

Occupational Health and Safety (National Occupational Health and Safety Certification Standard for Users and Operators of Industrial Equipment) Revocation 2005

Explanatory Statement

Section 206 of the *Occupational Health and Safety Act 1989* (the Act) provides that the Minister may approve a code of practice to provide practical guidance for the Act. An approval under section 206 is a disallowable instrument. Section 46 of the *Legislation Act 2001* provides that the power to make a statutory instrument includes power to amend or repeal the instrument. The power to amend or repeal the instrument is exercisable in the same way, and subject to the same conditions, as the power to make the instrument.

Under s.38 of the *National Occupational Health and Safety Commission Act 1985* (Cwlth), the National Occupational Health and Safety Commission (NOHSC) could declare national standards and codes of practice. In 1992, NOHSC declared the Certification Standard for Users and Operators of Industrial Equipment [NOHSC:1006(1992)] following national agreement in 1991 to pursue uniformity in key areas of occupational health and safety regulation. The certification of users and operators of industrial equipment was one area identified for reform necessary to promote mutual recognition of licensing arrangements across jurisdictions.

In 1996, the Certification Standard 2nd Edition [NOHSC:1006(1995)] was approved as a code of practice under the *Occupational Health and Safety Act 1989* (ACT) pending preparation of new regulations implementing the standard. The approval was notified in the Australian Capital Territory Gazette No. S301 of 12 November 1996 (Instrument no 256).

In conjunction with the making of the Occupational Health and Safety (Certification of Plant Users and Operators) Regulation 2000, the Minister for Urban Services, Mr Brendan Smyth MLA, signed an instrument revoking the 1996 code of practice. While the instrument was notified in the ACT Gazette of 30 November 2000, doubt about its validity has arisen as there is no evidence that the instrument was tabled in the Legislative Assembly.

The revocation under section 206 is a disallowable instrument.

The instrument takes effect the day after it is notified on the ACT Legislation Register.