Australian Capital Territory

Work Health and Safety Amendment Regulation 2026 (No 1)

Subordinate law SL2026–21

made under the

***Work Health and Safety Act 2011*, section 276 (Regulation-making powers**

EXPLANATORY STATEMENT

This explanatory statement relates to the *Work Health and Safety Amendment Regulation 2026 (No 1)* (the Amendment Regulation).

It has been prepared to assist the reader of the Amendment Regulation. It does not form part of the Amendment Regulation. The statement is to be read in conjunction with the Amendment Regulation. It is not, and is not meant to be, a comprehensive description of the Amendment Regulation.

OVERVIEW OF THE REGULATION

Persons conducting a business or undertaking (PCBU) have a primary duty under the *Work Health and Safety Act 2011* to protect the health and safety of workers, and others in the workplace. In addition, the *Work Health and Safety Regulation 2011* (WHS Regulation) requires a PCBU to ensure that workers (or other at their workplace) are not exposed to airborne contaminants that exceed levels set under the workplace exposure standards.

The *Work Health and Safety Amendment Regulation 2026 (No 1)* (Amendment Regulation) makes a number of technical amendments to the WHS Regulation that give effect to the nationally agreed transition from workplace exposure standards to workplace exposure limits.

In September 2019, Work Health and Safety (WHS) Ministers agreed to amend the model WHS Regulation to rename the workplace exposure standards for airborne contaminants (WES) to the workplace exposure limits for airborne contaminants (WEL).

Following a review of the WES, including health-based recommendations made by experts and public consultation, a majority of WHS Ministers agreed in March 2024 to the revised WEL list and a harmonised implementation date of 1 December 2026.

Amendments to the model WHS Regulation do not have effect until adopted locally under the ACT's work health and safety laws.

CONSULTATION ON THE PROPOSED APPROACH

Consultation in relation to the Amendment Regulation has occurred as part of the national process for amending the model WHS laws.

Agreement to the WELs list has undergone a national process through Safe Work Australia, including public consultation on health-based recommendations made by experts as part of the WES review that led to the WEL transition.

REGULATION IMPACT STATEMENT

A regulatory impact statement is not required under the *Legislation Act 2001* as the Amendment Regulation makes amendments that align with nationally agreed changes to the model WHS Regulation.

CLIMATE IMPACT

No climate impacts are anticipated from this Regulation.

CONSISTENCY WITH HUMAN RIGHTS

All amendment regulations must be compatible with the *Human Rights Act 2004* (HR Act). The compatibility of this Amendment Regulation with the HR Act was considered during its development.

The Amendment Regulation is not considered to limit rights under the HR Act. The changes of this amendment are administrative and technical.

Rights Promoted

The Amendment Regulation is considered to engage and promote the following rights under the HR Act:

- section 27B – right to work, in particular the right to just and favourable conditions of work; and
- section 27C – right to a healthy environment.

Work health and safety (WHS) laws, which adopt the nationally agreed model WHS laws, apply WHS duties and obligations to protect the health and safety of workers and others at a workplace (the primary WHS duty).

Work processes can release dusts, gases, fumes, vapours or mists into the air, known as airborne contaminants. Airborne contaminants may pose a risk to health and safety. Many also cannot be seen or smelled.

Workplace exposure limits set a maximum level of an airborne contaminant that most people can be exposed to without harm to their health. A person conducting a business or undertaking (PCBU) must ensure that those limits aren't exceeded at work.

This Amendment Regulation takes a positive step in maintaining effective exposure limits that support a healthy environment, just and favourable conditions at work.

CLAUSE NOTES

Clause 1 Name of Regulation

Clause 1 establishes the name of the *Work Health and Safety Amendment Regulation 2026 (No 1)*.

Clause 2 Commencement

Clause 2 provides that the Amendment Regulation commences on 1 December 2026.

Clause 3 Legislation amended

Clause 3 sets out the legislation amended is the *Work Health and Safety Regulation 2011*.

Clause 4 Section 33, example 1

Clause 4 omits the reference to an exposure standard in the example and replaces it with exposure limit. This amendment is consequential and reflects the new language of 'exposure limit' adopted under clause 6.

Clause 5 Section 48A heading

Clause 5 substitutes exposure limits as the heading instead of exposure standards. This amendment is consequential and reflects the new language of 'exposure limit' adopted under clauses 6.

Clause 6 Section 48A (1) and note

Clause 6 specifies that the Minister may declare exposure limits in the *Workplace exposure limits for airborne contaminants*, published by Safe Work Australia, for this regulation (other than part 4.1 (Noise).

This clause inserts a note specifying that *Workplace exposure limits for airborne contaminants* does not need to be notified under the Legislation Act because section 47 (5) does not apply.

Clause 7 Section 49 heading

Clause 7 substitutes the heading for section 49 of the Regulation with 'Ensuring exposure limits for substances and mixtures not exceeded'. This amendment is consequential and reflects the new language of 'exposure limit' adopted under clauses 6.

Clause 8 Sections 49 and 50 (1)

Clause 8 omits the words 'exposure standard' and substitutes the words 'exposure limit'. This amendment is consequential and reflects the new language of 'exposure limit' adopted under clauses 6.

Clause 9 Section 328 (3) (a), note

Clause 9 removes the note under section 328 (3)(a) as a minor and technical drafting correction.

Clause 10 Section 352 (c)

Clause 10 omits the words 'exposure standard' and substitutes the words 'exposure limit'. This amendment is consequential and reflects the new language of 'exposure limit' adopted under clauses 6.

Clause 11 Section 368, note 2

Clause 11 removes note 2 from section 368 as a minor and technical drafting correction.

Clause 12 Section 420 (2)

Clause 12 omits the words 'exposure standard' and substitutes the words 'exposure limit'. This amendment is consequential and reflects the new language of 'exposure limit' adopted under clauses 6.

Clause 13 Sections 454 (2) (a) and 455 (2)

Clause 13 omits the phrase 'to below the exposure standard' and substitutes the words 'below the exposure limit for asbestos'. This amendment is consequential and reflects the new language of 'exposure limit' adopted under clauses 6.

Clause 14 Section 482 (1) and (2)

Clause 14 omits the words 'exposure standard' and substitutes the words 'exposure limit for asbestos'. This amendment is consequential and reflects the new language of 'exposure limit' adopted under clauses 6.

Clause 15 Schedule 8, section 8.3 (2) (a) (iv)

Clause 15 omits the words 'exposure standard' and substitutes the words 'exposure limit'. This amendment is consequential and reflects the new language of 'exposure limit' adopted under clauses 6.

Clause 16 Dictionary, new definition of exposure limit

Clause 16 inserts the definition of exposure limits. This amendment is consequential and reflects the new language of ‘exposure limit’ adopted under clauses 6.

Clause 17 Dictionary, definition of exposure standard

Clause 17 omits the definition of exposure standards from the dictionary. This amendment is consequential and reflects the new language of ‘exposure limit’ adopted under clauses 6.