

1991

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL  
TERRITORY**

**OCCUPATIONAL HEALTH AND SAFETY REGULATIONS (AMENDMENT)**

**EXPLANATORY MEMORANDUM**

**Circulated by the Authority of the Deputy Chief Minister**

**Wayne Berry MLA**

## OCCUPATIONAL HEALTH AND SAFETY REGULATIONS (AMENDMENT)

The Occupational Health and Safety Regulations (the Regulations) give effect to provisions of the *Occupational Health and Safety Act 1989* (the Act).

Section 85 of the *Occupational Health and Safety Act 1989* requires that dangerous occurrences and accidents causing death or injury must be notified by an employer in accordance with the regulations, to the Registrar of Occupational Health and Safety.

Section 86 of the Act requires that an employer maintain a record, in accordance with the regulations, of accidents and dangerous occurrences in respect of which the employer is required to notify the Registrar under section 85.

At present there are no regulations under either section.

The Occupational Health and Safety Regulations (Amendment) identifies the occurrences and accidents which employers are required to report to the Registrar and specifies the manner in which reporting and recording of such occurrences is to be carried out.

Details of the Amendment are included in the Attachment.

**OCCUPATIONAL HEALTH AND SAFETY REGULATIONS (AMENDMENT)**

Regulation 1 provides for the Regulations to commence on 1 July 1991.

Regulation 2 provides that for the purposes of the Occupational Health and Safety Regulations (Amendment) a reference to the Principal Regulations shall be read as a reference to the Occupational Health and Safety Regulations.

Regulation 3 provides for the insertion of a new heading -

"PART I - PRELIMINARY"

before regulation 1 of the Principal Regulations.

Regulation 4 provides for the interpretation of terms used in the Regulations to be inserted into regulation 2 of the Principal Regulations.

Regulation 5 inserts a new regulation 2A providing that for the purposes of the definition of the term 'dangerous occurrence' in section 5(1) of the Act the following shall be declared to be a dangerous occurrence:

- (a) damage to a boiler, pressure vessel, plant, equipment or other thing, endangering or likely to endanger the health or safety of persons at a workplace;
- (b) damage to, or failure of, a load bearing member or control device of a crane, hoist, conveyor, lift, escalator, moving walk, plant, scaffold, gear, amusement device or public stand;
- (c) an uncontrolled fire, explosion or escape of gas, dangerous goods or steam; or
- (d) any other occurrence involving imminent risk of fire, explosion or escape of gas, dangerous goods or steam or of death or serious personal injury or of substantial damage to property.

Regulation 6 provides for the insertion of the heading -

"PART II - TRAINING PROGRAMS"

before regulation 3 of the Principal Regulations.

Regulation 7 provides for the insertion of a new Part III entitled

"PART III - INJURY AND DANGEROUS OCCURRENCE REPORTING AND  
RECORDING REQUIREMENTS"

and comprising proposed new regulations 5, 6, 7, 8, 9 and 10.

Proposed regulation 5 provides that for the purposes of section 85 of the Act, which requires that an employer report an accident which causes an injury to an employee resulting in the employee being incapacitated for work for a prescribed period, the prescribed period shall be 7 days.

Proposed regulation 6 deals with the method of giving notice of accidents or occurrences, in accordance with section 85 of the Act, to the Registrar.

Proposed subregulation 6(1) provides that notice may be given in writing or by telephone, facsimile machine or other electronic means.

Proposed subregulation 6(2) provides that a notice under subregulation (1) shall be in a form approved by the Registrar.

Proposed subregulation 6(3) requires that an employer give notice to the Registrar as soon as practicable and in any event within 7 days.

Proposed subregulation 6(4) requires that where the Registrar receives notice other than in writing he or she shall forward a copy of the information received or an acknowledgement of receipt of the notice to the employer.

Proposed regulation 7 provides that where an employer notifies the Registrar of an injury or dangerous occurrence pursuant to section 85 of the Act the employer is not required to report the same event under an associated law.

Proposed regulation 8 deals with retention of records by an employer.

Proposed subregulation 8(1) requires that where an employer gives written notice of a death, injury or dangerous occurrence that employer shall retain a copy of the notice for a period of 5 years after the notice is given.

Proposed subregulation 8(2) requires that where notice of a death, injury or dangerous occurrence is given by an employer, other than in writing and the Registrar provides the employer with a copy of the information received or an acknowledgement of receipt of the notice the employer shall keep the copy or acknowledgement for a period of 5 years after the notice is given.

Proposed regulation 9 deals with the form in which records are to be kept pursuant to section 86 of the Act.

Proposed subregulation 9(1) requires that records kept under subregulation 9(1) shall be kept in a form approved, in writing, by the Registrar.

Proposed subregulation 9(2) requires that records kept under subregulation 9(1) shall be retained for 5 years after the date on which notice was given under section 85 of the Act.

Proposed subregulation 9(3) provides that an instrument of approval under subregulation 9(1) is disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*. This means that the instrument will be of no effect if it fails to satisfy the notification, tabling and retrospectivity requirements under section 10 of the *Subordinate Laws Act 1989* and that it is subject to scrutiny and disallowance by the Legislative Assembly.

Proposed regulation 10 deals with records of absence where an employee has been incapacitated for work for a period of at least one day.

Proposed subregulation 10(1) requires an employer who is aware of the occurrence of an event which would be required to be reported under section 85 of the Act, if the prescribed period under that section was 1 calendar day, to record details of that event.

Proposed subregulation 10(2) provides that records kept in accordance with subregulation 10(1) shall be kept in accordance with Australian Standard 1885.1 - a standard for recording workplace injury and disease.

A penalty of \$1000 is provided.