

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

**OCCUPATIONAL HEALTH AND SAFETY (GENERAL) AMENDMENT
REGULATION 2008 (No 1)**

Subordinate Law No SL2008-51

EXPLANATORY STATEMENT

Circulated by the authority of
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Background

The Occupational Health and Safety (General) Amendment Regulation 2008 (No 1) amends the Occupational Health and Safety (General) Regulation 2007.

The General Regulation is made under section 229 of the *Occupational Health and Safety Act 1989* (OHS Act) and commenced on 26 May 2008. In response to stakeholder feedback during the education phase, it has been found that the General Regulation requires some minor amendments including:

- modification to the site preservation provisions
- modification to the reporting of wiring work; and
- technical modification to the reference to the exposure standard for noise.

Site Preservation

Section 85 of the General Regulation requires an employer to ensure that the site of an event under the OHS Act section 204 (1) is not entered or otherwise disturbed until an inspector directs that the site may be used. Delays to access, particularly for less serious injuries, could be costly if an inspector does not respond in a timely manner.

This amendment ensures that only the site of a dangerous occurrence is required to be protected and therefore only high level serious incidents are captured by the site preservation requirements. An inspector may direct that the site no longer needs to be preserved before the 72 hours timeframe expires or may require the site to be preserved for longer.

Reporting of 'wiring work'

The requirements under section 50 of the General Regulation can be interpreted to mean that all kinds of wiring work must be reported by the electrician to the builder on a daily basis. This impedes the flow of construction work and conflicts with the testing and reporting process in section 6 of the *Electricity Safety Act 1971* (ESA). Deleting subsection 50(5) removes the confusion about reporting wiring work and ensures consistency with the ESA.

Reference to the exposure standard for noise

The General Regulation contains references to the exposure standard for noise taken from the National Standard for Occupational Noise [NOHSC:1007(2000)] 2nd Edition. The reference in section 68(1)(a) has been amended to reflect the standard accurately.

Regulatory Impact Statement

The *Legislation Act 2001* requires the preparation of a regulatory impact statement (RIS) if a proposed subordinate law is likely to impose appreciable costs on the community, or part of the community. The proposed site preservation amendment reduces the impact on employers by restricting site preservation to dangerous occurrences and placing a reasonable time limit on the requirements. Likewise the amendment to the reporting of wiring work also reduces the regulatory impact on business. The third amendment is technical in nature and has no impact. Therefore a RIS is not required for this amendment.

Notes on Specific Provisions

Clause 1 Name of regulation

This clause provides that name of the Regulation is the Occupational Health and Safety (General) Amendment Regulation 2008 (No 1).

Clause 2 Commencement

This clause provides for commencement of this Regulation to be on the day after the notification day of this Regulation.

Clause 3 Legislation amended

This clause provides that this Regulation amends the Occupational Health and Safety (General) Regulation 2007.

Clause 4 Section 50 (5) and (7)

This clause provides for section 50, sub-sections (5) and (7) to be deleted.

Clause 5 Section 68 (1), definition of *exposure standard* paragraph (a)

This clause provides that section 68(1)(a) be amended so that the reference $L_{Aeq,8h}$ is omitted, and is substituted with the reference $L_{Aeq,8h}$. This amendment is technical in nature.

Clause 6 Section 69 heading

This clause provides that the heading of section 69 be amended so that it now reads **Working out $L_{C,peak}$ value-div 3.3.10**

Clause 7 Section 69

This clause provides that section 69 be amended so the value L_{peak} is omitted, and is substituted with the value $L_{C,peak}$. This amendment is technical in nature.

Clause 8 Section 85 heading

This clause provides that the heading of section 85 be amended so that it now reads **Employer to protect site of dangerous occurrence.**

Clause 9 Section 85 (1)

This clause sets out the requirements for preserving the site where a dangerous occurrence under the Act section 204(1)(d) has occurred. The employer must ensure that the site of the serious event is not entered or disturbed for 72 hours or until an inspector directs otherwise. An inspector may direct that the site no longer needs to be preserved before the 72 hours timeframe expires or may require the site to be preserved for longer.

The maximum penalty is 10 penalty units.

The site preservation requirements do not apply if the health and safety of a person needs protection, if an injured persons needs help or essential action is needed to make the site safe or to prevent a further occurrence.

Clause 10 Magistrates Court (Occupational Health and Safety Infringement Notices) Regulation 2004, schedule 1, part 1.2, item 6, column 2.

This clause provides that section 50 (3) and (4) be substituted.

Clause 11 Magistrates Court (Occupational Health and Safety Infringement Notices) Regulation 2004, schedule 1, part 1.2, item 17, column 2.

Section 11 provides that section 85 (2) be substituted. This consequential amendment refers to 85 (2) instead of 85 (1A) because 85 (1A) will be renumbered editorially as 85 (2) when the regulation is republished.