



AUSTRALIAN CAPITAL TERRITORY
OCCUPATIONAL HEALTH AND SAFETY ACT 1989
OCCUPATIONAL HEALTH AND SAFETY REGULATION (AMENDMENT)
SUBORDINATE LAW NO. 21 OF 1999
EXPLANATORY STATEMENT

The objectives of the *Occupational Health and Safety Act 1989* (the Act) are to secure the health, safety and welfare of employees at work; to protect persons at or near workplaces from risks to health or safety arising out of the activities of employees at work; to promote an occupational environment for employees that is adapted to their health and safety needs; and to foster a co-operative consultative relationship between employers and employees on the health, safety and welfare of employees at work.

Section 97 of the Act allows the Executive to make regulations, not inconsistent with the Act, prescribing matters required or permitted in the Act to be prescribed; or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

In 1997 legislation was passed to repeal the *Scaffolding and Lifts Act 1912-1948* and its associated regulations. Under the Act the *Scaffolding and Lifts Act 1912-1948* and its regulations are associated law. Part 9 of the *Scaffolding and Lifts Regulation* addresses the use of explosives in building work and excavation work.

As a part of the Government's ongoing program of regulatory reform this regulation will replace the old prescriptive style regulation in the *Scaffolding and Lifts Regulation* by introducing a new performance based regulation for the use of explosives at a workplace.

The new regulation is broader than the *Scaffolding and Lifts Regulation* in its coverage in that it applies to all workplaces in the ACT, not only building and excavation work.

The regulations are amended as follows:

1. The amended regulations will commence on the date they are notified in the *Gazette*.
2. The regulations apply in the Territory under the provisions of the *Occupational Health and Safety Act 1989* and amend the *Occupational Health and Safety Regulations*.
3. Repeals the existing name of the regulation and renames it as the *Occupational Health and Safety Regulation 1991*.

4. Amends clause 2 of the existing regulation to include definitions for; blasters, blast plans, permits and the use of explosives
5. Amends clause 2 of the existing regulation by introducing a definition of explosives
6. Inserts a new heading into the regulation
7. Adds an new part (PART 4 Use of Explosives) to the existing regulation

New clause 11 details offences for using explosives in a workplace without a permit or in contravention of permit.

New clause 12 set out the obligations of employers and occupiers in relation to the use of explosives by in the case of an employee the employer or in the case of an occupier a person.

New clause 13 set out the information that must be provided to the Registrar by an applicant for a permit to use explosives.

New clause 14 set out the requirements of a blast plan.

New clause 15 set out the eligibility requirements for a permit to be issued

New clause 16 set out the information that must appear on a permit to use explosives, this clause allows the Registrar to set conditions on a permit before it is issued. This clause also allows for the Registrar to refuse to issue a permit and provides a mechanism for appeal against a refusal to issue a permit.

New clause 17 allows for a person to apply to the Registrar to vary a permit after it is issued. The clause allows for the Registrar to vary the permit or to refuse to vary the permit.

New clause 18 set certain statutory conditions on a permit that explosives can only be used in accordance with a permit, the blaster must supervise and control the use of the explosives, the blaster must make a written evaluation of each blast and if required must provide to the Registrar a copy of the evaluation.

New clause 19 allows the Registrar to seek any information or make any investigation considered reasonable to assist in deciding an application. The Registrar may also require a blaster to demonstrate their competence in relation the use of explosives by way of practical or oral examination.

New clause 20 creates an offence for providing false or misleading information to the Registrar.

New clause 21 allows the Registrar to suspend or revoke a permit and set out the reasons that the Registrar may refer to in suspending or revoking a permit.

New clause 22 set out the decisions of the Registrar which are appealable to the Administrative Appeals Tribunal.

The determination of the amendment to the regulations is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.