

Australian Capital Territory

Work Health and Safety (Work Health and Safety Consultation, Cooperation and Coordination Code of Practice) Approval 2022

Notifiable instrument NI2022–355

made under the

Work Health and Safety Act 2011, section 274 (Approved Codes of Practice)

1 Name of instrument

This instrument is the *Work Health and Safety (Work Health and Safety Consultation, Cooperation and Coordination Code of Practice) Approval 2022*.

2 Commencement

This instrument commences on the day after notification.

3 Code of Practice Approval

Under section 274 of the *Work Health and Safety Act 2011* (the Act) and being satisfied that this code of practice was developed by a process described in s274 (2) of the Act, I approve the attached Consultation, cooperation and coordination Code of Practice.

4 Revocation

This instrument revokes the *Work Health and Safety (Work Health and Safety Consultation, Cooperation and Coordination Code of Practice) Approval 2018* [NI2018-725]

Mick Gentleman
Minister for Industrial Relations and Workplace Safety
15/07/2022



ACT
Government

Work health and safety consultation, cooperation and coordination

Code of Practice

June 2022

Chief Minister, Treasury and Economic Development Directorate

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Disclaimer

This code is based on a national model code of practice developed by Safe Work Australia under the national harmonisation of work health and safety legislation and has been approved under section 274 of the *Work Health and Safety Act 2011* (ACT), following the legislated consultation requirements.

This code of practice commenced in the Australian Capital Territory on the day after it was notified on the ACT Legislation Register.

Safe Work Australia is an Australian Government statutory agency established in 2009. Safe Work Australia includes Members from the Commonwealth, and each state and territory, Members representing the interests of workers and Members representing the interests of employers.

Safe Work Australia works with the Commonwealth, state and territory governments to improve work health and safety and workers' compensation arrangements. Safe Work Australia is a national policy body, not a regulator of work health and safety. The Commonwealth, states and territories have responsibility for regulating and enforcing work health and safety laws in their jurisdiction.

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Contact information

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Appendix D—Consultation checklist

Consultation compliance	Yes /No	Chapter in Code
Do I have one or more consultation arrangements in place after consultation with my workers?		4
Do the consultation arrangements include workers other than my employees such as contractors or labour hire workers who are part of my workforce?		4, 5
Do I use my consultation mechanism when I:		2
– identify hazards and assess risks?		
– make decisions to eliminate or minimise risks?		
– make decisions about welfare facilities?		
– propose changes to the work, including purchasing new or used plant or new substances or materials?		
– develop and review safety policies and procedures?		
When I consult with my workers on these issues do I:		3
– inform them of what I intend to do (e.g. purchase a new piece of equipment)?		
– share relevant information about the issue with them?		
– give them a reasonable opportunity to respond and contribute to decision making?		
– discuss any of their safety concerns?		
– take into account the views they express?		
– advise them of my decision and the reasons for it?		
If workers are represented by a health and safety representative, do I:		4

Consultation compliance	Yes /No	Chapter in Code
– include the representative in all health and safety consultations?		
– make myself available for the representative to raise and discuss health and safety matters with me?		
Do I consult other duty holders who share responsibility for a health and safety matter with me?		5
– Do I identify other duty holders early before commencing work?		
– Have I established open communication and consultation methods with other duty holders about the work and related health and safety risks?		
– Have I confirmed with other duty holders that our joint duties are met?		

Appendix E—Consultation requirements in the WHS Regulations

Part	Regulation (section number)	Requirement
Part 4.7 General Electrical Safety in Workplaces and Energised Electrical Work	158(1)(d)	Before electrical work on energised electrical equipment commences the PCBU must consult with the person with management or control of the workplace.
Part 5.1 General Duties for Plant and Structures	193(1)(c)(iii)	The manufacturer of plant must ensure all reasonable steps are taken to consult with the designer of the plant in relation to the alteration of the design to rectify any hazard identified in the design of the plant.
Part 5.1 General Duties for Plant and Structures	197(d)	An importer of plant must take all reasonable steps to ensure that the designer and manufacturer of the plant are consulted in relation to any alteration made to the plant to control the risk from an identified hazard.
Part 6.2 Duties of Designer of Structure and Person Who Commissions Construction Work	294	<p>(1) A PCBU that commissions construction work in relation to a structure must, so far as is reasonably practicable, consult with the designer of the whole or any part of the structure about how to ensure that risks to health and safety arising from the design during the construction work are:</p> <ul style="list-style-type: none"> eliminated, so far as is reasonably practicable; or if it is not reasonably practicable to eliminate the risks, minimised so far as is reasonably practicable. <p>(2) Consultation must include giving the designer any information that the person who commissions the construction work has in relation to the hazards and risks at the workplace where the construction work is to be carried out.</p>
Part 6.4 Additional Duties of Principal Contractor	309(2)(b)	The principal contractor for a construction project must ensure the WHS management plan includes the arrangements are in place, between any PCBUs at the workplace where the construction project is being undertaken, for consultation, cooperation and the coordination of activities in relation to compliance with their duties under the Act and Regulations.
Part 7.1 Hazardous Chemicals, Part 7.2 Lead Part 8.5 Asbestos at the Workplace	371(2), 408, 416 and 437	The PCBU must consult the worker in relation to the selection of a registered medical practitioner for the purpose of health monitoring.

Part	Regulation (section number)	Requirement
Part 9.2 Determinations about Major Hazard Facilities	546	In deciding whether to revoke a determination about a major hazard facility the regulator must consult with the major hazard facility's contact person or operator (as applicable).
Part 9.3 Duties of Operators of Determined Major Hazard Facilities	552(d)	The operator of a determined major hazard facility must provide the regulator with a safety case outline which includes a description of the consultation with workers that occurred in the preparation of the safety case outline, and will occur in the preparation of the safety case.
Part 9.3 Duties of Operators of Determined Major Hazard Facilities	557(2)	In developing the emergency plan for a determined major hazard facility the operator must consult with emergency service organisations with responsibility for the area in which the major hazard facility is located and, in relation to the off-site health and safety consequences of a major incident occurring, with the local authority.
Part 9.3 Duties of Operators of Determined Major Hazard Facilities	559(3)	In reviewing and revising the emergency plan, the operator of a determined major hazard facility must consult with the emergency service organisations referred to in regulation 557(2).
Part 9.3 Duties of Operators of Determined Major Hazard Facilities	561(2)(f)	The operator of a determined major hazard facility must provide the regulator with a completed safety case for the major hazard facility containing a description of the consultation with workers that took place under regulation 575 in the preparation of the safety case.
Part 9.4 Licensed Major Hazard Facilities—Risk Management	569(4)	In reviewing and revising a licensed major hazard facility's emergency plan, the operator must consult with the emergency service organisations referred to in regulation 557(2).
Part 9.5 Major hazard facilities Consultation and Workers' Safety Role	574–575	The operator of a determined major hazard facility must implement a safety role for the workers at the facility. They must also consult with workers for a range of specified reasons outlined in regulation 575.

Amendments

The model Code of Practice: *Work health and safety consultation, cooperation and coordination* has been amended since its publication in November 2013, including:

- a number of amendments agreed to in 2017 as part of a technical and usability review of the model Code, and
- a number of amendments agreed to in December 2021 to address recommendations agreed by WHS ministers on 5 May 2021 following the 2018 Review of the model WHS laws.

The current version, prepared by SafeWork Australia dated February 2022, incorporates all of those amendments.