

Occupational Health and Safety (Commonwealth Employment) Amendment Regulations 2001 (No. 1) 2001 No. 54

EXPLANATORY STATEMENT

Statutory Rules 2001 No. 54

Issued by the Authority of the Minister for Employment, Workplace Relations and Small Business

Occupational Health and Safety (Commonwealth Employment) Act 1991

Occupational Health and Safety (Commonwealth Employment) Amendment Regulations 2001
(No. 1)

Section 82 of the *Occupational Health and Safety (Commonwealth Employment) Act 1991* (the Act) provides that the Governor-General may make regulations prescribing (inter alia) 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 purpose of the Regulations is to amend the *Occupational Health and Safety (Commonwealth Employment) Regulations 1991* (the Regulations) to:

- Remove an inconsistency between the *Occupational Health and Safety (Commonwealth Employment) Act 1991* (the Act) and the Regulations relating to the appointment of investigators under section 40 of the Act by omitting the words '*Valid until (date when appointment ceases)*' from Schedule 2;
- Ensure that a delegate of the Chief Executive Officer of Comcare has the power to sign an investigator's certificate of appointment under regulation 32; and
- Omit regulation 37H which requires employers to provide a report in writing to Comcare indicating the average number of fulltime equivalent employees and the total number of hours worked by employees of the employer in the previous financial year.

Appointment of investigators

The Regulations make two amendments concerning the appointment of investigators. The first removes an apparent inconsistency between the *Occupational Health and Safety (Commonwealth Employment) Act 1991* (the Act) and the Regulations on the term of an investigator's appointment.

Investigators are appointed under section 40 of the Act. Subsection 40(3) provides that a person's appointment ceases to have effect when Comcare revokes the appointment or the person resigns the appointment by written notice given to Comcare.

Subsection 40(6) of the Act provides that Comcare must issue to an investigator an identity card in a prescribed form. Subregulation 31(1) provides that the prescribed form of the identity card is set out in Schedule 2 of the Regulations.

Schedule 2 of the Regulations sets out the form of the identity card. Previously this included a requirement to specify the date when the inspector's appointment ceases. This was expressed as '*Valid until (date when appointment ceases)*'.

This requirement in Schedule 2 was in conflict with subsection 40(3) of the Act. The amendment to the Regulations corrects this inconsistency by deleting from Schedule 2 of the Regulations the requirement to provide the date when the appointment of the investigator ceases.

The Regulations also amend subregulation 32(2) to ensure that a delegate of the Chief Executive Officer of Comcare has; the power to sign an investigator's certificate of appointment.

Subregulation 32(1) provides that Comcare must issue to an investigator a certificate of appointment. Subregulation 32(2) prescribes the information, which such a certificate must contain, which includes the signature of the Chief Executive Officer of Comcare.

The Chief Executive Officer of Comcare previously signed all certificates of appointment. The regulation ensures that the Chief Executive Officer of Comcare can delegate responsibility for the signing of certificates of appointment for investigators. The regulation will promote administrative efficiency.

Statistical reports

Regulation 37H previously required employers to report in writing to Comcare within 30 days after the end of a financial year, indicating the average number of full-time equivalent employees of the employer in that year and the total number of hours worked by employees of the employer in the year.

The data sought under regulation 37H is already provided by employers via the premium process and through reporting against the performance indicators of the Safety, Rehabilitation and Compensation Commission. The information required by regulation 37H is used only in the calculation of the premium and in assessing OHS performance against the Commission's indicators. As this information is collected by other means, regulation 37H has been omitted.

Details of the Regulations are attached.

The Regulations commenced on gazettal.

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Regulation 1

Regulation 1 sets out the name of the Regulations.

Regulation 2

Regulation 2 provides for the commencement of the Regulations on gazettal.

Regulation 3

Regulation 3 is a formal provision,, stating that the *Occupational Health and Safety (Commonwealth Employment) Regulations 1991* (the Regulations) are amended as provided for in Schedule 1.

Schedule 1 - Amendments

Item 1

Item 1 of Schedule 1 amends the Regulations by inserting a new subregulation, subregulation 32 (2A). The new subregulation provides that the Chief Executive Officer (of Comcare) may, in writing, delegate the Chief Executive Officer's function under paragraph (2)(c).

Item 2

Item 2 of Schedule 1 omits regulation 37H from the Regulations which required employers to provide a report in writing to Comcare indicating the average number of fulltime equivalent employees and the total number of hours worked by employees of the employer in the previous financial year.

Item 3

Item 3 omits the words "*Valid until (date when appointment ceases)*" from Schedule 2 of the Regulations thereby removing an inconsistency between the *Occupational Health and Safety (Commonwealth Employment) Act 1991* and the Regulations relating to the appointment of investigators under s.40 of the Act.