

EXPLANATORY STATEMENT

Select Legislative Instrument 2006 No. 8

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 2006 (No. 1)

The *Occupational Health and Safety (Commonwealth Employment) Act 1991* (the Act) promotes the occupational health and safety of persons employed by the Commonwealth and Commonwealth authorities.

Subsection 82(1) of the Act provides 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. In addition, subsection 23(1) of the Act provides that regulations may make provisions 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.

Under Part 6 of the *Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994* (the Principal Regulations), Commonwealth employers must ensure that employees using a hazardous substance at work have access to a Material Safety Data Sheet (MSDS) for that substance, which describes the properties of and advice on safe handling for that hazardous substance. The Principal Regulations prescribe that suppliers of hazardous substances prepare an MSDS in accordance with the National Code of Practice for the Preparation of Material Safety Data Sheets [NOHSC:2011 (1994) (the 1994 National Code)].

The Regulations amend the Principal Regulations to implement the new National Code of Practice for the Preparation of Material Safety Data Sheets [NOHSC:2011 (2003)] (2003 National Code) in the Commonwealth jurisdiction. References in Part 6 to the 1994 National Code have been replaced with references to the 2003 National Code.

The 2003 National Code is consistent with the 16-Header MSDS format of the Global Harmonised System for the Classification and Labelling of Chemicals (GHS), a UN initiative. The 2003 National Code ensures that employers and suppliers adhere to international best practice and reduce further barriers to international trade, and also achieve national consistency in the storage, use and handling of hazardous substances.

NOHSC reviewed the 1994 National Code in 2000 and undertook a preliminary consultation with all the jurisdictions and representatives of employers and employees. Comcare also undertook consultation with Commonwealth employers and unions on preferable options for the implementation of the 2003 Code. The Safety, Rehabilitation and Compensation Commission, which is a representative body, and the Workplace Relations Ministers Council have recommended that the 2003 National Code be implemented.

Details of the proposed Regulations are set out in the Attachment.

The Act specifies no conditions that need to be satisfied before the power to make the proposed Regulations may be exercised.

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

The Regulations will commence on 24 April 2006.

The Minute recommends that Regulations be made in the form proposed.

Occupational Health and Safety (Commonwealth Employment) (National Standards) Amendment Regulations 2006 (No. 1)

Regulation 1 – Name of Regulations

This regulation provides that the title of the Regulations is the *Occupational Health and Safety (Commonwealth Employment) (National Standards) Amendment Regulations 2006 (No. 1)*

Regulation 2 – Commencement

This regulation provides for the Regulations to commence on 24 April 2006.

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

This regulation 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] – subregulation 6.05(1), note

This item removes the current note following subregulation 6.05(1). This note contains outdated references to the National Code of Practice for the Preparation of Material Safety Data Sheets [NOHSC:2011 (1994)].

Item [2] – subregulation 6.05(2)

This item replaces the current subregulation which makes reference to the 1994 National Code with an updated subregulation which refers to the 2003 National Code.

Item [3] – Regulation 6.08

This item replaces the current regulation which makes reference to the 1994 National Code with an updated regulation which refers to the 2003 National Code.

Item [4] – Paragraph 6.12(5)(a)

This item removes the current reference in the paragraph to the year 1994 and updates it with a reference to the year 2003.