EXPLANATORY STATEMENT

Select Legislative Instrument 2005 No. 30

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

Occupational Health and Safety (Commonwealth Employment) Act 1991

Occupational Health and Safety (Commonwealth Employment) (National Standards) Amendment Regulations 2005 (No. 1)

The *Occupational Health and Safety (Commonwealth Employment) Act 1991* (the Act) establishes a statutory framework to secure the health and safety of Commonwealth Government employees (including employees of Commonwealth agencies, statutory authorities and Government Business Enterprises) while at work.

Subsection 82(1) of the Act provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all 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.

Subsection 23(1) of the Act provides that the regulations may make provision relating to any matter affecting, or likely to affect, the occupational health and safety of employees or contractors, or other persons at or near a workplace.

The National Occupational Health and Safety Commission (NOHSC), established under section 6 of the *National Occupational Health and Safety Commission Act 1985* (the NOHSC Act), develops National Standards and Codes of Practice to promote uniformity in Australian occupational health and safety schemes. These National Standards and Codes of Practice do not have legislative force of themselves; they are given legislative force by relevant State, Territory or Commonwealth occupational health and safety legislation.

The *Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994* (the Principal Regulations) give legislative force to various National Standards declared by NOHSC to the extent that they are capable of relating to Commonwealth employment.

Part 6 of the Principal Regulations regulates hazardous substances in the Commonwealth. A substance is determined to be hazardous if it is classified under Part 6 in accordance with the *Approved Criteria for Classifying Hazardous Substances [NOHSC: 1008(1999)]* (approved criteria) or if it appears in the *List of Designated Hazardous Substances [NOHSC:10005(1999)]* (the List). The approved criteria are used by Commonwealth suppliers, manufacturers, importers and users of chemicals to determine whether substances are hazardous or not, and for preparing labels and Material Safety Data Sheets.

In October 2004, following consultation with stakeholders (including employers, employees, States and Territories), NOHSC declared the revised edition of the approved criteria - *Approved Criteria for Classifying Hazardous Substances [NOHSC: 1008(2004) 3rd edition]*. Notification of the declaration was gazetted in GN49 on 8 December 2004.

On 18 January 2005, the new Hazardous Substances Information System (HSIS) was released by NOHSC. HSIS is a comprehensive online database that updates the List to bring it into line with changes to the approved criteria. Employers and employees are able to search, download and/or print information about hazardous substances. The HSIS is publicly available from the NOHSC website.

The purpose of the Regulations is to update references in the Principal Regulations to incorporate the revised edition of the *Approved Criteria for Classifying Hazardous Substances [NOHSC: 1008(2004) 3rd edition]*. The Regulations also insert reference to the HSIS as in force on 10 March 2005, and omit reference to the List. The date of 10 March 2005 is specified because section 14 of the *Legislative Instruments Act 2003* prevents this reference from being a reference to the HSIS as in force from time to time.

Details of the Regulations are set out in the Attachment.

The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments. The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

OCCUPATIONAL HEALTH AND SAFETY (COMMONWEALTH EMPLOYMENT) (NATIONAL STANDARDS) AMENDMENT REGULATIONS 2005 (No. 1)

Regulation 1 - Name of Regulations

Regulation 1 provides that the name of the Regulations is the *Occupational Health and Safety (Commonwealth Employment) (National Standards) Amendment Regulations 2005 (No. 1).*

Regulation 2 - Commencement

This regulation provides that the Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Regulation 3 - Amendment of *Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994*

Regulation 3 provides that the *Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994* (the Principal Regulations) are amended as set out in Schedule 1.

Schedule 1 – Amendments

Item 1 – Regulation 6.01, notes

This item removes the current notes following regulation 6.01 as they contain outdated information about national standards and codes of practice in relation to hazardous substances. This item also replaces the existing notes with a note explaining that the definition of 'hazardous substance' in regulation 6.03.

Item 2 – Regulation 6.03, definition of *hazardous substance*, paragraph (a)

This item removes the current reference to the List in the definition of *hazardous substance* and updates it with a reference to the Hazardous Substances Information System (HSIS) as in force on 10 March 2005. Section 14 of the *Legislative Instruments Act 2003* prevents this reference from being a reference to the HSIS as in force from time to time. The HSIS replaces the List as the source of information for employers and employees about hazardous substances.

This item also inserts a note providing that the HSIS is available on line at http://www.nohsc.gov.au/applications/hsis.

Item 3 – Paragraph 6.04 (1) (a)

This item removes the current reference to the List and updates it with a reference to the HSIS as in force on 10 March 2005.

This item also inserts a note providing that the HSIS is available on line at http://www.nohsc.gov.au/applications/hsis.

Item 4 – Subregulation 6.04 (1A)

This item removes the current reference to the List and updates it with a reference to the HSIS as in force on 10 March 2005.

Item 5 – Amendments relating to Approved Criteria for Classifying Hazardous Substances

This item amends the existing references to the Approved Criteria for Classifying Hazardous Substances [NOHSC:1008 (1999)] with the Approved Criteria for Classifying Hazardous Substances [NOHSC:1008 (2004) 3rd edition]. This occurs in the following provisions:

- Regulation 6.03, definition of *hazardous substance*, paragraph (b);
- Regulation 6.03, definition of *risk phrase*, paragraph (b);
- Regulation 6.03, definition of *safety phrase*, paragraph (b);
- Regulation 6.03, definition of *type I ingredient, subparagraph (a) (i);*
- Regulation 6.03, definition of *type I ingredient, paragraph (b);*
- Regulation 6.03, definition of *type II ingredient, paragraph (a);*
- Paragraph 6.04(1)(b); and
- Subregulation 6.04(1B).