



Government
of South Australia

SafeWork SA

A Review of the Occupational Health, Safety and Welfare Regulations 1995

An information paper to engage
the South Australian community in
a review of Parts 1, 2 and 6

October 2007

Review Process and Providing a
Submission

safeWorkSA

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INTRODUCTION

South Australia has been well served by the *Occupational Health, Safety and Welfare Regulations 1995* (the Regulations) over the past decade. These Regulations have however, reached an historical milestone where, under South Australian legislation, they require review.

The Review provides an opportunity to consider our Regulations, taking into account national and international emerging issues and trends and promote an effective regulatory framework in order to meet the challenges of keeping our workplaces safe.

The SafeWork SA Policy and Strategy Group will facilitate the review of the Regulations.

DIVIDING THE REVIEW

To engage the community in the review, the proposal is for a two-phased approach.

- Phase 1 will be a review of Parts 1, 2 and 6; and
- Phase 2 will be a review of Parts 3, 4 and 5.

The two-phased approach enables consideration of those regulations that have not been recently reviewed and are not the subject of a national review. Generally these regulations fall within Parts 3, 4 and 5.

The rationale for exclusion of these regulations is that:

- regulations and standards that are the subject of national review have been, or will be, the subject of extensive public consultations at the national level, giving interested South Australian stakeholders ample opportunity to contribute to their development;
- the South Australian Government's support, wherever possible, for national consistency in Regulations as a goal that is ultimately in the interest of employers and employees working in South Australia; and
- regulations that have been reviewed recently at State level are also being excluded from this stage of the Review to avoid unnecessary repetition of work already in process or recently completed. Examples of regulations that fall into this category include those for amusement structures and toilets.

Parts 3, 4 and 5 will be reviewed in 2008 when some of the national proposals are more developed; and those regulations recently reviewed will be considered from an unintended consequences perspective.

Attached is a list of regulations that have been recently reviewed or are the subject of national review (Attachment A).

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LIMITATIONS OF THE REVIEW

It is beyond the scope of the review to investigate or address specific complaints in relation to SafeWork SA, the Workers Compensation Tribunal, the Industrial Court or Commission, the staff of any of the above organisations, or any other similar organisation. If you have complaints of a specific nature that you wish to have addressed you should refer these to the appropriate organisation.

If a submission is sent that contains allegations of professional misconduct or criminal activity you should note that this information, including your contact details, may be provided to the relevant authorities.

PRINCIPLES

Whilst ensuring that there is no reduction or compromise in the standards for legitimate safety concerns, consideration will be given to opportunities which:

- promote national consistency;
- improve regulations via streamlining or consolidation; and
- make better use of guidance material to support regulatory requirements.

Consideration will also be given to opportunities to reduce the burden on business via reducing red tape¹, where this can be achieved without reducing safety standards.

Preference will be given to regulations that are performance based and have clearly identifiable outcomes – unless prescriptive requirements are unavoidable in order to ensure safety in high-risk situations.

Apart from the objectives and principles of the *Occupational Health, Safety and Welfare Act 1986* and *Regulations*, the Review process will also be guided by a series of basic principles. These principles include:

- open and unbiased consultation with all stakeholders in South Australia;
- effective and efficient review of regulations by not reproducing work already completed or work being done at a national level;
- encouragement to business operators and employees to manage OHS&W systematically through the key principles of risk assessment and management, consultation, and duty of care;
- commitment to the OHS&W elements of the State Strategic Plan and the *National OHS Strategy* published by the Australian Safety and Compensation Council's (the ASCC); and
- commitment to good regulatory practice consistent with principles agreed by the Council of Australian Governments (COAG) and the State Government.

A variety of methods will be employed to ensure effective community consultation. Methods may include stakeholder consultation forums, the formation of working parties of stakeholders facilitated by the Review Group on particular issues, and the publication of a series of issue focused papers to enable stakeholder comment. The Legislative Development Committee, part of the State's peak consultation advisory body – the SafeWork SA Advisory Committee will also be consulted to ensure access to the expertise afforded by this Committee.

¹ This means considering each Regulation from the perspective of *duplication, repetition, inconsistency* and *necessity* – and the impact of regulations on businesses.

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TERMS OF REFERENCE

The Review and update of the Regulations is consistent with the principles of sensible regulatory practice and to ensure the objects of the *South Australian Occupational Health Safety and Welfare Act 1986* are facilitated, namely –

- (d) to secure the health, safety and welfare of persons at work;
- (e) to eliminate, at their source, risks to the health, safety and welfare of persons at work;
- (f) to protect the health and safety of the public arising out of or in connection with:
 - (i) the activities of persons at work; or
 - (ii) the use or operation of various types of plant;
- (g) Maintain current standards of protection provided by the Regulations;
- (h) Consult with the community and key stakeholders;
- (i) Achieve a high level of national consistency;
- (j) Assess the potential impact of proposed changes to achieve red tape reduction; to identify administrative and budgetary implications and their potential impact on industry regions; and the family, society, environmental and small business;
- (k) Recommend promulgation, compliance, education and information strategies required to implement the amended Regulations;
- (l) Report recommendations arising from the Review to the SafeWork SA (SWSA) Advisory Committee; and
- (m) Prepare Parliamentary drafting instructions and Cabinet Submissions to facilitate agreed amendments to the Regulations.

THE DISCUSSION PAPER

The paper has been framed around the terms of reference and principles for the review and represents a brief analysis of some of the contemporary issues identified for employers and workers, as it relates to Parts 1, 2 and 6 of the Regulations in this State.

The paper is not meant to be an exhaustive or definitive analysis of all major issues. Those considering developing submissions to the review are encouraged to identify and raise any other issues that are considered pertinent.

Responses will be used to inform the process of review and will be an invaluable part of developing proposals. A report will be prepared which will give an account of industry viewpoints. The report will also include analysis of any options proposed for change, and likely impacts of such proposals. The report will be used as the basis of further consultation.

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GUIDELINES FOR SUBMISSIONS

Where submissions are emailed the submission itself will be accepted as an attachment to the email with Microsoft Word used as the electronic format.

Submissions need not address all issues unless that is preferred and depending on the importance and relevance to the individual or organisation making the submission.

We require submissions to:

- include contact details;
- indicate if all or any part of the submission should be confidential;

The submissions should be structured in a way that:

- clearly defines the issue or problem and if possible, related to an issue raised in the discussion paper;
- indicate if the issue is related to an existing piece of legislation or to a decision of the South Australian Industrial Relations Commission or Court and provide a reference if this is possible;
- provide example(s) of the practical implication of the issue or problem; and
- suggest alternatives to remedy the issue.

CONFIDENTIALITY

The cover sheet for submissions to the review includes several important questions that require careful consideration.

The cover sheet asks you to confirm how you wish your submission to be treated in relation to confidentiality.

If you do not wish to be identified within the report as having provided particular comments, it is important that you understand your submission may be referred to in the report in a general non-identifying manner when discussing broad themes.

TIMEFRAME FOR SUBMISSIONS

Submissions should be provided to SafeWork SA by **Monday 31 December 2007**.

ENQUIRIES

The contact telephone number is: (08) 8463 4979

SUBMISSIONS CAN BE PROVIDED

by email to: law@safework.sa.gov.au

or by facsimile to: (08) 8303 0411

or by post to: The Review of the OHS&W Regulations
GPO Box 465
ADELAIDE SA 5001

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SUBMISSION COVER SHEET

Please submit this cover sheet with your written submission to the review. If you want to email your submission you can copy this cover sheet into your word processor or email program.

Name of person making submission	
Contact information Postal address Telephone Mobile Email Facsimile	
Submissions on behalf of organisations Are you making this submission on behalf of an organisation? If yes, which organisation?	Yes/No (please delete as appropriate)
Submission List Do you agree to having your name and/or organisation identified on a list of submissions received?	Yes/No (please delete as appropriate) NB. Where a submission is made on behalf of an organisation only the organisation's contact name will be used. Submissions made by individuals will only refer to the person's name.
Identified in Report The contents of your submission may be used in the review's report. In the event that this occurs, do you agree for your name or that of your organisation to be identified with your submission?	Yes/No
General Reference in Report All submissions may be referred to in the report in a general non-identifying manner when discussing broad themes.	
Signature	Date