



Australian Workplace Safety Standards Act 2005

No. 134, 2005

**An Act to provide for the making of occupational
health and safety standards, and for related
purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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An Act to provide for the making of occupational health and safety standards, and for related purposes

[Assented to 15 November 2005]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Australian Workplace Safety
Standards Act 2005*.

Section 2

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	15 November 2005
2. Sections 3 to 9	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	1 January 2006 (see F2005L03859)

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Definition

In this Act:

Australian Safety and Compensation Council means the body of that name, established in writing by the Minister under the executive power of the Commonwealth, to advise on the development of policies relating to occupational health and safety and workers' compensation matters. The Council is an advisory body which represents the interests of governments, employers and employees.

4 Function of Australian Safety and Compensation Council

- (1) It is a function of the Australian Safety and Compensation Council to declare national standards and codes of practice relating to occupational health and safety matters.
- (2) Subsection (1) does not imply that the instrument establishing the Australian Safety and Compensation Council may not confer additional functions on it.
- (3) The Australian Safety and Compensation Council may perform the function in subsection (1) only to the extent that it is not in excess of the functions that may be conferred on the Council by virtue of any of the legislative powers of the Parliament and, in particular, may perform that function in relation to occupational health and safety matters arising in the course of, or that concern:
 - (a) trade or commerce with other countries, or among the States;
or
 - (b) the activities of a corporation to which paragraph 51(xx) of the Constitution applies.

5 Powers of Australian Safety and Compensation Council

- (1) The Australian Safety and Compensation Council has such powers as are necessary to enable it to perform the function under subsection 4(1).
- (2) Subsection (1) does not imply that the instrument establishing the Australian Safety and Compensation Council may not confer additional powers on it.

6 Declaration of national standards and codes of practice

- (1) In the exercise of the function referred to in subsection 4(1), the Australian Safety and Compensation Council may, by written instrument, declare a national standard or code of practice in relation to an occupational health and safety matter.
- (2) Except as otherwise provided by a law other than this Act or by an award or instrument made under such a law, a national standard or code of practice is an instrument of an advisory character.

- (3) A national standard or code of practice is not a legislative instrument.
- (4) When the Australian Safety and Compensation Council declares a national standard or code of practice, it must publish, in accordance with the regulations, the title and objective of the standard or code of practice and information as to how interested persons may obtain a copy of the terms of the standard or code of practice.
- (5) The Australian Safety and Compensation Council must, as soon as practicable after declaring a national standard or code of practice, give a copy of the national standard or code of practice to the Minister.

7 Steps preparatory to declaring national standards and codes of practice

- (1) Before declaring a national standard or code of practice, the Australian Safety and Compensation Council must take steps in accordance with the regulations to enable interested persons to make representations concerning the proposed standard or code of practice.
- (2) The Australian Safety and Compensation Council must give due consideration to any representations duly made to it and, if it thinks fit, may alter the proposed standard or code of practice.

8 Delegation of powers and functions

- (1) The Australian Safety and Compensation Council may, by written instrument, delegate to:
 - (a) a member of the Council; or
 - (b) an SES employee or acting SES employee performing duties in the Department; or
 - (c) a committee made up of persons to whom paragraph (a) or (b) applies;any power or function of the Council.

Note 1: The expressions **SES employee** and **acting SES employee** are defined in section 17AA of the *Acts Interpretation Act 1901*.

Note 2: See also sections 34AA and 34AB of the *Acts Interpretation Act 1901*.

- (2) The Australian Safety and Compensation Council may specify the procedures to be followed by any committee to which it delegates a power or function.

9 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
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*[Minister's second reading speech made in—
House of Representatives on 11 August 2005
Senate on 18 August 2005]*

(132/05)
