

**working together
for safer, healthier
workplaces**



Transforming WorkSafe

Occupational Health and Safety Act 2004

Introduction

Working Together for Safer, Healthier Workplaces is a package of administrative and legislative reforms designed to provide employers, employees, self-employed people and other duty holders with more support in creating workplaces that are healthy, safe and free from work-related deaths, injuries and illness.

The reforms will make WorkSafe a more constructive, transparent, accountable and effective regulator able to provide duty holders with the advice and assistance they need to make their workplace safer and healthier.

The combination of a transformed WorkSafe and modernised, straightforward legislation will deliver long-term benefits for the community and for business, by reducing the social and economic costs of work-related deaths, injuries and illness.

These reforms build on a number of significant achievements in the operation of the Victorian WorkCover Authority (VWA). These include:

- Strong financial management
- A new workplace injury insurance system that provides timely rewards to employers for improvements in occupational health and safety (OHS) performance
- A 10 per cent reduction in the average premium rate from 1 July 2004 and
- Improved no fault benefits for injured workers.

Transforming WorkSafe

To support the Victorian community to tackle the toll of work-related deaths, injuries and illness, WorkSafe will provide more advice and guidance about how employees and employers can meet their OHS obligations.

All these measures will give duty-holders more certainty about what they need to do.

A more constructive WorkSafe will provide more advice and guidance about how employers and employees can meet OHS obligations.

A more accountable WorkSafe will establish a process to review its decisions quickly and with no cost to those concerned to ensure fairness and consistency. It will seek feedback with regular surveys.

A more transparent WorkSafe will make its enforcement strategy clear, explaining how it focuses its efforts, how and why it prosecutes, and what systems are put in place to ensure fairness.

A more effective WorkSafe will continue to enforce the law and work more constructively with stakeholders to make workplaces safer.

As part of the reforms, WorkSafe will:

- develop a wide range of simple guidance material tailored to the needs of all duty holders, with a particular focus on the needs of small and medium size businesses
- work with everyone in the workplace including employers, employees and health and safety representatives (HSRs) to ensure that they are ready for the implementation of the Bill and
- prepare a new Guide to the OHS Act, to explain the changes from previous legislation, and highlight differences. This will help people to understand reforms to OHS law and will clarify their responsibilities.

Small business will specifically benefit from the:

- continuation and expansion of initiatives such as the Small Business Safety Program, a free three-hour consultancy program for small business, and
- creation of a new 19-member statutory advisory committee to advise on occupational health and safety matters, which will have at least two people appointed to represent the views of small business among the employer representatives.

Clear guidance on how to make workplaces safer
WorkSafe is working with stakeholders to determine how future guidance material will be developed, presented, delivered and evaluated to make sure it gives people clear, easy to understand information.

WorkSafe will progressively provide a comprehensive range of simple guidance material to help people understand what they need to do to comply with the new OHS Act. The support materials will take several forms:

- Compliance codes that provide advice which, if followed, constitute compliance with OHS laws. New compliance codes will provide clear advice on compliance for new duties created under the new Act, such as the general duty to consult. Current codes of practice will be progressively updated in light of their new status under the Act;
- Guidance notes that provide particular information about the control of risks associated with specific hazards, industries or issues; and
- Guidelines issued to clarify how specific parts of the proposed Act are interpreted in order to improve transparency and consistency.

Guidance materials will be ready before the provisions of the Bill come into effect, to answer key questions and help people prepare to meet their OHS responsibilities.

Advice from inspectors on how to make workplaces safer

WorkSafe inspectors currently visit workplaces and undertake inspections during which they identify areas, systems, equipment or processes that fail to comply with OHS law.

While inspectors will continue to perform this important enforcement role, the Act expressly empowers inspectors to give advice to employers about how to comply with their obligations.

WorkSafe will provide its inspectors with the tools, information and training they need to help employers and employees meet their obligations that result in safe places to work.

Support for everyone in the workplace

WorkSafe will provide everyone in the workplace including health and safety representatives, employers, front-line managers and employees with the advice and assistance they need to make their workplaces safe.

Based on research indicating that workplaces with greater employer and employee involvement in health and safety are safer, WorkSafe's approach will help employers, employees and their representatives to consult effectively on matters that affect their health and safety.

WorkSafe will support increased employee involvement in workplace health and safety, work to improve the capabilities of the workplace parties, communicate more effectively with health and safety representatives and improve access to simple, clear information. This will include assistance to employ health and safety representative support officers to assist existing HSRs and encourage more workplaces to elect them.

WorkSafe's focus on education, building skills and facilitating greater involvement in occupational health and safety will benefit all workplaces, including small businesses, by increasing people's understanding of how to identify, reduce or eliminate risks to make workplaces safer and healthier.

A clear, reliable approach to enforcement and prosecution

Enforcement activity should be targeted, consistent, proportionate and transparent.

In consultation with stakeholders, WorkSafe will revise its compliance and enforcement policy to reflect legislative changes and incorporate key recommendations of the Occupational Health and Safety Review by Chris Maxwell QC. Before the new Act commences, WorkSafe will train staff to carry out their new responsibilities in line with revised policies.

WorkSafe will also clearly explain and publish its enforcement strategy, including how it selects cases for investigation or prosecution, and the criteria it uses to make key decisions in the conduct of prosecutions.

The Act permits WorkSafe to accept enforceable undertakings as an alternative to prosecution. It also provides new sentencing options such as adverse publicity orders and OHS improvement project orders.

Improving the transparency and process of review of WorkSafe decisions

The Act provides for more transparent mechanisms for the review of inspector decisions, and makes the Victorian Civil and Administrative Tribunal (VCAT) responsible for the external review of WorkSafe decisions.

For example, in the case of improvement notices or prohibition notices issued by inspectors, an internal review will allow employers, health and safety representatives and others to request WorkSafe directly for a review of the decision, without needing to lodge an appeal. After considering the issues involved, WorkSafe will provide a clear explanation as to why the decision is to be upheld, varied or withdrawn. This decision can be taken to VCAT for review.

Measuring performance

To ensure greater accountability and effectiveness, WorkSafe will expand its suite of performance measures to improve how it selects and identifies priority areas for OHS intervention.

Improved performance measures will enable WorkSafe to evaluate its interventions and measure its performance as a regulator more effectively. WorkSafe will hold itself accountable to stakeholders and the community by regularly publishing its performance results.

Further information

For further information visit the WorkSafe website www.worksafe.vic.gov.au or the Department of Treasury and Finance website www.dtf.vic.gov.au, or ring the information line on 1800 136 089.