

# Occupational Health and Safety Legislation - Explanatory Notes

## Section 1 - Purpose and Context

(1) The NSW Government has recently passed the new [Occupational Health and Safety Act 2000](#) and introduced new [Occupational Health and Safety Regulations](#) with effect 1 September 2001. The new Act will replace the existing Occupational Health and Safety Act 1983 and regulations, the Construction Safety Act 1912 and regulations and parts of the Factories, Shops and Industries Act 1962 and regulations. The introduction of the new Act and Regulations has been widely welcomed by industry groups to update and simplify laws relating to health and safety in all NSW workplaces. The new laws have been written in plain English and contain new provisions that require employers to have a far greater understanding of their obligations in relation to safety at work.

## Section 2 - Definitions

(2) Nil.

## Section 3 - Guidelines

### Part A - So What Has changed?

#### The New OHS Act

(3) The new Act aims to protect the health, safety and welfare of people at work. It has been re-ordered and is written in plain English. The main changes resulting from the [Occupational Health and Safety Act 2000](#) is a new duty for employers to consult with employees on matters affecting their health, safety and welfare. The duty to consult applies to all employers regardless of the number of employees at the workplace.

#### The new OHS Regulations

(4) The new [OHS Regulations 2001](#) supports the [Occupational Health and Safety Act 2000](#), and commence at the same time. It sets out requirements for all workplaces for putting systems in place to identify, assess, control and/or eliminate health and safety risks. It defines the obligations for employers and others such as manufacturers, suppliers, designers, principal contractors and controllers of workplaces (including owners). It also details how the duty to consult with employees about health and safety matters can be met.

### What areas are covered by the new Regulations?

- a. Identification of workplace hazards;
- b. Assessment of risks arising from those hazards;
- c. Implementation of measures to control those risks;

- d. Provision of training, instruction and supervision;
- e. Workplace consultation between employers and employees
- f. Control of specific high risk hazards such as plant, hazardous substances and hazardous processes;
- g. Construction work;
- h. Requirements for:
  - i. certification of operators of equipment
  - ii. licensing of certain businesses; and
  - iii. notification to WorkCover.

## **When do Businesses Have to Implement the New Provisions of the Legislation?**

(5) While the new Act and Regulation take effect from 1 September 2001, there will be a transitional period of 12 months for all businesses to implement any new requirements within the Regulations.

## **How will it effect UWS?**

### **The consultation process**

(6) As previously indicated the most significant change proposed by the new Act is the requirements for employers to consult employees on OHS matters. The Act defines when consultation is required and how it is to be undertaken. Put simply, employers are required to consult employees when decisions are made which effect their health and safety. These occasions include when OHS rules are being assessed or reviewed, control measures are being determined and work systems, methods of work, equipment or work premises are being changed. The act requires that the consultation should enable employees to make a contribution to OHS decisions and that the employer shares relevant information with employees. Employees should also be given the opportunity to express their views, and this must be valued and taken into account by the employer.

(7) Consultation cannot be an empty gesture. Failure to consult in accordance with the requirements can attract a penalty of \$27,500.

(8) The Act provides that a number of methods should be available for undertaking consultation. They are:

- a. OHS committees established in the workplace (if more than 20 employees)
- b. OHS representatives established in the workplace (if less than 20 employees)
- c. other arrangements that may be agreed to by the employer and employees, such as those included in an industrial agreement.

## **Looking at How we Currently Manage OHS**

### **Look at Your Existing System and Ensure OHS is Built into Your Management Planning?**

(9) One of the first steps that should be taken is to identify all those business decisions that can affect the health and safety of employees. These would include such activities as:

- a. OHS planning;
- b. OHS policy and procedure development;
- c. Purchasing;
- d. Job design (or redesign) and work methods;
- e. Maintenance;
- f. Additions or renovations to premises;
- g. Health surveillance;

- h. Investigation of incidents or accidents; and
- i. Contractor management.

### **Revise your OHS Planning System**

(10) If your decision making process does not meet the new requirements it should be revised to incorporate them. The Occupational Health Safety and Information Services Unit in conjunction with the campus based OHS Committees has recently revised the UWS corporate OHS Plan 2001-2004 to align to the new [Occupational Health and Safety Act 2000](#) and [OHS Regulations 2001](#), to provide the necessary infrastructure for UWS to meet its mandatory obligations in relation to OHS and will also provide the necessary direction and support for the University community in implementing OHS into their overall business planning functions.

(11) This office will be disseminating copies of the OHS Plan along with the new Act and regulations throughout the University to ensure necessary information is available. This is an ideal opportunity for all management and staff to be fully aware of their respective responsibility and accountability profiles in relation to OHS management and I strongly urge all to take advantage of this information feed and time to review your OHS management protocols. The Occupational Health Safety and Information Services Unit will also be contacting respective Heads of Colleges / Schools / Divisions and departments in the near future to assist them in the implementation phase of the OHS Plan.

(12) It is also recognised that many of the colleges/schools and departments have built OHS into their business activities and it may only require some minor modifications to enhance existing processes to align to the new legislation requirements and the corporate OHS Plan.

(13) Should you require any further information, direction and support on the new requirements please do not hesitate to contact the Occupational Health Safety and Information Services Unit. Offices are located at the Penrith, Richmond and Campbelltown campuses.

## Status and Details

<b>Status</b>	Historic
<b>Effective Date</b>	1st January 2001
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