EXPLANATORY STATEMENT

Select Legislative Instrument 2005 No. 285

Issued by the authority of the Minister for Employment and Workplace Relations.

Australian Workplace Safety Standards Act 2005

The Australian Workplace Safety Standards Act 2005 (the Act) provides a framework for the declaring of occupational health and safety national standards and codes of practice by the Australian Safety and Compensation Council (ASCC). The ASCC replaced the National Occupational Health and Safety Compensation Council which will be abolished under the National Occupational Health and Safety Commission (Repeal, Consequential and Transitional Provisions) Act 2005 at the same time as the operative provisions of the Act commence by Proclamation.

Section 9 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Regulations set out further particulars relating to publication and consultation requirements to be met by the ASCC when declaring national standards and codes of practice.

Regulation 4 requires the ASCC to publish certain details in the Commonwealth Gazette when declaring a national standard or code of practice, including:

- the title and objective of the proposed national standard or code of practice; and
- information as to how interested persons may obtain a copy of the proposed national standard or code of practice.

Subregulation 5(1) requires the ASCC before declaring a national standard or code of practice to publish a notice in the Commonwealth Gazette to enable interested persons to make representations. Paragraph 5(1)(b) allows the ASCC to publish the notice in other places such as a daily newspaper in a State or Territory. Subregulation 5(2) lists what the notice must contain.

Under Subregulation 5(3) the ASCC is able to seek additional representations on the proposed national standard or code of practice. If the ASCC decides to seek additional representations under subregulation 5(3) it must allow a period of not less than four weeks for further representations to be made. Subregulation 5(4) requires the ASCC to notify persons who have already made representations and invite them to make additional representations. The ASCC is only required to notify those persons who have made representations once in relation to the same national standard or code of practice.

Subsections 4(1) and 4A(2) of the Acts Interpretation Act 1901, read together, provide that regulations may be made between the passing and commencement of an Act, as long as such regulations do not commence before the Act upon which they rely for their authority. The Act received Royal Assent on 15 November 2005 and sections 1 and 2 of the Act commenced on that date. Sections 3 to 9 of the Act commence on 1 January 2006.
The Act specifies no conditions that need to be met before the power to make the Regulations may be exercised.

No consultation has taken place in relation to the Regulations as extensive consultation was undertaken in regards to the developing of the Bill, including consultation with key stakeholders such as Australian Chamber of Commerce and Industry and the Australian Council of Trade Unions. It was not considered that further consultation is required as the Bill was also considered by the Committee on Industrial Legislation prior to introduction and the Regulations are machinery in nature.

The Regulations are a legislative instrument for the purpose of the Legislative Instruments Act 2003.

The Regulations commence on 1 January 2006, to coincide with the commencement of sections 3 to 9 of the Act.