

# INFORMATION SHEET—AUSTRALIAN AND OTHER STANDARDS

This information sheet provides general guidance for duty holders on Australian and other Standards and how they interact with the Work Health and Safety (WHS) Act and WHS Regulations (the WHS laws).

## What is a Standard?

Standards are published documents that are designed to provide guidance to help ensure safety, performance and reliability through the specifications of goods, services and systems.

There are Australian and international Standards, as well as standards developed by certain regulators, and industry standards developed by professional industry associations for the purpose of maintaining a standard in performance for the particular activities within the industries.

## Is conforming to Standards mandatory?

Standards are not laws, so there is no general requirement to conform to a Standard. However, conforming to specific Standards is mandatory if there is a law which says you must conform with it.

The WHS laws require conformance with only a small number of Standards. Where the WHS laws say you must conform to specific Standards, a failure to do so may result in a breach of the WHS laws. A list of all Australian Standards referenced in the WHS Act and Regulations is provided at Appendix A.

Other than the requirements in the WHS laws, there is nothing else that requires or mandates conforming to a Standard in relation to WHS.

However, it is important to note that because Standards provide guidance on particular matters, a Standard may still be relevant to a court when determining whether a duty holder has complied with the WHS laws. This means that a court may consider that conforming to a Standard is relevant and that it was reasonably practicable for a person to conform to the Standard in the circumstances.

If a person conforms with a Standard, this does not automatically mean that they have complied with the WHS laws. There may be other risk controls not dealt with by the Standard that are reasonably practicable for the person to implement to eliminate or minimise risks in the circumstances.

## How is compliance with a Standard relevant to the WHS laws?

Under the WHS Act, a person conducting a business or undertaking (PCBU) is required to ensure, so far as is 'reasonably practicable', the health and safety of workers, and others at a workplace.

To determine what is 'reasonably practicable' in the circumstances, all relevant matters are taken into account, including:

- a) the likelihood of the hazard or the risk concerned occurring
- b) the degree of harm that might result from the hazard or the risk
- c) what the person concerned knows, or ought reasonably to know, about the hazard or risk, and about the ways of eliminating or minimising the risk
- d) the availability and suitability of ways to eliminate or minimise the risk, and

- e) after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.

A Standard may be considered information that a duty holder knows, or ought reasonably to know, about a hazard or risk and about the ways to eliminate or minimise the risk. This may include acquiring knowledge of, and keeping up-to-date with changes to, relevant Standards.

Therefore, in determining whether a duty holder has met their duties under a WHS law, a court may consider that conforming to a Standard was 'reasonably practicable' for that person to do in the circumstances.

In considering a Standard, duty holders should consider the currency and relevance of that Standard for their work. It may be necessary to undertake risk management strategies beyond those outlined in a Standard in order to eliminate or minimise risks so far as is reasonably practicable.

### **What if an approved Code of Practice refers to a Standard?**

A relevant approved Code of Practice can be used by anyone who has a duty of care in the circumstances described to determine what they should do to meet that duty. Under the WHS laws, approved Codes of Practice are admissible in court proceedings to demonstrate what is known about a hazard, risk or risk control and a court may rely on an approved Code of Practice in determining what is reasonably practicable in relation to a matter.

If an approved Code of Practice recommends following a specific Standard, then it would be reasonable to consider the specified Standard forms part of that approved Code of Practice.<sup>1</sup> However, following Codes of Practice is not mandatory. Compliance with the WHS Act and Regulations may be achieved by following another method if it provides an equivalent or higher standard of work health and safety than the Code of Practice.

### **What if a Standard is revised?**

Risks and their controls should be reviewed on a regular basis to ensure that the controls are working as planned. Through these reviews, a new or revised Standard could identify and address risks that were not previously considered.

If a new or revised Standard identifies new hazards or introduces new or better risk controls that were not previously considered, the PCBU should take action to address those hazards and implement appropriate risk controls. Where a revised Standard adopts new strategies or measures to eliminate or minimise risks, the PCBU should consider whether those strategies should be adopted in their workplace.

There is no general requirement to conform to Standards, and so there is no need for a 'grace' or transitional period' for conforming with new or revised Standards.

Where Standards are referred to in WHS laws they generally refer to a particular version of the Standard. This means the requirement refers to that version and duty holders will need to continue complying with that version of the Standard unless the laws are amended.

<sup>1</sup> Some jurisdictions have documents, including Australian Standards, approved as Codes of Practice in addition to the model Codes of Practice developed by Safe Work Australia. For a full list of Codes of Practice approved in your jurisdiction contact [your WHS regulator](#).

## Can international Standards be used instead of Australian Standards?

Conforming to Australian Standards is mandatory where laws require this. In that case, a duty holder should use the Australian Standard to ensure they are complying with their legal obligations.

Australian Standards are developed specifically for Australian workplaces and are likely to contain more relevant information for Australian operating conditions, such as load factors, climatic conditions, licencing requirements etc. An international Standard could be considered in conjunction with the equivalent Australian Standard. An international Standard may be a useful, additional source of information for duty holders, particularly where its use achieves the same or better overall level of safety to its Australian Standard equivalent.

Officers of a PCBU have a duty to take reasonable steps to acquire and keep up-to-date knowledge of work health and safety matters. Up-to-date knowledge may include acquiring knowledge of Standards, including international Standards that are relevant to the work of their PCBU.

### Further information

- Interpretive Guideline: model Work Health and Safety Act – the meaning of ‘reasonably practicable’
- Guide: How to determine what is reasonably practicable to meet a health and safety duty
- Fact sheet: Codes of practice and guidance material
- Code of Practice: How to manage work health and safety risk

*Note: this document is a general guideline only and is not a substitute for professional legal advice. The contents of this document are correct at the time of writing. However, there may be subsequent decisions of courts or tribunals on the matter covered by this guide which mean that the contents are no longer accurate.*