

# Work Health and Safety (Office of the Work Health and Safety Commissioner) Statement of Operational Intent 2020\*

Notifiable instrument NI2020–606

made under the

*Work Health and Safety Act 2011*, Schedule 2, Division 2.2.5, Section 2.40 (Statement of operational intent)

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**1 Name of instrument**

This instrument is the *Work Health and Safety (Office of the Work Health and Safety Commissioner) Statement of Operational Intent 2020*.

**2 Commencement**

This instrument commences on the day after notification.

**3 Approval—schedule 2, section 2.40 (2), the Act**

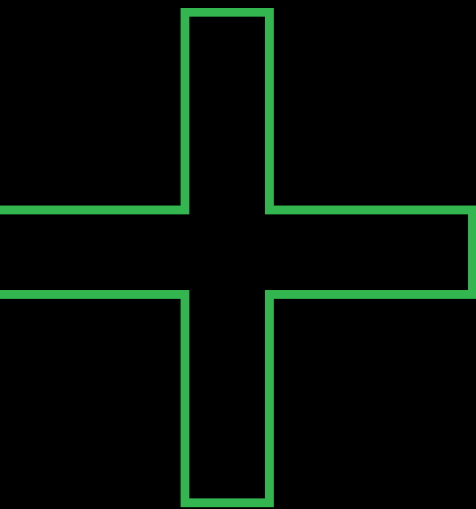
I approve the attached Statement of Operational Intent for the Office of the Work Health and Safety Commissioner.

Suzanne Orr MLA

Minister for Employment and Workplace Safety

10 September 2020

\*Name amended under Legislation Act, s 60



**WORKSAFE**  
**ACT** SAFE +  
HEALTHY  
WORKPLACES

# STATEMENT OF OPERATIONAL INTENT

**JULY 2020 TO JUNE 2021**

31/08/2020

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)



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# INTRODUCTION

The Office of the Work Health and Safety Commissioner (WorkSafe ACT) is a statutory office established under the *Work Health and Safety Act 2011 (WHS Act)*. The functions of WorkSafe ACT as set out in the WHS Act include:

- to promote an understanding and acceptance of, and compliance with, this Act or another territory law relating to work health and safety (WHS); and
- to undertake research, and develop educational and other programs for the purpose of promoting WHS; and
- to advise the Minister on any matter relevant to the operation of a territory law under which the regulator performs a function; and
- any other function given to WorkSafe ACT under this Act or another territory law under which WorkSafe ACT performs a function.

The Minister for Employment and Workplace Safety issued a [Statement of Expectations](#) for the 12-month period from 3 July 2020. In response, I have developed this Statement of Operational Intent in accordance with schedule 2, division 2.2.5, Section 2.40 of the WHS Act.

WorkSafe ACT remains committed to the improvement of health and the reduction of harm and associated death, injury and disease, but this is not a challenge that we can meet on our own. It will take a determined and collaborative effort from all who can influence health and safety in our workplaces to improve our safety performance, especially during the coming 12 months. Improved outcomes will require significant behaviour change across our workplaces.

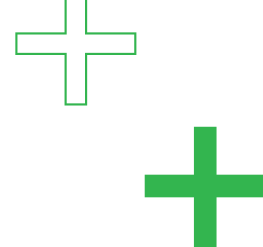
WorkSafe ACT values the partnerships it has established to enable all workplace parties to take responsibility and lead a culture change at work. As such, in developing this Statement I have consulted with members of the WHS Council as well as government, union and industry stakeholders and non-government organisations across the Territory.

My Statement is underpinned by WorkSafe ACT's *Strategic Plan 2020-2024* which sets out the strategic priorities for the regulator. These include:

- Ensuring fair and firm enforcement against non-compliance;
- Minimising physical and psychological harm and improving WHS practice and culture;
- Engaging with stakeholders to better understand and respond to current and emerging WHS issues; and
- Creating an exemplary regulator.

This Statement was developed during a time when all of Australia and the Territory has been impacted by the COVID-19 pandemic. WorkSafe ACT was identified as an essential service along with many other workplaces and we continue to be part of the whole of government response to COVID-19, providing guidance and information to support safe and healthy work.

The full and continuing impact of COVID-19 is not yet clear. COVID-19 may have fundamentally and permanently changed our way of working and our workplaces. There may be more change to come as we better understand the impacts of the pandemic – globally, nationally, economically and socially. WorkSafe ACT will remain ready to respond to on-going and unforeseen change in its regulatory environment.



WorkSafe ACT and others operating within our jurisdiction will continue working through this time of uncertainty and constant change. We remain committed to becoming a contemporary, intelligence-led regulator who works with professionalism, strives for excellence and is innovative, flexible, respected and trusted. We are making significant internal change to ensure we can make measurable difference to WHS outcomes for those we regulate.

As the regulator, I am responsible for the functions of WorkSafe ACT and assisting industry meet its responsibility to ensure their employees return home safe and well. I will ensure that duty holders meet their obligations and will be held accountable if they fail to protect their workers.

**Jacqueline Agius**

**Work Health and Safety Commissioner**



# PRIORITY ACTIVITIES AND INITIATIVES

## RESPONSE TO THE STATEMENT OF EXPECTATIONS

The Minister for Employment and Workplace Safety notified the *Work Health and Safety (Office of the Work Health and Safety Commissioner) Statement of Expectations 2020* on 2 July 2020. The Statement of Expectations indicates the ACT Government’s key priority activities and initiatives for WorkSafe ACT should address:

1. present and emerging WHS risks;
2. the Construction sector;
3. the operation of the Office;
4. implementation of outstanding recommendations of the 2018 Independent Review; and
5. engagement with the WHS Council.

## PRESENT AND EMERGING WORK HEALTH AND SAFETY RISKS

WorkSafe ACT acknowledges the ACT Government’s commitment to ensuring WHS laws continue to reflect community expectations and, in support of improved compliance and enforcement outcomes, that the Territory’s WHS legislation and regulatory framework align with the nationally harmonised WHS laws.

Engagement with key stakeholders is a critical aspect of WorkSafe ACT’s operations. As the environmental context continues to evolve, WorkSafe ACT considers consultation and engagement with government, employers, workers, unions, non-government organisations and other impacted parties is imperative to ensure proactive strategies are successful in improving WHS across the Territory.

Some of the key issues identified as present and emerging WHS risks in the Statement of Expectations are addressed below. The issues raised require particular compliance monitoring and enforcement attention and will be prioritised consistent with the Strategic Enforcement Priorities outlined in the Strategic Plan:

WHS Risk	WorkSafe ACT’s Intention
<p><b>Psychosocial risks</b></p>	<p>In preparing this Statement, consideration has been given to the significant challenges affecting our global, national and local community.</p> <p>Now more than ever it is important, as our external environments are adversely affected, to focus on the impact of psychosocial risks in the workplace and recognise the key role the workplace plays in supporting the mental health of workers.</p> <p>WorkSafe ACT will increase its capability to address psychosocial hazards. Capability will be improved through increased resourcing and specialised training across the WorkSafe Inspectorate. WorkSafe ACT will continue to deliver the Mentally Healthier Workplaces Pledge and associated resources. WorkSafe ACT’s engagement activities will continue to focus on assisting duty holders meet their obligations in regard to psychological health and safety.</p>



WHS Risk	WorkSafe ACT's Intention
<p><b>Occupational violence</b></p>	<p>A strong regulatory response is required to reinforce the existing messaging that violence, in any form or place, is not acceptable.</p> <p>Occupational violence working groups will be established with relevant industry stakeholders to assist in the development of effective strategies to address this risk.</p>
<p><b>Climate change</b></p>	<p>The impact of environmental and climate change on individual work environments has been evident in the past 12 months and continues to present challenges to workplace safety. WorkSafe ACT is conscious that a regulatory response is necessary to ensure employers continue to meet their obligations in providing appropriate WHS systems, irrespective of environmental impediments.</p>
<p><b>Economic exploitation</b></p>	<p>Safe workplaces are not just for the majority. The overarching philosophy of Australia's WHS is to protect all workers regardless of employment arrangements. The Territory's regulatory framework does not discriminate nor consider an individual's background or social position in determining whether the WHS Act applies.</p> <p>The <i>Compliance and Enforcement Policy 2020-2024</i> sets-out WorkSafe ACT's approach to compliance monitoring and enforcement and includes <i>practicing proportionate, transparent and consistent enforcement that is responsive to the circumstances of the duty holder or workplace.</i></p> <p>Within the Territory, WorkSafe ACT will identify appropriate strategies to safeguard individuals that have the potential to be exposed to vulnerable workplaces.</p>
<p><b>Silica dust</b></p>	<p>WorkSafe ACT will prioritise its regulatory response to enforcing compliance with silica dust exposure standards. As an emerging WHS risk, silica is a preventable disease and delaying a response to this risk has the potential to affect many workers and their families.</p> <p>Working with industry representatives and informed by Safe Work Australia and other jurisdictions, WorkSafe ACT will provide education and enforcement action to ensure individuals working in the manufacturing and construction industries required to handle crystalline silica are protected.</p> <p>The ACT Government's commitment to strengthening the Territory's regulatory framework in relation to enforcement options is acknowledged and WorkSafe ACT will prioritise the development of regulatory options during 2020.</p>

## CONSTRUCTION SECTOR

Developing a culture that embraces WHS is key to changing the current safety profile of the construction industry. The construction industry continues to fail itself in being able to provide safe working environments for its workers. Persons conducting a business or undertaking (PCBUs) and other duty holders are aware of the legislative framework and the requirements for compliance. As a strong regulator these requirements will be actively enforced, consistent with WorkSafe ACT's *Compliance and Enforcement Policy 2020-2024*.

To support the industry, and provide opportunities for education, WorkSafe ACT is developing targeted strategies aimed at improving the safety culture for workplaces across this industry, particularly the residential construction



segment. Strategies will be informed through stakeholder engagement and participation, including the inaugural Strategic Planning Summit on 31 July 2020, with the intention that this forum will meet bi-annually.

In addition, WorkSafe ACT will continue to engage with industry specific representatives as well as Australian and New Zealand counterparts to ensure a consistent and collaborative regulatory response and to gain insights into effective and innovative interventions.

## **OPERATION OF WORKSAFE ACT**

WorkSafe ACT is a newly established independent entity. Over the next 12 months, a planned program of work will be implemented to improve its operational efficiency and effectiveness. WorkSafe ACT is committed to cultural and organisational change to become a professional, modern, intelligence-led regulator through:

- reformed corporate and regulatory governance systems;
- Implementation of revised standard operating procedures;
- an organisational restructure and increased resources;
- implementation of a suite of strategic human resource policies designed to increase inclusion and diversity and ensure ACT Public Service values are adhered to;
- targeted training and capability development;
- enhanced data and information gathering, analytics and reporting; and
- implementation of a tailored case management system.

## **IMPLEMENTATION OF OUTSTANDING RECOMMENDATIONS OF THE 2018 INDEPENDENT REVIEW**

The ACT Government engaged the Nous Group to undertake a review of the ACT's WHS compliance and enforcement arrangements in 2018. The Independent review made 27 recommendations to "enable WorkSafe ACT to be an effective and efficient work health and safety regulator in the future". The recommendations cover governance, capability, systems, and compliance and enforcement.

The commencement of the *Work Health and Safety Amendment Act 2019* addressed many of the Review's most noteworthy recommendations. The finalisation of WorkSafe ACT's *Strategic Plan 2020-2024* and *Compliance and Enforcement Policy 2020-2024* will also be significant in marking progress with implementation.

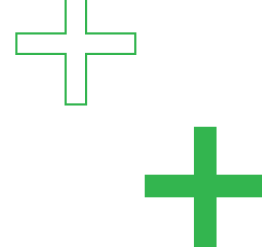
WorkSafe ACT will prioritise implementation of the remaining recommendations and will report progress to the Minister and the WHS Council. WorkSafe will also initiate a post implementation review to ensure all principles are embedded in our operations.

## **ENGAGEMENT WITH THE WHS COUNCIL**

WorkSafe ACT is enthusiastic about the opportunity to work with the WHS Council to improve workplace safety for all individuals working within the Territory. The WHS Act sets out specific governance arrangements associated with WorkSafe ACT's engagement with the WHS Council.

The priorities of the WHS Council are strongly aligned with those of WorkSafe ACT and include development of regulatory compliance programs that focus on improving WHS for all workplaces. As highlighted in the Statement of Expectations, this includes:





- Focussed strategies to improve psychological health for workers, regardless of industry or an individual's identity or status;
- Prioritising programs to identify instances of occupational violence, across all industries including education, health care and human services;
- Providing appropriate supports for vulnerable workers, such as youth and older workers.

WorkSafe ACT's *Compliance and Enforcement Policy 2020-2024* provides the approach the regulator will adopt in enforcing legislative obligations designed to protect workers.

In addition to working with the WHS Council, WorkSafe ACT will continue to work with the ACT Government to prioritise and implement legislative amendments arising from Territory policy and national and/or jurisdictional amendments such as the 2018 Model Work Health and Safety Laws Review and Codes of Practice.