



**Mining & Quarrying**  
OCCUPATIONAL HEALTH &  
SAFETY COMMITTEE

# South Australian Work Health and Safety Legislation Guide

Promoting Work Health and Safety in the Workplace

# The South Australian Mining and Quarrying Occupational Health and Safety Committee

## Promoting Work Health and Safety in the Workplace

This workplace industry safety resource is developed and fully funded by the Mining and Quarrying Occupational Health and Safety Committee (MAQOHSC).

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**IMPORTANT:** The information in this guide is of a general nature, and should not be relied upon as individual professional advice. If necessary, legal advice should be obtained from a legal practitioner with expertise in the field of Work Health and Safety law (SA).

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## Contents

AIM.....	2
1. Work Health and Safety Legislation.....	2
1.1. <i>Work Health and Safety Act 2012 (SA)</i> .....	3
1.2. <i>Work Health and Safety Regulations 2012 (SA)</i> .....	4
1.3. Codes of Practice .....	6
1.4. Standards.....	7
1.5. Guidance Material .....	7
2. Reasonably Practicable.....	7
3. Penalties .....	8
FURTHER ASSISTANCE.....	9
ADDITIONAL INFORMATION.....	9
REFERENCES.....	9

# South Australian Work Health and Safety Legislation Guide

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## AIM

This Guidance Material has been developed to provide an introduction to the Work Health and Safety (WHS) Legislation applicable to mining and quarrying operations in South Australia.

### 1. Work Health and Safety Legislation

In South Australia the Legislation governing work health and safety is the *Work Health and Safety Act 2012 (SA)* and the *Work Health and Safety Regulations 2012 (SA)*.

The Work Health and Safety Act and Regulations are supported by:

- Approved Codes of Practice;
- Mining Draft Codes of Practice;
- Australian / New Zealand Standards;
- International Standards; and
- Guidance Material.

Within the *Work Health and Safety Regulations 2012 (SA)*, there is a designated chapter (chapter 10), which details specific requirements for mines and quarries that are in addition to the general Work Health and Safety Regulation requirements.

**Note:** *Mining Draft Codes of Practice, available from SafeWork Australia, will be considered as guidance material in South Australia.*



Work Health and Safety Legislative Framework

### 1.1. **Work Health and Safety Act 2012 (SA)**

The *Work Health and Safety Act 2012 (SA)* provides a framework to protect the health, safety and welfare of all workers at work and of all other people who might be affected by the work.

The *Work Health and Safety Act 2012 (SA)* defines a range of “duties” for particular parties, which include, but are not limited to:

- **Primary Duty of Care;**
  - A person conducting a business or undertaking (PCBU) must ensure, so far as is reasonably practicable, the health and safety of workers engaged by the PCBU (employees), workers caused to be engaged by the PCBU (labour hire employees), workers whose activities in carrying out work are influenced or directed by the PCBU (contractors) and other persons (volunteers, visitors, etc.), are not put at risk from work carried out as part of the business or undertaking.
- **Duty of persons conducting businesses or undertakings;**
  - Involving management or control of workplaces;
  - Involving management or control of fixtures, fittings or plant at workplaces;

- That design plant, substances or structures;
  - That manufacture plant, substances or structures;
  - That import plant, substances or structures;
  - That supply plant, substances or structures; and
  - That install, construct or commission plant or structures.
- **Duty of officers;**
  - **Duties of workers;**
  - **Duties of other persons at the workplace;**
  - **Duty to consult with other duty holders; and**
  - **Duty to consult workers.**

**Note:** A duty *cannot* be transferred to another person, a person may have more than one duty and more than one person can have the same duty.

In addition the *Work Health and Safety Act 2012 (SA)* stipulates the requirements for, but not limited to:

- **Incident notification;**
- **Consultation, representation and participation;**
  - Consultation, co-operation and co-ordination between duty holders;
  - Consultation with workers;
  - Health and Safety Representatives;
  - Health and Safety Committees; and
  - Issue resolution.
- **Reasonably practicable; and**
- **Offences and penalties.**

## **1.2. Work Health and Safety Regulations 2012 (SA)**

The *Work Health and Safety Regulations 2012 (SA)*, state the way in which some duties under the *Work Health and Safety Act 2012 (SA)* must be met and prescribes procedural or administrative requirements to support the *Work Health and Safety Act 2012 (SA)*.

This includes but is not limited to the following:

- **Authorisations;**  
Registration and licensing for activities, such as asbestos removal and high risk work.
- **Workplace;**  
Facilities, first aid and personal protective equipment.
- **Chemicals; and**  
Lead, asbestos, labelling of containers, safety data sheets and major hazard facilities.
- **Other hazards.**  
Plant, manual tasks, noise, work at heights, remote and isolated work, confined spaces and electricity.

In addition, Chapter 10 (Mines) of the *Work Health and Safety Regulations 2012 (SA)* has specific requirements for mines and quarries.

The requirements of Chapter 10 (Mines) include:

- **Mine and mining operations;**
- **Mine holder / mine operator notification;**
- **Managing Risk;**
  - Control of risk;
  - Safety Management System;
  - Principal Mining Hazards and Principal Mining Hazard Management Plans;
  - Operational controls – all mines and underground specific; and
  - Emergency management.
- **Information, training and instruction;**
- **Health monitoring;**
- **Mine survey plan;**
- **Safety role for workers;**
- **Provision of information to regulator; and**
  - Mines specific notifications; and
  - Quarterly Reports.
- **Mine record.**

### 1.3. Codes of Practice

Approved Codes of Practice give detailed practical guidance on how to comply with requirements and obligations under Work Health and Safety Legislation. They are used in addition to the Act and Regulations and should always be followed, unless there is another solution which achieves the same or a better standard of health and safety in your workplace.

Codes of Practice:

- Are a tool to help PCBUs to meet compliance;
- Are admissible in court proceedings as evidence of whether or not a duty has been complied with; and
- Can also be referred to by an inspector when issuing an improvement or prohibition notice.

Approved Codes of Practice in South Australia are:

- Abrasive Blasting;
- Confined Spaces;
- Demolition Work;
- Excavation Work;
- First Aid in the Workplace;
- Hazardous Manual Tasks;
- How to Manage Work Health and Safety Risks;
- How to Manage and Control Asbestos in the Workplace;
- How to Safely Remove Asbestos;
- Labelling of Workplace Hazardous Chemicals;
- Managing Noise and Preventing Hearing Loss at Work;
- Managing the Risks of Plant in the Workplace;
- Managing the Risks of Hazardous Chemicals in the Workplace;
- Managing Electrical Risks in the Workplace;
- Managing the Risks of Falls at Workplaces;
- Managing the Work Environment and Facilities;
- Preparation of Safety Data Sheets for Hazardous Chemicals;



- Spray Painting and Powder Coating;
- Welding Processes; and
- Work Health and Safety Consultation Cooperation and Coordination.

Approved Codes of Practice are available from the SafeWork SA website.

Mining Draft Codes of Practice that are available from the Safe Work Australia website provide the same detailed practical guidance on how to comply with specific Work Health and Safety legislative requirements. However, in South Australia the Mining Draft Codes of Practice are considered to be guidance material.

## 1.4. Standards

Australian Standards (AS), Australian / New Zealand Standards (AS/NZS), International Standards (ISO) and other industry standards, provide guidance on many workplace activities, processes and procedures. Many of these standards relate to health and safety issues. These standards are seen as good guidance to providing a healthy and safe workplace, and should be followed.

Australian, Australian / New Zealand and International Standards are available for purchase from the SAI Global website.

## 1.5. Guidance Material

Other types of guidance documents also help duty holders comply with the law but differ from the authoritative advice of a code of practice by allowing duty holders wider discretion to choose the options that best suit their circumstances. Guidance material contributes to the overall state of knowledge regarding hazards, risks and controls and may be tendered as evidence in court proceedings.

## 2. Reasonably Practicable

Throughout the *Work Health and Safety Act 2012 (SA)* and *Work Health and Safety Regulations 2012 (SA)* you will see the phrase “so far as is reasonably practicable”. The *Work Health and Safety Act 2012 (SA)* defines “reasonably practicable” in relation to a duty to ensure health and safety as:

*That which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters including:*

- *the likelihood of the hazard or the risk concerned occurring; and*
- *the degree of harm that might result from the hazard or the risk; and*
- *what the person concerned knows, or ought reasonably to know, about:*
  - *the hazard or the risk; and*
  - *ways of eliminating or minimising the risk; and*

- *the availability and suitability of ways to eliminate or minimise the risk; and*
- *after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.*

### 3. Penalties

There are substantial penalties available to the courts for breaches of the *Work Health and Safety Act 2012 (SA)* or *Work Health and Safety Regulations 2012 (SA)*. Penalties are listed in three categories as detailed below:

Category 1 – For reckless conduct that exposes an individual to a risk of death or serious injury or illness that is engaged in without reasonable excuse.

Category 2 – Failure to comply with a health and safety duty that exposes an individual to a risk of death or serious injury or illness.

Category 3 – Failure to comply with a health and safety duty.

Duty Holder	Category 1	Category 2	Category 3
Individual worker or other person at the workplace	\$300,000 or 5 years imprisonment	\$150,000	\$50,000
Individual PCBU's or officers	\$600,000 or 5 years imprisonment	\$300,000	\$100,000
Body Corporate or Government body	\$3,000,000	\$1,500,000	\$500,000

## FURTHER ASSISTANCE

MAQOHSC Work Health and Safety Specialists are available to provide further advice and assistance on all Work Health and Safety matters.

MAQOHSC Work Health and Safety Specialists are able to be contacted via our website at [www.maqohsc.sa.gov.au](http://www.maqohsc.sa.gov.au) or email [maqohsc@sa.gov.au](mailto:maqohsc@sa.gov.au).

## ADDITIONAL INFORMATION

Work Health and Safety Legislation, Codes of Practice, fact sheets, Health and Safety Representatives (HSR) information and guides can be found at the following websites:

SafeWork SA – [www.safework.sa.gov.au](http://www.safework.sa.gov.au) or call 1300 365 255

Safe Work Australia – [www.safeworkaustralia.gov.au](http://www.safeworkaustralia.gov.au) or call 1300 551 832

## REFERENCES

*Work Health and Safety Act 2012 (SA)*

*Work Health and Safety Regulations 2012 (SA)*

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