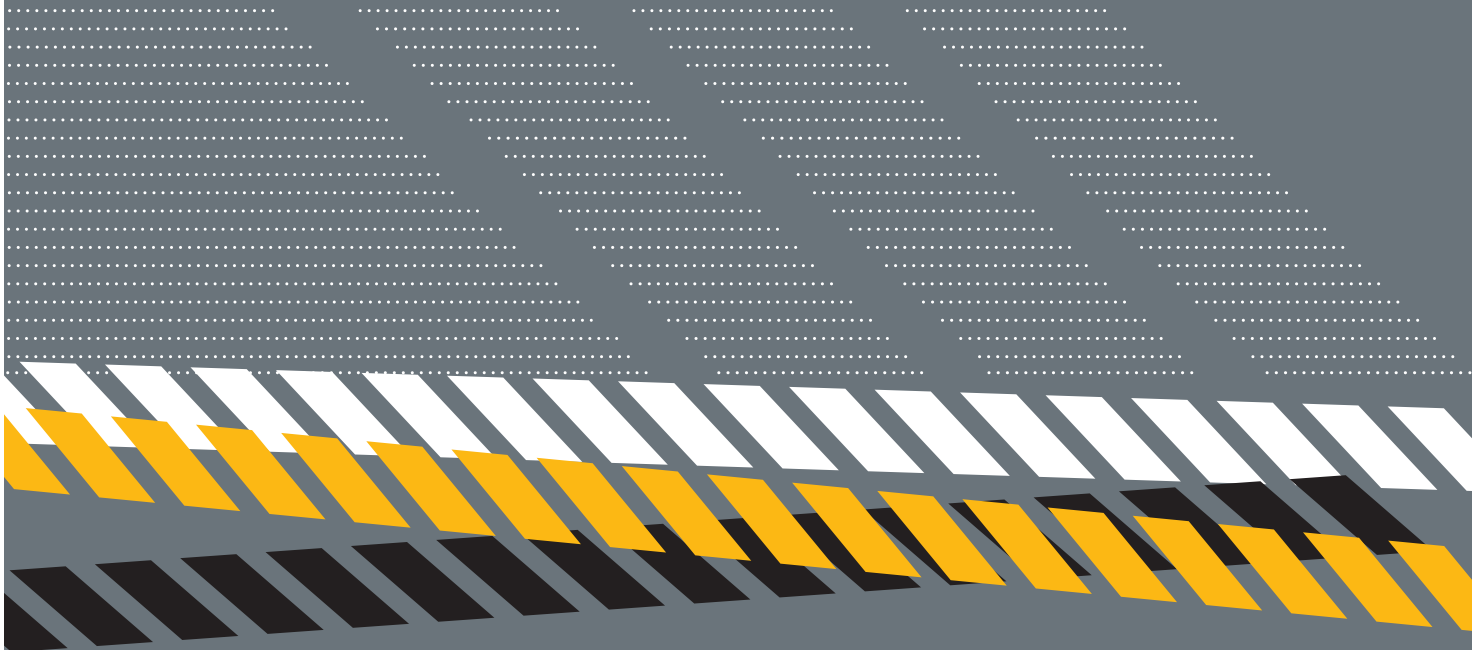


How WorkSafe applies the law in relation to identifying and understanding hazards and risks

A GUIDELINE MADE UNDER SECTION 12 OF THE
OCCUPATIONAL HEALTH AND SAFETY ACT 2004



What this WorkSafe Position is about

This document sets out WorkSafe's position that there is an obligation to take all reasonable steps to identify and understand hazards and risks to health and safety when complying with duties to ensure health and safety under Part 3 of the *Occupational Health and Safety Act 2004*.

Part 3 of the Act places duties on, among others, employers (sections 21 to 23); self-employed persons (section 24); persons who manage or control workplaces (section 26); designers of plant (section 27); designers of buildings or structures (section 28); manufacturers of plant or substances (section 29); suppliers of plant or substances (section 30); and persons installing, erecting or commissioning plant (section 31), to ensure health and safety. These duties must be met so far as is reasonably practicable.

Who this WorkSafe Position applies to

Any person who has duties to ensure health and safety under Part 3 of the Act.

Date

This WorkSafe Position was made on 30 November 2007.

WorkSafe Position on identifying and understanding hazards and risks

WorkSafe considers that a person who has a duty to ensure health and safety under Part 3 of the Act has an obligation to take all reasonable steps to identify and understand the hazards and risks, within the available state of knowledge, which relate to the duty.

Specifically:

1. Duty-holders are obliged to proactively find hazards before they cause an incident, injury, illness or disease. A formal process to do this is generally known as hazard identification.
2. Duty-holders are obliged to understand, within the available state of knowledge, the nature and degree of harm that a hazard or risk may cause, how the harm can eventuate and the likelihood of that harm occurring. Duty-holders will often have to carry out investigations and analyses to gain this understanding. Such investigations and analyses are generally known as the process of risk assessment.

It is particularly important that duty-holders consider and understand how the following may impact on hazards and risks:

- the potential failure of plant, equipment, systems of work or risk control measures
- the potential for human inadvertence or error, misuse, spontaneity, panic, fatigue or stress
- the potential interaction between multiple hazards that may, together, cause different risks.

Explanation

3. Duty-holders are obliged to review hazards and risks whenever the circumstances in which the hazards or risks exist change. There are certain times when a review of hazards and risks is particularly important, including:

- prior to the commencement of work at a new workplace
- prior to the introduction of any change into the workplace, such as:
 - the introduction of a new type of plant into the workplace
 - the introduction of any new substance into the workplace
 - the introduction of new work systems or practices
 - the introduction of untrained or inexperienced staff or other persons to the workplace
 - a change of layout of the workplace; and
 - a change in conditions at the workplace; or
- when an incident or hazardous event occurs at the workplace
- when there are adverse results from biological monitoring; or
- when health and safety representatives, workers or others raise concerns.

4. Duty-holders are also obliged to review hazards and risks whenever there is a change in the state of knowledge about the hazards or risks.

Some regulations made under the Act require hazard and risk identification to be undertaken at certain times. Duty-holders must comply with these requirements. Duty-holders may not satisfy their responsibilities under the Act by conducting hazard and risk identification only when specifically required to do so by the regulations.

Duty-holders must also remember that in addition to identifying and understanding hazards and risks they are required to ensure risks to health and safety are eliminated, or if that is not reasonably practicable, are reduced so far as is reasonably practicable.

The case law that WorkSafe has taken into account in formulating this position includes:

- *Esso Australia Pty Ltd (DPP v Esso Australia Pty Ltd)* [2001] VSC 263
- *Holmes v R E Spence & Co Pty Ltd* [1992] 5 VIR 119
- *R v Australian Char Pty Ltd* [1999] 3 VR 834
- *Chugg v Pacific Dunlop Ltd* [1999] 3 VR 934

Effect of this WorkSafe Position

Under Section 15 of the Occupational Health and Safety Act, this WorkSafe Position does not give rise to any liability of, or claim against, WorkSafe Victoria. It does not give rise to any right, expectation, duty or obligation that a person may not otherwise have. It does not give rise to any defence that would not otherwise be available to a person.

WorkSafe Victoria will not act inconsistently with this document. WorkSafe Victoria's actions in relation to this document do not affect the operation of the *Occupational Health and Safety Act 2004* or the Regulations made under that Act.

Related WorkSafe Positions

WorkSafe Position: How WorkSafe applies the law in relation to reasonably practicable.

GLOSSARY

Duty-holder is any person referred to in the 'What this WorkSafe Position is about' section of this document.

State of knowledge is the knowledge that the duty-holder has, or ought reasonably to have, about a hazard or risk.



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