as reasonably practicable, that the plant is designed and constructed in such a way as to be safe and without risks to health when it is used for a purpose for which it was manufactured. The manufacturer must also carry out arrange to carry out such testing as is necessary to ensure the plant is safe when properly used and must take appropriate action to ensure that there is information available at the workplace to ensure the safe use of the plant at the workplace (ss29, 30 OHS Act2004). Similar obligations are placed on the manufacturers and suppliers of substances for use at workplaces.On 1July 2020, a new offence of workplace manslaughter was introduced into the OHSAct2004 (p55A). A person who is not a volunteer must not engage in conduct that is negligent, constitutes a breach of the applicable duty to a person, and causes the death of the person to whom the duty is owed (s39G OHSAct2004). The stated intention of the new offence was not to impose additional duties, but to provide a stronger deterrent to duty holders to comply with existing occupational health and safety obligations. The Occupational Health and Safety Act 2004 (OHS&A Act) is the main workplace health and safety law in Victoria. It sets out the key principles, duties of employers and rights of workers with respect to occupational health and safety.The Occupational Health and Safety Regulations 2017 (OHS&A regulations) build on the OHS&A Act. The OHS&A regulations set out the TAFE's duties and obligations during infrastructure projects.Click on the following links to access the current Victorian OHS&A Act, OHS&A regulations as well as other relevant legislation.Construction works undertaken by TAFEs are covered by the OHS&A Act. Key obligations under the OHS&A Act are outlined below.OHS&A obligations for construction projects The OHS&A Act requires that every construction project valued at \$350,000 or more, designate a principal contractor responsible for OHS&A obligations at the site of the construction works (the OHS&A principal contractor). Under the OHS&A Act, the TAFE will initially be designated as the OHS&A principal contractor until the it formally appoints the contractor (in writing or otherwise) to be the OHS&A principal contractor.Once the contractor is formally appointed as the OHS&A principal contractor, the contractor will be required to perform the following duties:put in place signs that are clearly visible from outside the workplace where the construction work is being performed, andprepare a health and safety coordination plan for construction work before that work commences, as well as keep the plan up to date for the duration of the construction work.Further details of the health and safety coordination plan requirements are outlined in subdivision 2 duties of principal contractors of the OHS&A regulations.Despite appointing the contractor as the OHS&A principal contractor, the TAFE will still have the following duties with respect to OHS&A:when commissioning construction works, provide the OHS&A principal contractor with information that is held in relation to hazards and risks at, or in the vicinity of, the workplace where construction works will be carried out, andensure that the OHS&A principal contractor is reporting OHS&A correctly, in accordance with the following project reporting guidance.Workplace health and safety obligations for construction projectsIt is important to note that the Victorian OHS&A Act is not in harmonisation with the Federal Work Health and Safety Act. This means that some of the terminology and standards in the Federal legislation do not completely align to the Victorian terminology, which may create some confusion regarding project workplace requirements.The main point of consideration is the appointment of the OHS&A principal contractor. Under federal legislation, the person with management or control over the workplace (the contractor) will automatically be responsible for risks to the health and safety of any person on that worksite. However, under Victorian legislation, you must appoint an OHS&A principal contractor as outlined in the OHS&A obligations for construction projects section above. In this situation, you must comply with the Victorian OHS&A Act rather than the federal Work Health and Safety Act.The following sections provide guidance on how the OHS&A regulations must be applied across each phase of the project.It is also important to note that WorkSafe will likely have the following roles across the project lifecycle under the OHS&A Act:monitor and enforce compliance with the OHS&A Act and regulationspromote public awareness and discussion about occupational health, safety and welfare issues, andpublish OHS&A statistics.Project definition, funding and approvalsThe main consideration of OHS&A in the project definition, funding and approvals phase of the project will be accounting for the potential risks associated with OHS&A throughout delivery. This may be done by including specific site risks related to OHS&A in the risk register and incorporating these risks into contingency cost estimations for the project.In the context of tender evaluation, OHS&A must be included as a mandatory evaluation criterion for certain projects under the Ministerial Directions for Public Construction Procurement.Guidance on whether the project requires the inclusion of OHS&A as an evaluation criterion in the tender documentation is available.Furthermore, tender documentation for projects valued over \$350,000, will likely need to include a requirement for a health and safety coordination plan prior to commencing construction works.You may be required to appoint an OHS&A principal contractor prior to commencing construction works as a conditions precedent. Furthermore, the OHS&A principal contractor may be required to submit a health and safety coordination plan before commencing work. The OHS&A principal contractor will also be required to monitor, maintain and keep the plan up to date for the duration of the construction work, in line with OHS&A regulations and the contract in place with the contractor (assuming this is the OHS&A principal contractor).The TAFE may wish to review the health and safety coordination plan prior to the works commencing. Furthermore, the TAFE should ensure that the OHS&A principal contractor is reporting OHS&A correctly, in accordance with the following project reporting guidance. Updated 17 September 2024 [Index][Table][Search][Search this Act][Notes][Notepup][Download][Help] TABLE OF PROVISIONS PART 1–PRELIMINARY 1. Purposes 2. Objects 3. Commencement 4. The principles of health and safety protection 5. Definitions 6. Act binds the Crown PART 2–THE AUTHORITY Division 1–General functions and powers 7. Functions of the Authority 8. Powers of the Authority Division 2–Power to obtain information 9. Power to obtain information 10. Restrictions on disclosure of information 11. Circumstances in which information may be disclosed Division 3–Power to make guidelines 12. Power to make guidelines 13. How guidelines are made 14. Withdrawal of guidelines 15. Guidelines do not affect rights and duties etc. Division 4–Power to accept undertakings relating to contraventions 16. Authority may accept undertakings 17. Enforcement of undertakings Division 5–Power to give advice on compliance 18. Power to give advice on compliance Division 6–Occupational Health and Safety Advisory Committee 19. Occupational Health and Safety Advisory Committee PART 3–GENERAL DUTIES RELATING TO HEALTH AND SAFETY Division 1–The Concept of Ensuring Health and Safety 20. The concept of ensuring health and safety Division 2–Main duties of employers 21. Duties of employers to employees 22. Duties of employers to monitor health and conditions etc. 23. Duties of employers to other persons Division 3–Duties of self-employed persons 24. Duties of self-employed persons to other persons Division 4–Duties of employees 25. Duties of employees Division 5–Duties of other persons 26. Duties of persons who manage or control workplaces 27. Duties of designers of plant 28. Duties of designers of buildings or structures 29. Duties of manufacturers of plant or substances 30. Duties of suppliers of plant or substances 31. Duties of persons installing, erecting or commissioning plant 32. Duty not to recklessly endanger persons at workplaces Division 6–Other matters 33. Single charge for multiple contraventions of certain duties 34. Civil liability not affected by this Part PART 4–DUTY OF EMPLOYERS TO CONSULT 35. Duty of employers to consult with employees 36. How employees are to be consulted PART 5–DUTIES RELATING TO INCIDENTS 37. Incidents to which this Part applies 38. Duty to notify of incidents 39. Duty to preserve incident sites PART 6–LICENCES, REGISTRATION, PERMITS AND OTHER REQUIREMENTS 40. Requirements for licence or registration 41. Requirements for prescribed qualifications or experience 42. Requirements for permit or certificate of competency PART 7–REPRESENTATION OF EMPLOYEES Division 1–Grouping of employees 43. Establishment of designated work groups 44. Negotiation of agreement concerning designated work groups 45. Determination by inspector of unresolved particulars 46. Matters to be taken into account Division 2–Grouping of employees of multiple employers 47. Establishment of designated work groups of multiple employers 48. Negotiation of agreement for designated work groups of multiple employers 49. Matters to be taken into account 50. Guidelines for negotiations involving multiple employers 51. Withdrawal from negotiations or agreement involving multiple employers 52. Effect of Division on other arrangements Division 3–Prohibition on coercion relating to designated work groups 53. Prohibition on coercion caused by authorised representative 54. Election of health and safety representatives 55. Term of office 56. Disqualification of health and safety representatives 57. Deputy health and safety representatives Division 5–Powers of health and safety representatives 58. Powers of health and safety representatives 59. Powers generally limited to the particular designated work group 60. Provisional improvement notices 61. Provisional improvement notices may include directions 62. Offence to contravene a provisional improvement notice 63. Attendance of inspector at workplace after issue of provisional improvement notice 64. Service of provisional improvement notice or inspector's notice 65. Formal irregularities or defects in provisional improvement notices 66. Proceedings for offences not affected by notices Division 6–Obligations of employers to health and safety representatives 67. Obligation to train health and safety representatives 68. Obligation to share costs if multiple employers 69. Other obligations of employers to health and safety representatives 70. Obligation to persons assisting health and safety representatives 71. Obligation to keep list of health and safety representatives Division 7–Health and safety committees 72. Health and safety committees Division 8–Resolution of health and safety issues 73. Resolution of health and safety issues 74. Direction to cease work 75. Inspector may be required to attend workplace Division 9–Discrimination against employees or prospective employees 76. Prohibition on discrimination 77. Defendant bears onus of proof 78. Order for damages or reinstatement PART 8–AUTHORISED REPRESENTATIVES OF REGISTERED EMPLOYEE ORGANISATIONS Division 1–Definitions 79. Definitions relating to registered employee organisations Division 2–Entry permits 80. Limit on number of entry permits held by authorised representatives 81. Who may hold an entry permit 82. Courses of training for authorised representatives 83. Issue of entry permits 84. Expiry of entry permits 85. Revocation and disqualification 86. Return of expired or revoked entry permits Division 3–Entry by authorised representatives 87. Entry powers of authorised representatives 88. Announcement on entry 89. Powers on entry 90. Limitations on exercise of powers Division 4–Offences relating to authorised representatives 91. Offences by authorised representatives 92. Loss or damage caused by authorised representative 93. Offence to obstruct etc. authorised representative 94. Offence to impersonate authorised representative PART 9–INSPECTORS AND ENFORCEMENT Division 1–Appointment of inspectors 95. Appointment of inspectors 96. Identity cards Division 2–Performance of functions or exercise of powers 97. Inspectors subject to Authority's directions Division 3–Powers relating to entry 98. Power to enter 99. General powers on entry 100. Power to require production of documents etc. 101. Power to take samples Division 4–Procedure relating to entry 102. Announcement on entry 103. Report to be given about entry Division 5–Search warrants 104. Issue of search warrants 105. Announcement before entry on warrant 106. Copy of warrant to be given to occupier Division 6–Limitation on entry powers 107. Places used for residential purposes Division 7–Return and forfeiture of seized things 108. Return of seized things 109. Forfeiture of seized things Division 8–Powers to issue notices 110. Power to issue non-disturbance notice 111. Power to issue improvement notice 112. Power to issue prohibition notice 113. Directions or conditions in notices 114. Variation or cancellation of notices 115. Service of notices 116. Formal irregularities or defects in notices 117. Proceedings for offences not affected by notices 118. Injunctions for non-compliance with notices Division 9–Other powers 119. Power to require name and address 120. Power to give directions Division 10–Other matters 121. Persons who must assist inspector 122. Other assistance in exercising powers 123. Inspector may copy documents Division 11–Offences 125. Offences in relation to inspections 126. Offence to impersonate inspector PART 10–REVIEW OF DECISIONS 127. Which decisions are reviewable 128. Internal review 129. Review by the Tribunal PART 11–LEGAL PROCEEDINGS Division 1–General matters 130. Proceedings may be brought by the Authority or inspectors 131. Procedure if prosecution is not brought 132. Limitation period for prosecutions 133. Judicial notice of Minister's signature etc. 134. Evidence of certain matters Division 2–Sentencing for offences 135. Adverse publicity orders 136. Orders to undertake improvement projects 137. Release on the giving of a health and safety undertaking 138. Variation or breach of orders under section 137 Division 3–Infringement notices 139. Infringement notices 140. Withdrawal of infringement notice 141. Payment of infringement penalty 142. Prosecution after service of infringement notice Division 4–Offences by bodies corporate 143. Imputing conduct to bodies corporate 144. Liability of officers of bodies corporate Division 5–Offences by partnerships and unincorporated bodies or associations 145. Liability of officers of partnerships and unincorporated bodies or associations Division 6–Proceedings against the Crown 146. Responsible agency for the Crown 147. Infringement and other notices may be issued to the Crown 148. Proceedings against successors to public bodies PART 12–COMPLIANCE CODES 149. Compliance codes 150. Effect of compliance codes 151. Disallowance of certain compliance code orders PART 13–OTHER MATTERS 152. Effect of compliance with regulations or compliance codes 153. Offence to give false or misleading information 154. Protection against self-incrimination 155. Legal professional privilege not affected 156. Delegation by the Minister 157. Responsibility for activities carried out under the Petroleum (Submerged Lands) Acts 158. Regulations PART 14–REPEAL OF OLD ACT AND TRANSITIONAL PROVISIONS Division 1–Repeal of Occupational Health and Safety Act1985 159. Repeal Division 2–Transitional provisions 160. Definition of old Act 161. No effect on Interpretation of Legislation Act 1984 162. Limitation on duties of designers of buildings or structures 163. Continuation of designated work groups 164. Continuation of health and safety representatives 165. Continuation of health and safety committees 166. Continuation of inspectors 167. Inspectors' powers relating to offences committed before commencement 168. Use of codes of practice in proceedings 169. Treatment of improvement notices, prohibition notices and certain directions 170. Things done under the old Act 171. Proceedings for offences against old Act Division 1–of Part 11 applies proceedings for an offence against the old Act that are commenced on or after the commencement of this Act 172. Continuation of certain regulations 173. Occupational Health and Safety (Asbestos) Regulations 2003 174. Occupational Health and Safety (Major Hazard Facilities) Regulations 2000 175. Offences against certain regulations 176. Regulations dealing with transitional matters PART 15–CONSEQUENTIAL AMENDMENTS TO OTHER ACTS 177. Accident Compensation Act 1985 178. Agricultural and Veterinary Chemists (Control of Use) Act1992 179. Environment Protection Act 1970 180. Equipment (Public Safety) Act 1994 181. Magistrates' Court Act 1989 182. Outworkers (Improved Protection) Act 2003 183. Petroleum Act 1998 184. Port Services Act 1995 185. Sustainable Forests (Timber) Act 2004 186. Transport Accident Act 1986 ENDNOTESAustLII: Copyright Policy| Disclaimers| Privacy Policy| Feedback It is important for health and safety representatives (HSRs) and employees to be familiar with the Objects & Principles of the OHS Act 2004. The Objects & Principals provide information of the guiding purpose of the OHS Act which will give you a better understanding of the content.Pages Overview Objects of the OHS Act (S2)The OHS Act is designed to provide a broad framework for improving standards of health and safety at work to reduce work-related injury and illness. It allows duty-holders to determine their approach to achieving compliance with the Act.The Act aims to:secure the health, safety and welfare of employees and other people at work;protect the public from the health and safety risks of business activities;eliminate workplace risks at the source; andinvolve employers, employees and the organisations that represent them in the formulation and implementation of health, safety and welfare standards.Throughout the Act, the meaning of health includes psychological health as well as physical health.Back to top The principles of health and safety protection (54)The 2004 Act was varied to include the following health and safety principles:all people are given the highest level of health and safety protection in most industries. The Occupational Health and Safety (OHS) Act 2004 includes a series of regulations for helping to identify hazards, perform risk assessments, and minimize the potential risks on worksites. Besides protecting workers, the laws also protect all other people who may be affected by the work. Health and safety in their business activities:employers and employees should exchange information about risks to health or safety and measures that can be taken to eliminate or reduce those risks; andemployees are entitled, and should be encouraged, to be represented on health and safety issues.Back to top Who is covered by the OHS Act? (S5 & S6)All Victorian workers are provided with protection under this Act. This includes employees, contractors, sub-contractors, outworkers and employees in State Government departments and instrumentalities. However, employees of the Commonwealth Government are covered by different legislation (more information). The Act also provides protection for the general public so that their health and safety is not placed at risk by work activities.The 2004Act can be downloaded (in both pdf and word format) on the Victorian government legislation repository website. (Copies of the OHS Act, other Acts and Regulations can be purchased from Information Victoria (1300 366 356).WorkSafe publishes the Summary of the Occupational Health and Safety Act 2004 A handbook for workplaces, Edition 3, March 2025 specifically written to help duty holders understand what the OHS Act requires of them.Last amended April 2025Back to top The Australian government developed a series of health and safety laws to help protect employees, employers, and citizens from occupational accidents. The original laws are outlined in the OHS 2004 legislation. However, the laws have undergone many changes over the years, including the introduction of the WHS (work health and safety) legislation and regulations.Why do you need to follow these laws? Are these laws followed in every state? It may help to understand the purpose and goals of the OHS and WHS acts.What Are the OHS 2004 and the WHS 2011 Acts?If you work, you have likely heard of the OHS&A and WHS laws. These workplace health and safety laws were created to directly address occupational hazards. The laws include protections and responsibilities for employees and employers, and outline the duties of employers, employees, designers, manufacturers, suppliers and other duty holders. The laws also cover the responsibilities of employers, employees, designers, manufacturers, suppliers and other duty holders, including:StudentsTrainersContractorsSubcontractorsVolunteersBystandersCustomersThe act includes responsibilities handled by employers and designated employees. In some cases, OHS and WHS training courses are required before employees can work in certain settings, such as working from heights or in enclosed spaces.The OHS 2004 Laws Were Created to Promote SafetyThe government, employers, and employee unions worked together to create the OHS Act, which was created to promote health and safety. The OHS&A Act covers most workplaces through a series of health and safety regulations. These regulations were created in 2007 to help support the goals of the initial OHS Safety 2004 law.Employees who work in offices, schools, hospitals, factories, farms, boats, vehicles, and construction sites are covered through the OHS Act and regulations. However, the petroleum and mining industries, along with Commonwealth government jobs, are covered through separate workplace health and safety laws.The primary goal of the health and safety act is to help reduce the occurrence of workplace injuries and improve the safety of workers in various industries. After the act was developed, Australia has seen a reduction in occupational accidents. However, there is still room for improvement, especially when discussing on-road accidents involving light vehicles.Understanding the Work Health and Safety 2011 legislationIn 2011, a new set of laws were developed to provide a more comprehensive approach to workplace safety. Safe Work Australia developed the new laws, which includes the model WHS Act. With these new laws, the government hopes to create greater clarity surrounding workplace health and safety regulations. The process of developing the new regulations was detailed and included a national review with over 232 recommendations.Is the OHS Act NSW now known as WHS in NSW? The WHS was not legally binding until the laws are separately implemented by the Commonwealth, states, and territories of Australia (this has been done now in NSW). Most states and territories have already adopted these new laws (with the exception of Victoria and Western Australia).The OHS Act (Vic) have been replaced with the WHS Act. The WHS legislation has also been implemented in New South Wales, the Northern Territory, South Australia, the Australian Capital Territory, Tasmania, and the Commonwealth.In Victoria and Western Australia, the OHS Act Victoria and OHS Act WA still remain in place. Victoria was one of the first states to adopt a health and safety act after the creation of the Occupational Health and Safety Act 1985.To help support the duties of the new act, Safe Work Australia also developed the model WHS regulations. These regulations support the act through licensing and other requirements for improved occupational safety.With the approved code of practice, Safe Work Australia has also created practical guides for maintaining the health and safety standards outlined in the WHS Act and regulations.Conclusion: Do the OHS and WHS Laws Matter?The OHS and WHS laws and regulations are designed to prevent accidents and improve worker health and safety. These laws are already having a positive impact on workplace conditions but there is always room for improvement. Complying with these laws is an essential step in promoting better safety.If you are responsible for workers, ensure that they complete their necessary training requirements. Determine the regulations for your industry. With greater compliance, Australia may continue to experience fewer workplace accidents and injuries. Posted on 19 March 2025 WorkSafe has released an updated version of the very useful Summary of the Occupational Health and Safety Act 2004 A handbook for workplaces, Edition 3, March 2025. For HSRs that are struggling with an employer or manager who has little knowledge of the Victoria workplace safety legislation, this publication is a great way to begin to improve their level of understanding and make safety consultation easier and more effective.The summary is specifically written to help duty holders to understand what the OHS Act requires of them. There are sections on the following basic topics:General OHS Duties what are your employers OHS duties and obligationsRepresentation of employees including setting up DWGS and the rights and powers of HSRs also covers the issuing of PINs and directions to cease workConsultation when and how to consult – what good consultation looks and sounds like and how to get it rightARRO's what union representatives can and cannot do when performing a site entryIncidents the employers notification duty when a serious incident occurs and the duty to preserve incident sitesInspectors what to expect from WorkSafe inspector visit and what their role entailsGlossary includes definitions from the OHS Act and other useful terms and abbreviationsThis is such a useful tool for HSRs to keep on hand to help them explain how the OHS Act works for both employers and DWG members when discussing workplace safety matters with them.Read more: Summary of the Occupational Health and Safety Act 2004 [WorkSafe Victoria [Index][Table][Search][Search this Act][Notes][Notepup][Download][Help] TABLE OF PROVISIONS PART 1–PRELIMINARY 1. Purposes 2. Objects 3. Commencement 4. The principles of health and safety protection 5. Definitions 5A. Extended definition of employer and employee/hire hire 6. Act binds the Crown PART 2–THE AUTHORITY Division 1–General functions and powers 7. Functions of the Authority 8. Powers of the Authority Division 1A–Use of information 8AA. Use of information Division 2–Power to obtain information 9. Power to obtain information 10. Restrictions on disclosure of information 11. Circumstances in which information may be disclosed Division 3–Power to make guidelines 12. Power to make guidelines 13. How guidelines are made 14. Withdrawal of guidelines 15. Guidelines do not affect rights and duties etc. Division 4–Power to accept undertakings relating to contraventions 16. Authority may accept undertakings 17. Enforcement of undertakings Division 5–Power to give advice on compliance 18. Power to give advice on compliance Division 6–Occupational Health and Safety Advisory Committee 19. Occupational Health and Safety Advisory Committee PART 3–GENERAL DUTIES RELATING TO HEALTH AND SAFETY Division 1–The concept of ensuring health and safety 20. The concept of ensuring health and safety Division 2–Main duties of employers 21. Duties of employers to monitor health and conditions etc. 22. Duties of employers to other persons Division 3–Duties of self-employed persons 23. Duties of self-employed persons to other persons Division 4–Duties of employees 24. Duties of employees Division 5–Duties of other persons 25. Duties of persons who manage or control workplaces 26. Duties of persons who manage or control workplaces 27. Duties of designers of buildings or structures 29. Duties of manufacturers of plant or substances 29. Duties of manufacturers of plant or substances 30. Duties of suppliers of plant or substances 31. Duties of persons installing, erecting or commissioning plant 32. Duty not to recklessly endanger persons at workplaces Division 6–Other matters 33. Single charge for multiple contraventions of certain duties 34. Civil liability not affected by this Part PART 4–DUTY OF EMPLOYERS TO CONSULT 35. Duty of employers to consult with employees 35A. Duty to consult with other employers in relation to duties relating to labour hire PART 5–DUTIES RELATING TO INCIDENTS 37. Incidents to which this Part applies 38. Duty to notify of incidents 39. Duty to preserve incident sites PART 5A–WORKPLACE MANSLAUGHTER Division 1–Preliminary 39A. Objects of Part 5A 39B. Definitions 39C. What does conduct mean? 39D. When may conduct constitute a breach of an applicable duty? 39F. When is conduct negligent? 39F. When does a person owe an applicable duty to another person? Division 2–Offences 39G. Workplace manslaughter PART 6–LICENCES, REGISTRATION, PERMITS AND OTHER REQUIREMENTS 40. Requirements for licence or registration 41. Requirements for prescribed qualifications or experience 42. Requirements for permit or certificate of competency PART 7–REPRESENTATION OF EMPLOYEES Division 1–Grouping of employees 43. Establishment of designated work groups 44. Negotiation of agreement concerning designated work groups 45. Determination by inspector of unresolved particulars 46. Matters to be taken into account Division 2–Grouping of employees of multiple employers 47. Establishment of designated work groups of multiple employers 48. Negotiation of agreement for designated work groups of multiple employers 49. Matters to be taken into account 50. Guidelines for negotiations involving multiple employers 51. Withdrawal from negotiations or agreement involving multiple employers 52. Effect of Division on other arrangements Division 3–Prohibition on coercion relating to designated work groups 53. Prohibition on coercion caused by authorised representative 54. Election of health and safety representatives 54. Election of health and safety representatives 55. Term of office 56. Disqualification of health and safety representatives 57. Deputy health and safety representatives Division 5–Powers of health and safety representatives 58. Powers of health and safety representatives 59. Powers generally limited to the particular designated work group 60. Provisional improvement notices 61. Provisional improvement notices may include directions 62. Offence to contravene a provisional improvement notice 63. Attendance of inspector at workplace after issue of provisional improvement notice 64. Issue etc. of provisional improvement notice or inspector's notice 65. Formal irregularities or defects in provisional improvement notices 66. Proceedings for offences not affected by notices Division 6–Obligations of employers to health and safety representatives 67. Obligation to train health and safety representatives 68. Obligation to share costs if multiple employers 69. Other obligations of employers to health and safety representatives 70. Obligation to persons assisting health and safety representatives 71. Obligation to keep list of health and safety representatives Division 7–Health and safety committees 72. Health and safety committees Division 8–Resolution of health and safety issues 73. Resolution of health and safety issues 74. Direction to cease work 75. Inspector may be required to attend workplace Division 9–Discrimination against employees or prospective employees 76. Prohibition on discrimination 77. Accused bears onus of proof 78. Order for damages or reinstatement 78A. Prohibition of discriminatory conduct 78B. Prohibited reasons 78C. Prohibition of authorising or assisting discriminatory conduct 78D. Civil action for discriminatory conduct 78E. Procedure for actions for discriminatory conduct PART 8–AUTHORISED REPRESENTATIVES OF REGISTERED EMPLOYEE ORGANISATIONS Division 1–Definitions 79. Definitions relating to registered employee organisations Division 2–Entry permits 80. Limit on number of entry permits held by authorised representatives 81. Who may hold an entry permit 82. Courses of training for authorised representatives 83. Issue of entry permits 84. Expiry of entry permits 85. Revocation and disqualification 86. Return of expired or revoked entry permits Division 3–Entry by authorised representatives 87. Entry powers of authorised representatives 88. Announcement on entry 89. Powers on entry 90. Limitations on exercise of powers Division 4–Offences relating to authorised representatives 91. Offences by authorised representatives 92. Loss or damage caused by authorised representative 93. Offence to obstruct etc. authorised representative 94. Offence to impersonate authorised representative PART 9–INSPECTORS AND ENFORCEMENT Division 1–Appointment of inspectors 95. Appointment of inspectors 96. Identity cards Division 2–Performance of functions or exercise of powers 97. Inspectors subject to Authority's directions Division 3–Powers relating to entry 98. Power to enter 99. General powers on entry 100. Power to require production of documents and answers to questions 101. Power to take samples Division 4–Procedure relating to entry 102. Announcement on entry 103. Report to be given about entry Division 5–Search warrants 104. Issue of search warrants 105. Announcement before entry on warrant 106. Copy of warrant to be given to occupier Division 6–Limitation on entry powers 107. Places used for residential purposes Division 7–Return and forfeiture of seized things 108. Return of seized things 109. Forfeiture of seized things Division 8–Powers to issue notices 110. Power to issue non-disturbance notice 111. Power to issue improvement notice 112. Power to issue prohibition notice 113. Directions or conditions in notices 114. Variation or cancellation of notices 115. Issue of notices 116. Formal irregularities or defects in notices 117. Proceedings for offences not affected by notices 118. Injunctions for non-compliance with notices Division 9–Other powers 119. Power to require name and address 120. Power to give directions Division 10–Other matters 121. Persons who must assist inspector 122. Other assistance in exercising powers 123. Inspector may copy documents Division 11–Offences 125. Offences in relation to inspections 126. Offence to impersonate inspector PART 9A–WORKPLACE INCIDENTS CONSULTATIVE COMMITTEE 126A. Establishment of Workplace Incidents Consultative Committee 126B. Annual report PART 10–REVIEW OF DECISIONS 127. Which decisions are reviewable 128. Internal review 128A. Requests for further information 129. Review by the Tribunal PART 11–LEGAL PROCEEDINGS Division 1–General matters 130. Proceedings may be brought by the Authority or inspectors 131. Procedure if prosecution is not brought 132. Limitation period for prosecutions 133. Judicial notice of Minister's signature etc. 134. Evidence of certain matters Division 2–Sentencing for offences 135. Adverse publicity orders 136. Orders to undertake improvement projects 137. Release on the giving of a health and safety undertaking 138. Variation or contravention of orders under section 137 Division 3–Infringement notices 139. Infringement notices Division 4–Offences by bodies corporate 143. Imputing conduct to bodies corporate 144. Liability of officers of bodies corporate Division 5–Offences by partnerships and unincorporated bodies or associations 145. Liability of officers of partnerships and unincorporated bodies or associations Division 6–Proceedings against the Crown 146. Responsible agency for the Crown 147. Infringement and other notices may be issued to the Crown 148. Proceedings against successors to public bodies PART 11A–INSURANCE AND INDEMNITY FOR PECUNIARY PENALTIES PROHIBITED 148A. Certain insurance and indemnity arrangements void 148B. Prohibition on insurance and indemnity for pecuniary penalties PART 12–COMPLIANCE CODES 149. Compliance codes 150. Effect of compliance codes 151. Disallowance of certain compliance code orders PART 13–OTHER MATTERS 151A. Contributions by non-WorkCover employers to the WorkCover Authority Fund 151B. Provision of return by non-WorkCover employers 151C. Authority may require non-WorkCover employer to provide further information 151D. Authority may require information from non-WorkCover employer to facilitate the provision of information 151F. Application of sections 151A to 151E 152. Effect of compliance with regulations or compliance codes 153. Offence to give false or misleading information 154. Protection against self-incrimination 155. Legal professional privilege and client legal privilege not affected 156. Delegation by the Minister 157. Responsibility for activities carried out under the Offshore Petroleum and Greenhouse Gas Storage Act 158. Regulations PART 14–REPEAL OF OLD ACT AND TRANSITIONAL PROVISIONS Division 1–Repeal of Occupational Health and Safety Act1985 159. Repeal Division 2–Transitional provisions 160. Definition of old Act 161. No effect on Interpretation of Legislation Act 1984 162. Limitation on duties of designers of buildings or structures 163. Continuation of designated work groups 164. Continuation of health and safety representatives 165. Continuation of health and safety committees 166. Continuation of inspectors 167. Inspectors' powers relating to offences committed before commencement 168. Use of codes of practice in proceedings 169. Treatment of improvement notices, prohibition notices and certain directions 170. Things done under the old Act 171. Proceedings for offences against the old Act that are commenced on or after the commencement of this Act 172. Continuation of certain regulations 173. Occupational Health and Safety (Asbestos) Regulations 2003 174. Occupational Health and Safety (Major Hazard Facilities) Regulations 2000 175. Offences against certain regulations 176. Regulations dealing with transitional matters 177. Proceedings for contravention of section78A or78C PART 15–TRANSITIONAL PROVISIONS Division 1–WorkSafe Legislation AmendmentAct2017 178. Definitions 179. Amendment of section 16 (Authority may accept undertakings) 180. Amendment of section 38 (Duty to notify incidents) 181. Amendment of section 39 (Duty to preserve incident sites) 182. Amendment of section 64 (Service of provisional improvement notice or inspector's notice) 183. Amendment of section 100 (Power to require production of documents etc.) 184. Amendment of section 115 (Service of notices) 185. Amendment of section 132 (Limitation period for prosecutions) 186. Amendment of section 153 (Offence to give false or misleading information) Division 2–Workplace Safety Legislation Amendment (Workplace Manslaughter and Other Matters) Act2019 187. Workplace manslaughter Division 3–Crimes Amendment (Manslaughter and Related Offences) Act 2020 188. Amendment of section 39G (Workplace manslaughter) ENDNOTESAustLII: Copyright Policy| Disclaimers| Privacy Policy| Feedback

Occupational health and safety act 2004 key principles. Occupational health and safety act 2004 summary. Occupational health and safety act 2004 (vic.). What is the occupational health and safety act 2004.

- what is a debenture uk law
- OF DECISIONS 127. Which decisions are reviewable 128. Internal review 128A. Requests for further information 129. Review by the Tribunal PART 11–LEGAL PROCEEDINGS Division 1–General matters 130. Proceedings may be brought by the Authority or inspectors 131. Procedure if prosecution is not brought 132. Limitation period for prosecutions 133. Judicial notice of Minister's signature etc. 134. Evidence of certain matters Division 2–Sentencing for offences 135. Adverse publicity orders 136. Orders to undertake improvement projects 137. Release on the giving of a health and safety undertaking 138. Variation or contravention of orders under section 137 Division 3–Infringement notices 139. Infringement notices Division 4–Offences by bodies corporate 143. Imputing conduct to bodies corporate 144. Liability of officers of bodies corporate Division 5–Offences by partnerships and unincorporated bodies or associations 145. Liability of officers of partnerships and unincorporated bodies or associations Division 6–Proceedings against the Crown 146. Responsible agency for the Crown 147. Infringement and other notices may be issued to the Crown 148. Proceedings against successors to public bodies PART 11A–INSURANCE AND INDEMNITY FOR PECUNIARY PENALTIES PROHIBITED 148A. Certain insurance and indemnity arrangements void 148B. Prohibition on insurance and indemnity for pecuniary penalties PART 12–COMPLIANCE CODES 149. Compliance codes 150. Effect of compliance codes 151. Disallowance of certain compliance code orders PART 13–OTHER MATTERS 151A. Contributions by non-WorkCover employers to the WorkCover Authority Fund 151B. Provision of return by non-WorkCover employers 151C. Authority may require non-WorkCover employer to provide further information 151D. Authority may require information from non-WorkCover employer to facilitate the provision of information 151F. Application of sections 151A to 151E 152. Effect of compliance with regulations or compliance codes 153. Offence to give false or misleading information 154. Protection against self-incrimination 155. Legal professional privilege and client legal privilege not affected 156. Delegation by the Minister 157. Responsibility for activities carried out under the Offshore Petroleum and Greenhouse Gas Storage Act 158. Regulations PART 14–REPEAL OF OLD ACT AND TRANSITIONAL PROVISIONS Division 1–Repeal of Occupational Health and Safety Act1985 159. Repeal Division 2–Transitional provisions 160. Definition of old Act 161. No effect on Interpretation of Legislation Act 1984 162. Limitation on duties of designers of buildings or structures 163. Continuation of designated work groups 164. Continuation of health and safety representatives 165. Continuation of health and safety committees 166. Continuation of inspectors 167. Inspectors' powers relating to offences committed before commencement 168. Use of codes of practice in proceedings 169. Treatment of improvement notices, prohibition notices and certain directions 170. Things done under the old Act 171. Proceedings for offences against the old Act that are commenced on or after the commencement of this Act 172. Continuation of certain regulations 173. Occupational Health and Safety (Asbestos) Regulations 2003 174. Occupational Health and Safety (Major Hazard Facilities) Regulations 2000 175. Offences against certain regulations 176. Regulations dealing with transitional matters 177. Proceedings for contravention of section78A or78C PART 15–TRANSITIONAL PROVISIONS Division 1–WorkSafe Legislation AmendmentAct2017 178. Definitions 179. Amendment of section 16 (Authority may accept undertakings) 180. Amendment of section 38 (Duty to notify incidents) 181. Amendment of section 39 (Duty to preserve incident sites) 182. Amendment of section 64 (Service of provisional improvement notice or inspector's notice) 183. Amendment of section 100 (Power to require production of documents etc.) 184. Amendment of section 115 (Service of notices) 185. Amendment of section 132 (Limitation period for prosecutions) 186. Amendment of section 153 (Offence to give false or misleading information) Division 2–Workplace Safety Legislation Amendment (Workplace Manslaughter and Other Matters) Act2019 187. Workplace manslaughter Division 3–Crimes Amendment (Manslaughter and Related Offences) Act 2020 188. Amendment of section 39G (Workplace manslaughter) ENDNOTESAustLII: Copyright Policy| Disclaimers| Privacy Policy| Feedback
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- tehevazi
- list of linguistic theories
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