

Scope, Application & Definitions:

Q.3 'Workplace health and safety' should NOT be used, since there are increasing numbers of workers whose place of work is not a specific "workplace" in the normally understood sense of the word.

"Occupational health and safety" would be acceptable, but it requires a specific statement that 'health' in this context refers to the World Health Organisation definition of health, which includes positive as well as negative aspects. This is presumably why the third suggested title has "and welfare" tagged on the end. Since 'welfare' is very difficult to define, it would be better to exclude that and refer instead to the WHO definition of 'health' – i.e.

Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.

(from Preamble to the Constitution of the World Health Organization as adopted by the International Health Conference, New York, 19-22 June, 1946; signed on 22 July 1946 by the representatives of 61 States (Official Records of the World Health Organization, no. 2, p. 100) and entered into force on 7 April 1948)

Q.4 It should specify an overall objective (suggested as "protecting and promoting workers' health – including their physical, mental and social well-being").

Q.5 It should further specify that achievement of this objective should be pursued in ways based on the principles specified in the Maxwell review for Victoria.

These principles include 'elimination of risk at source', but this should be modified to specify compliance with a generally applicable hierarchy of risk control, as follows (modified from more conventional statements such as in ILO-OSH, 2001, *Guidelines on occupational safety and health management systems*, Geneva, International Labour Office):

- (1) eliminate the hazard or hazards that are the source of the risk
- (2) reduce the level of risk by modifying the relevant hazard(s), using whatever means are known (based on existing evidence) to be generally most effective; such means will vary depending on the nature of the hazard – chemical, physical, psychosocial, etc
- (3) where residual risk remains *after full implementation of the above types of measure*, the employer should provide personal protective equipment (PPE) where relevant, and should train workers in the most effective means (based on existing evidence) of identifying remaining hazards and controlling the risk.

(NB: regarding the last part of point (3) above – training workers in "manual handling" techniques is *unlikely* to be a justifiable means of reducing the risk of musculoskeletal injuries, based on existing evidence)

Q.8 The kind of option specified in this question would be preferable. That is – have only one, general Act, supported by industry-specific Regulations and Codes, each further supported by more detailed Guidance documents.

Q.10 To the conduct of work.

Q.12 Yes – to the maximum extent practicable.

Q.13 Emerging *specific* hazards such as those relating to the use of nanotechnology should be adequately covered, initially, by the general objective(s), principles and related procedures (see responses to questions 4 and 5 above).

Another 'emerging issue', however, arises from evidence that many hazards can *interact* in their effects on a particular kind of risk. This is true for risks such as work-related mental disorders, musculoskeletal disorders (evidence is discussed in the report cited on p.1 above), cardiovascular disease, and various others.

A simple approach that focuses only on surveillance and control of hazards, separately from each other, will not be effective in controlling these more complex, multi-causal health problems which typically develop cumulatively over an extended period. (Again – see the report cited on p.1 above for further discussion and evidence.)

To achieve more effective control of such multi-hazard risks, It is necessary for risk management procedures to quantify hazard levels and relate these to injury /disease precursor symptoms (such as levels of fatigue, stress, etc). That is, there is a need for the surveillance of hazards and health levels to be *integrated*, so that key hazards (i.e. those hazards found to be most closely correlated with health symptoms for a particular set of workers, based on analysis of surveillance data quantifying levels of both their health and the hazards to which they are exposed) can be identified and the 'worst' ones prioritized for control, so that risk reduction measures will be more cost-effective.

Q.14 Key terms requiring definition include (not confined to):

Hazard

To increase awareness of the wide variety of meanings of this term, it is suggested that its definition should refer to the following sub-categories:¹

- *hazard* (specific object or finite event)
- *hazardous work activity* (e.g. repetitive movements for prolonged periods; dealing with aggressive/distressed clients for prolonged periods)
- *hazardous personal condition* (sub-optimal conditions such as inadequate abilities or skills to perform the work properly within the available time, or physical characteristics that make the job particularly difficult (NB – poor management skills fall into this category if the manager concerned is aware of and experiencing significant stress due to this))
- *hazardous system condition* (sub-optimal conditions of any work system component, including poor management skills which result in significant stress for those they manage; poorly designed equipment or software, work procedures, jobs, working hours and rest break regimes, management systems, physical environment factors, psychosocial environment factors, etc)
- *hazardous personal state* (more transient personal *states*, as opposed to the more stable personal *conditions* referred to above; common examples include: excessive fatigue or stress.

Risk. The conventional definition related to the probability and severity of harmful consequences; risks stemming from potential risk reduction measures need to be considered, as well as risk stemming from the initially identified hazards.

¹ For further details, see Macdonald, W. (2005). A hierarchy of risk control measures for prevention of work-related musculoskeletal disorders (WMSDs). Keynote paper in the Proceedings of an International Ergonomics Conference on *Humanising Work and Work Environment (HWWE-2005)*, December 10-12, Guwahati, India, pp.48-57. (copy available on request)

System of work. Should be defined in a way that clarifies each of its key components, including the work tasks performed; the tools/equipment used (including software); other objects and events to which workers are exposed; the job characteristics more broadly, including work organisation and management systems, and the physical and psychosocial working environments.

Reasonably practicable.

Duties of Care – Who owes them and to whom?:

Q.27, 28, 29.

The model OHS Act should specify that persons appointed to positions with specific OHS responsibilities are 'suitably qualified'. Definition of this term will need to be further discussed and agreed – as is currently underway in Victoria, in association with OH&S professional bodies (led by the Safety Institute of Australia). The responsibilities and liabilities of such appointees should vary according to their qualifications. Ensuring that their qualifications are adequate for the responsibilities of their role should be the responsibility of the duty holder.

Comment on section 3.7 ... in relation to the definition of 'reasonably practicable'

Assuming that a definition of 'reasonably practicable' is adopted, and that this includes the elements specified in section 4.1, including particularly 'the state of knowledge' that exists ... it is recommended that the specified responsibilities of duty holders should include a duty to familiarise themselves with the content of all relevant Codes and guidance materials made available by the relevant regulatory authority. They might delegate this duty to a *suitably qualified* OH&S practitioner, whose role provides them with an adequate degree of control.

'Reasonably Practicable' & Risk Management:

Q.37 Yes - also see comment immediately above, in relation to the definition of 'reasonably practicable'.

Q42. Yes – see p.1 above.

Q43. Yes – there should be a definition of 'reasonably practicable', as well as reference to risk management *principles*

Q44. Risk management processes should be specifically required by the model OHS Act at the level of Regulations and Codes (in a context where the duty holder or their appropriately qualified delegate is required to be familiar with the content of such documents).