



Codes of practice approved under the *Occupational Safety and Health Act 1984*

The Minister for Commerce approves codes of practice under section 57 of the *Occupational Safety and Health Act 1984* (OSH Act). After approval takes place, a code applies to all workplaces in Western Australia covered by the OSH Act.

Codes of practice provide guidance for employers, contractors, people in control of workplaces and workers on the management of safety and health hazards and risks associated with an issue and some of the relevant requirements under the legislation.

It is not possible for a code to address every situation and all the risks that might be found at a workplace. The OSH Act requires identification and assessment of these other situations and risks and implementation of control measures to prevent or minimise injury or harm. This comes under the general 'duty of care' in the OSH Act to ensure workers are not exposed to hazards and provide a safe system of work, as far as practicable.

As a general rule, the practical guidance in a code should be considered in conjunction with the general 'duty of care', under the OSH Act.

Legal standing of codes and compliance

A code does not have the same legal force as the OSH Act or a regulation and non-compliance with a code is not sufficient reason, of itself, for prosecution under the OSH Act. However, during a prosecution case, codes may be used by the courts as the standard when assessing methods or practices used at a workplace.

If there is a code of practice about a risk, either:

- do what the code of practice says; or
- adopt and follow another way that gives the same level of protection against the risk.

If there is no regulation or code of practice about a risk, choose an appropriate way and take reasonable precautions and exercise proper diligence to ensure the above general 'duty of care' obligations are met.

Inspectors may refer to a code when visiting a workplace and considering whether it is meeting its duties under the OSH Act or regulations. When an inspector forms the opinion that a workplace is not complying with the legislation, they may issue an improvement notice. The notice may refer to a code as part of the stated inspector's opinion that there is an alleged breach or as part of the directions to a workplace to fix an alleged breach.

How are codes developed?

Codes are developed by the Commission for Occupational Safety and Health through consultation with representatives from employers, industry, unions, experts and government. Usually a draft code is released for a public comment period, before a final code is developed.

The Commission is responsible for advising the Minister on approval of codes. WorkSafe is responsible for enforcing the OSH Act and regulations and promoting safety and health.

For copies of codes and further details on WorkSafe, go to www.worksafe.wa.gov.au and, for copies of the OSH Act, go to the [State Law Publisher website](#)

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