

## EXPLANATORY STATEMENT

Issued by authority of the  
Minister for Employment and Workplace Relations

*Occupational Health and Safety (Commonwealth Employment) Act 1991*

Revocation and approval of codes of practice – subsection 70(1)

### Notice No. 1 of 2005

This Explanatory Statement relates to a notice to:

- **revoke** the current *Approved Code of Practice on Noise*, which adopts the *National Code of Practice for Noise Management and Protection of Hearing at Work* [NOHSC: 2009 (2000)] and;
- **approve** the new Code of Practice on Noise, which adopts the *National Code of Practice for Noise Management and Protection of Hearing at Work* [NOHSC: 2009 (2004)].

The notice replaces the current approved code of practice with a new approved code of practice for the management of noise and the protection of hearing at Commonwealth workplaces.

The notice takes effect from the day after it is registered on the Federal Register of Legislative Instruments.

### Operation of codes of practice approved under the Act

Section 70 of the *Occupational Health and Safety (Commonwealth Employment) Act 1991* (the Act) provides that the Minister for Employment and Workplace Relations may approve codes of practice prepared by the Safety, Rehabilitation and Compensation Commission (the SRC Commission) or by any other body; and may amend or revoke any code of practice so approved under that section.

A code of practice approved by the Minister under the Act:

- (a) provides practical guidance to persons with a duty of care under the Act and associated regulations;
- (b) should be followed unless there is another means of achieving the same or better standard of health and safety; and
- (c) is admissible evidence in proceedings under the Act and associated Regulations.

Under subsection 70(8), a person is not liable to any civil or criminal proceedings by reason only that the person has failed to observe a provision of an approved code of practice. However, in accordance with section 71 of the Act, failure to comply with an approved code of practice is admissible evidence in proceedings alleging that a person has breached a provision of the Act or Regulations.

In accordance with subsection 70(7), a copy of the approved code of practice will be held in the offices of the SRC Commission for examination on request.

### **The proposed new Approved Code of Practice on Noise**

Currently, the *National Code of Practice for Noise Management and Protection of Hearing at Work* [NOHSC: 2009 (2000)] (the Noise National Code 2000) is adopted in full as the Commonwealth *Approved Code of Practice on Noise*.

In 2004, NOHSC completed a technical review of the Noise National Code 2000 and declared the *National Code of Practice for Noise Management and Protection of Hearing at Work* [NOHSC: 2009 (2004)] (the Noise National Code 2004). The proposed new Approved Code of Practice on Noise for the Commonwealth jurisdiction will adopt in full the Noise National Code 2004.

The changes in the Noise National Code 2004 are mostly technical in nature and do not impose new safety requirements. Some matters have been clarified and some aspects of the new code will be of particular use in Commonwealth workplaces. For example, the noise identification checklist is a practical tool to assist employers and employees to identify noise hazards in a workplace.

The SRC Commission consulted with the jurisdiction and received support for the adoption of the Noise National Code 2004 as the approved code of practice for the Commonwealth jurisdiction.

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