



NATIONAL HARMONISATION OF WHS LEGISLATION

Work Health and Safety (WHS) legislation has been harmonised across Australia. Five jurisdictions enacted the model Act and Regulations from 1 January 2012 including the Commonwealth, Queensland, NSW, NT and ACT. Tasmania and SA enacted the legislation from 1 January 2013. Victoria and WA have yet to adopt the legislation.

Of particular interest to designers is the requirement to provide a written report to the person commissioning the design where the client is a person conducting a business or undertaking (PCBU) on the health and safety aspects of the design. A safe design report must show how the designer has eliminated or minimised hazards, unique to that design for the construction of the structure. There is also a requirement to provide information on how the structure has been designed to be without risk to health and safety any time it is a workplace during its life cycle.

WHAT IS SAFE DESIGN?

Safe design is the integration of hazard identification, risk assessment and control methods early in the design process to eliminate or minimise risks to health and safety throughout the construction and life of the structure being designed.

The designer should consider the design and its intended purpose, materials to be used, possible methods of construction, maintenance, operation and demolition and identify risks and control these risks through elimination, substitution, isolation, engineering, administration or personal protective equipment (PPE).

WORK HEALTH AND SAFETY LEGISLATION

The triangle diagram shows the legislation, including the Act, Regulation, codes of practice, standards and guidance notes and how they all fit together. The codes of practice provide a guide to how the legislation should be implemented. You should also consult industry standards.

The Safe Design of Structures Code of Practice, in particular, should be used as a guide on how to meet the legislative requirements. There are other codes of practice that are recommended such as Preventing Falls, Confined Spaces, Removal of Asbestos, Managing Risks in Construction Work and Demolition to name a few.



WHAT ARE YOUR DUTIES AS A DESIGNER?

As a designer you have a duty under the Act and Regulations to consider that the structure be designed is to be without risk to health and safety at any time that it is to be used as or at a workplace. The designer must also undertake any testing and analysis required to fulfil this duty.

You must also ensure the structure be designed to eliminate or minimise the need for any hazardous manual tasks and give information to each person who is provided with the design about any features that eliminate the need for these tasks to be carried out (regulation 61, WHS Regulation).

Under regulation 295, the designer must provide a safety report to the PCBU who commissions the design. This report must specify the hazards unique to that particular design. If you are working on a design that another designer has prepared (e.g. as a drafting job or for a renovation) you must obtain a copy of the report from the original designer.

As a designer you should be familiar with the legislation in particular section 22 and 46 of the WHS Act and regulation 61, 64, and 294-296 of the WHS Regulation (or those of your state Act and Regulation). The Code of Practice for Safe Design of Buildings and Structures should be used as a practical guide to meeting your obligations under the WHS Act.

WHAT ARE THE DUTIES OF YOUR CLIENTS?

The person who commissions the work (PCBU) has specific duties under section 26 of the WHS Act to ensure they commission safe structures. This includes ensuring the safety of workers during the construction, use, maintenance and demolition stages. They also have specific duties to consult with other duty holders including the designer and builder.

Consultation includes giving the designer any information that they have in relation to the hazards and risks at the workplace where the construction work is to be carried out. These could include things such as location of services or power lines, information about topography, any soil contamination just to name a few.

Where the design involves the renovation of an existing structure, the information relating to the existing site, structure and current workplace should be provided to the designer. The client also has a regulatory duty under regulation 294-6 to provide the designer's safety report to the principal contractor.

As the client may not be aware of their obligations under the WHS legislation it is advisable that designers advise them of their duties or refer them to the relevant parts of the Act and Regulations. This would be expected under your duty to consult with other duty holders. Please see our fact sheet, Safe Design for Clients for more information and the Consultation Code of Practice.





WHY DO I HAVE TO PREPARE A SAFE DESIGN REPORT?

As part of meeting your obligations under the WHS regulation 295 you are required to prepare a safety report detailing hazards unique to that design for the PCBU (person conducting a business or undertaking) who commissions the design. The report should cover the hazards during the construction stage as a minimum. The aim of this report is to help prevent possibly future injuries or death by identifying, assessing and eliminating hazards or potential risks at the design stage.

WHAT INFORMATION HAS TO BE SUPPLIED WITH MY DESIGN?

The legislation has two distinct sections covering the requirement for the designer to provide information on the WHS of their design.

Regulation 295 mandates a safety report specifying the hazards relating to the design of the structure, so far as the designer is aware:

- create a risk to the persons who are to carry out the construction work; and
- are associated only with the particular design and not with other designs of the same type of structure.

This information should include:

- any hazardous material or structural features and assessments of the risks to WHS resulting from these hazards;
- any actions you have taken to reduce the risk, e.g. design changes;
- changes to construction methods; and
- any parts of the design where hazards have been identified but not resolved.

Section 22 of the WHS Act requires the designer provide information to each person who is provided with the design (either on your plans or in the report) detailing:

- the purpose for which the plant or structure was designed;
- the results of your testing and analysis;
- conditions to ensure that the structure is without risk for the purpose it was designed or when carrying out related activities such as construction, maintenance and demolition;
- any risk to the health and safety of persons in the vicinity of the workplace (e.g. neighbours).

The Safe Design of Structures Code of Practice recommends that the information relating to the safety during construction, maintenance, use and demolition be provided in a safety report and/or a WHS file. All hazard areas should be assessed by the designer (e.g. access, manual handling, electrical etc).



SAFE DESIGN SERVICES

Safe Design Australia has a team of qualified WHS experts to help you meet your legislative requirements. For details on our services, please visit our website. Safe Design Australia are covered by professional indemnity and public liability insurance so you can feel assured knowing that our work is covered.

WHO RECEIVES MY SAFE DESIGN REPORT AND INFORMATION?

The WHS regulation 295 requires the designer to provide a safety report to the person who commissions the work (PCBU). In addition to this, section 22(4) of the Act says that anyone who receives a copy of your design should also receive information on how you have designed that structure to be without risk to



health and safety. This means that you would be required to issue your safe design report with your plans to persons such as the client, certifier or Council and the builder and has been confirmed by Safe Work Australia.

RELEVANT SECTIONS OF THE LEGISLATION

Designers should be familiar with the WHS Act and Regulations and codes of practice. In particular designers should review regulations 61, 64 and 294-296 of the WHS Regulation, and sections 22, 26, and 46 of the WHS Act. Designers should also be familiar with the codes of practice including Safe Design of Structures and the Australian standards for assistance in fulfilling their statutory obligations under the legislation.

ADDING A SAFE DESIGN PLAN TO YOUR SET CAN HELP YOU MEET WHS OBLIGATIONS



links

VISIT THE WEBSITES BELOW TO ACCESS THE LATEST WHS LEGISLATION

The model WHS Act and Regulations and codes of practice (including the Safe Design of Structures) can be found at www.safeworkaustralia.gov.au. Visit your regulator websites for further information and state specific legislation.

Please note that this information in this fact sheet has been interpreted from the Act and Regulations by Safe Design Australia, designers should consult the full Act and Regulations to make their own interpretations.

