

**A handbook for the
construction regulations**

Working safely in the general construction industry

February 2008
Edition No. 1



On 18 June 2017, the Occupational Health and Safety Regulations 2017 (OHS Regulations 2017) replaced the Occupational Health and Safety Regulations 2007 (OHS Regulations 2007), which expired on this date. **This publication has not yet been updated to reflect the changes introduced by the OHS Regulations 2017 and should not be relied upon as a substitute for legal advice.**

Information on the key changes introduced by the OHS 2017 Regulations can be found in the guidance titled *Occupational Health and Safety Regulations 2017: Summary of changes* - available at https://www.worksafe.vic.gov.au/_data/assets/pdf_file/0011/207659/ISBN-OHS-regulations-summary-of-changes-2017-04.pdf. However, this guidance document contains material of a general nature only and is not to be used as a substitute for obtaining legal advice.

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The information presented in *Working safely in the general construction industry* is intended for general use only. It should not be viewed as a definitive guide to the law, and should be read in conjunction with the *Occupational Health and Safety Act 2004* and the *Occupational Health and Safety Regulations 2007*.
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Introduction

This handbook contains practical advice for the general construction industry on how to meet new health and safety requirements, which are set out in part 5.1 of the *Occupational Health and Safety Regulations 2007* (the Regulations).¹ These Regulations start on 1 July 2008.

The requirements seek to improve the level of safety in construction and are consistent with the National Standard for Construction Work.

They include requirements for:

- principal contractors to prepare health and safety co-ordination plans for construction projects costing \$350,000 or more
- employers and self-employed people to prepare safe work method statements for high-risk construction work
- employees to be given OHS induction training before undertaking construction work, and
- employees to be trained about site-specific risks and control measures before starting work on a construction site.

Other health and safety requirements continue to apply to the industry, including requirements dealing with:

- general duties to provide a safe working environment
- consulting with employees and their health and safety representatives (HSRs), as well as any independent contractors and their employees
- resolving OHS issues
- hazards such as manual handling, noise, falls, confined spaces, plant, hazardous substances, asbestos and lead
- licensing and registrations, and
- notification of serious injuries and incidents.

1. For guidance on how the Regulations apply to the housing industry, see the WorkSafe publication *Working safely in the housing construction industry*.

Application of the Regulations

The Regulations apply in all Victorian workplaces where construction work is carried out.

What is construction work?

In general, construction work means:

Any work performed in connection with the construction, alteration, conversion, fitting out, commissioning, renovation, refurbishment, decommissioning or demolition of any building or structure, or any similar activity

Examples

- Removing an internal office wall
- Building, fitting out or refitting an office building
- Building a driveway crossover
- Repointing a tile roof

There are some exclusions to this general definition, which are detailed on page 6 of this handbook.

In connection with means related to or associated with construction. The contracts covering the project are a good guide to what activities are done in connection with construction.

Examples

- Work by architects or engineers in on-site offices or when conducting an inspection on-site (but not architects or engineers working in offices away from the construction site)
- Work by a mechanic on an excavator on-site and not in an isolated service area
- Delivering building materials to different points on the site (but not making deliveries to a single designated delivery area)
- Excavating for a basement garage
- Testing fire equipment on the construction site
- Supervisors and managers moving around the site to monitor work
- Surveying a site after construction has started (but not surveying a greenfield site before construction has started)
- Traffic control on a construction site

Fitting out includes activities such as installing electrical fittings, painting and putting in fixtures. However, it does not include activities such as furnishing apartments or installing blinds after construction.

Examples

- Installing an air-conditioning system
- Installing plumbing fittings, such as tapware

Application of the Regulations

Structure refers to something built or constructed. It includes the following things, any part of these things and any similar things:

A construction wall, mast, tower, pylon or structural cable.

Examples

- A noise reduction wall on a freeway
- A communications mast or tower
- An electricity transmission tower and associated cables
- A flying fox cable and supports
- A guyed tower (such as a ski-lift tower)
- Suspension bridge cables

A tunnel, shaft, underground tank, pipe or pipeline, sea defence works, river works, earthworks, earth retaining construction, or construction designed to preserve or alter any natural feature.

Examples

- A stormwater drain
- Sheet piling to divert the course of a river or to build a cofferdam
- An underground storage tank for an irrigation system
- A road tunnel
- A ventilation or access shaft for underground sewers

A road, railway line or siding, tramway line, airfield, dock, harbour, inland navigation channel, bridge, viaduct, waterworks, reservoir, aqueduct, constructed lagoon, dam, sewer, sewerage or drainage works, electricity generation facility, electricity transmission facility, electricity distribution facility, gas generation facility, gasholder, gas transmission facility, gas distribution facility, or park or recreation ground facility.

Examples

- A drainage or irrigation channel
- A sewage treatment plant
- An electrical switchyard
- Cricket nets
- A children's playground

A ship or submarine within Victorian jurisdiction.

Example

- A ship or submarine that is moored, in dry dock, on a slipway or permanently on display on land

Fixed plant.

Examples

- A rooftop air-conditioning unit or cooling tower
- Fixed recycling equipment such as crushers, compactors or breakers
- Concrete batching plant
- A lift or escalator

Any formwork, falsework, scaffold or other construction designed or used to provide support, access or containment during construction.

Examples

- Soldier sets used as trench support
- Sheet, steel tube or foundation piling
- An overhead protective gantry or covered way next to a building site
- A temporary stair tower for access to a building under construction
- A jump form or slip form

Application of the Regulations

In addition, construction work also includes the following activities:

Installation, testing, maintenance and repair work performed in connection with construction work.

Examples

- Installing an alarm system in a building during the fitout phase of its construction
- Testing an electrical installation in a high-rise building under construction (but testing, maintenance and repair work is not covered if the floor has been completed and handed over to the building owner with a certificate of occupancy, unless it is fixing defects arising from the construction work)
- Fixing plumbing defects as part of a construction project

The removal from the workplace of any product or waste resulting from the demolition of any building or structure.

Even if this removal occurs some time after the demolition, it is still covered by the Regulations.

Example

- Loading trucks, waste bins and rubbish skips with demolition waste

The prefabrication or testing of elements at a place specifically established for a construction project.

The manufacture of items used in construction either on-site, or at another site that is specifically set up to manufacture items for the construction site, is covered by the Regulations.

Examples

- Making concrete panels or roof trusses at the construction site
- Preparing bitumen at a bitumen plant specifically established for a road construction project
- Undertaking on-site concrete batch testing

Application of the Regulations

The assembly of a building or structure from prefabricated elements, or the disassembly of such a building or structure.

Examples

- Constructing a factory using precast concrete panels
- Dismantling a prefabricated building
- Installing prefabricated power poles
- Installing bridge beams

The installation, testing and maintenance of gas, water, sewerage, electricity or telecommunications services in or of any building or structure.

Examples

- Roughing-in telephone, television and internet cables
- Major drainage repair works
- Installing a grey water recycling system
- Installing solar heating units

Any work in connection with any excavation, landscaping, preparatory work, or site preparation performed for the purpose of any construction work.

Excavation includes any earthwork, trench, well, shaft, tunnel or underground work, but does not include mines or quarries.

Examples

- Preparatory site clearing, benching or levelling done before construction
- Soil-testing the ground for design purposes before construction of a building or structure
- Installing an in-ground swimming pool or spa
- Doing excavations while constructing a golf course
- Assembling or disassembling temporary fencing for a building site
- Carrying out remediation excavation work on a contaminated site

Any work covered in the general definition of construction work that is performed underwater, including work on buoys, obstructions to navigation, rafts, ships and wrecks.

Examples

- Dredging to prepare for the erection of a structure
- Re-piling jetties and piers
- Driving navigation markers into the seabed

Application of the Regulations

What is *not* construction work?

At times it may not be clear whether certain types of work are covered by the Regulations.

To avoid doubt, the Regulations specifically exclude the following types of work, although this work is covered by the general requirements in the *Occupational Health and Safety Act 2004* (OHS Act) and the other parts of the Regulations:

The assembly, disassembly, prefabrication or manufacture of fixed plant is *not* construction work

Example

- Manufacturing hot water units in a factory

The prefabrication of elements as standard stock for sale is *not* construction work

Examples

- Manufacturing shower units and spas in a factory
- Making concrete panels and roof trusses at a workshop of an employer who is not involved in the construction project

Routine or minor

- testing
- maintenance, or
- repair work

performed in connection with a building or structure is *not* construction work

Examples

- Undertaking regular inspections of a building's fire equipment or lifts
- Replacing or repairing a broken pump, sprinkler or smoke-detector
- Replacing the carpet in an office
- Routine servicing or minor repair of an air-conditioning system or solar power unit
- Routine maintenance of plant
- Cyclical testing and repair of pressure piping

The exploration for, or extraction of, minerals or stone is *not* construction work

Examples

- Extracting sand or rock from a quarry or an open-cut mine
- Removing overburden at an open-cut mine

Duties of principal contractors

The Regulations create a special health and safety role for principal contractors of construction projects worth \$350,000 or more.

This section deals only with duties specific to the role of principal contractor. Where the principal contractor is also an employer, the employer's duties covered in this handbook will apply as well.

How to calculate the value of a construction project

A construction project covers all the activities involved in the construction work. It includes all labour and materials, as well as project planning and preparation (such as carrying out surveys, clearing land, asbestos auditing, soil testing and preparing documentation).

The value of a construction project will generally be the amount set out in the project contracts or other agreements. If there is more than one contract for the project, the amounts are added together to work out whether the project is valued at \$350,000 or more. GST is included in the value of the project when it is included in the project contracts.

In many cases there will be a number of contracts covering different activities that make up the construction project. It is not possible for an owner or a principal contractor to avoid their responsibilities through separate contracts with different builders and contractors relating to the same project.

A client may, however, separate a large construction project involving the construction of several buildings or structures into discrete projects for each building or structure. In this case there must be a clear delineation of the work for which each principal contractor is responsible.

Note that construction work includes demolition. A demolition project is valued in the same way as any other construction project.

Who is the principal contractor for a construction project?

The owner is the principal contractor, unless the owner has appointed and authorised another person to manage or control the workplace, in which case that person is the principal contractor.

A principal contractor can be either an individual person (such as a self-employed builder) or a company. In the second case, the company as a whole has the duties of the principal contractor (not the individual managers who are employed by the company).

What are the principal contractor's duties?

The principal contractor has four duties:

1. Display a sign with contact details

Before construction work starts, the principal contractor must make sure that a sign showing the principal contractor's name and contact phone number is placed where it will be clearly seen from outside the workplace. If there is a site project office, its phone number should also be shown on the sign.

If these details are already shown on a notice posted in accordance with requirements of the Building Regulations, the principal contractor does not have to post another sign.

If the principal contractor changes during the project, the new principal contractor must make sure that the sign is updated.

2. Prepare a health and safety co-ordination plan and keep it up to date

The principal contractor must make sure that a health and safety co-ordination plan is prepared for any construction work before the work starts. (See page 9 for what needs to be included in the plan.)

The principal contractor must consult with employees, health and safety representatives (HSRs) and relevant contractors when developing the plan so far as is reasonably practicable.

During the project, the principal contractor must review the plan to make sure that it remains accurate and deals with all the construction work actually being done. Where changes are needed, they should be made to the plan as quickly as possible. Again, employees, HSRs and relevant contractors must be consulted about any changes to the plan that are likely to affect them so far as is reasonably practicable.

The co-ordination plan can be included in project management plans that the principal contractor prepares for other purposes, provided it meets the requirements outlined in this handbook.

3. Make the co-ordination plan available for inspection

The principal contractor must make sure that the co-ordination plan (including any revisions to it) is kept until the construction project is finished and is readily available to:

- anyone engaged to do construction work at the site (including employees, any contractors and their employees, and people inspecting the construction work)
- anyone who is about to start work at the site, and
- any employee who is a member of a health and safety committee, is an HSR or has been chosen by employees to act on their behalf in resolving an OHS issue.

A principal contractor could do this by giving each worker a copy or letting them know where the plan may be readily accessed.

4. Make sure that new starters are aware of the co-ordination plan

The principal contractor must make sure that new starters are aware of, and are given access to, the co-ordination plan (including any revisions made to it) before they start construction work at the workplace.

This requirement covers not only new employees, but also any contractors and their employees who are new to the site.

A principal contractor could do this by giving each new starter a copy of the plan directly or via subcontractors. Alternatively, the plan could be covered in site-specific induction training.

Health and safety co-ordination plans

The purpose of the plan is to set out the arrangements for co-ordinating health and safety on a construction worksite where there may be many contractors and where the circumstances can change quickly from day to day.

It is the principal contractor's responsibility to make sure that the plan is prepared and is reviewed and changed when necessary.

A co-ordination plan must contain the following information:

1. The names, positions and responsibilities of all people who have specific responsibilities for health and safety

Examples of people who should be listed are site supervisors, forepersons, OHS managers, first aid officers and project managers. Their responsibilities should be briefly described. HSRs do not need to be listed, unless they have a co-ordinating role separate to their role as an HSR.²

2. The arrangements for co-ordinating the health and safety of everyone who is engaged to do construction work

The plan must set out how health and safety will be co-ordinated and ensured. The level of detail required will depend on how complex the site is (in particular the number of contractors on the site at any one time) and the risks involved in the work. The information should be recorded in a way that people on the site will understand.

The co-ordination arrangements may include the process for developing, reviewing and distributing safe work method statements (see page 16), and for training and instructing employees and contractors about them.

On a smaller site where not everyone with responsibilities is on-site all the time, the arrangements for communicating with people off-site, if the need arises, should be set out in the plan. Where appropriate, the name of a back-up person should be recorded.

3. The arrangements for managing OHS incidents

In preparing this part of the co-ordination plan, the principal contractor should think about the types of OHS incidents that might occur. Consultation with contractors and employees and their HSRs will be a great help in identifying possible incidents.

The plan should document the actions that will be taken and who will be responsible. If it is possible the responsible person could be off-site when an incident occurs, the name of a back-up person should be recorded.

The following things should be included in this part of the plan (covering both the process involved and the responsibility for it):

- getting assistance from outside the site
- carrying out an emergency evacuation
- getting medical advice
- isolating the incident scene
- making the site safe after the incident
- notifying WorkSafe of any death or serious injury, or any dangerous incident that could have led to a death or serious injury, and
- notifying other regulators and emergency services as necessary.

2. Note that under the OHS Act (section 71), the employer must display a list of HSRs and deputy HSRs at the workplace or make it available to employees in another way.

4. Any site safety rules, with the arrangements for ensuring that everyone at the workplace is informed about the rules

The rules should be simple and clear, and where appropriate the co-ordination plan should show who is covered by each rule. To make sure that everyone on the site understands the rules, the principal contractor must consult with employees, HSRs and contractors and their employees so far as is reasonably practicable before finalising them.

Some ways of informing people about the rules are through toolbox meetings, posting them in a prominent position on the site and distributing copies to everyone on-site. If there are people on the site who do not understand English well, the co-ordination plan should set out how these people will be informed of the rules.

See page 25 of this handbook for a sample co-ordination plan.

Can there be more than one principal contractor for a project?

No. The intention of the requirement is to make sure that there is one principal contractor (either an individual or a company) responsible for co-ordinating health and safety for a construction project.

If there is more than one owner, the owners should agree on who is to be appointed as the principal contractor.

Duties of employers – all construction work

The Regulations place duties on employers to control any risks associated with construction work.

Who is an employer on a construction project?

Typically, there will be several employers with employees carrying out construction work on a project (e.g. multiple contractors). The Regulations apply to each one of these employers, as far as they control the work. Each employer must manage the risks to the health and safety of employees and subcontractors who are within the employer's control, and anyone else affected by their work.

It is a good idea to make sure that the control exercised by each employer is specified in any contracts between them.

An employer may be an individual person or a company. In the second case, it is the company as a whole that must meet the Regulations placed on the employer, not the individual managers who are employed by the company.

Controlling risks associated with construction work

Employers must work through the following list – in order – to control any risks.³

1. Wherever it is reasonably practicable, the employer must eliminate any risks to health and safety arising from construction work.
2. If it is not reasonably practicable to eliminate a risk, the risk must be reduced so far as is reasonably practicable by using one of the following control measures (or two or three of them in combination):
 - substituting the hazard with a safer activity, procedure, plant, process or substance
 - using engineering controls, such as mechanical or electrical devices
 - isolating the hazard from people, such as barricading, fencing or guardrailing.
3. If there is still any risk, administrative controls must be used to reduce the risk so far as is reasonably practicable.
4. If there is still any risk, suitable personal protective equipment (PPE), such as safety helmets, protective clothing and sunscreen, must be used to control the risk.

3. This process should be used to control any risks that are not covered by specific duties in other parts of the Regulations (e.g. traffic management and sun exposure). For how to control risks arising from hazards such as manual handling, noise, falls, confined spaces, plant and machinery, hazardous substances, asbestos and lead, see those sections of the Regulations.

Employees, HSRs and contractors and their employees must be consulted as part of this process so far as is reasonably practicable.

For further information, refer to the WorkSafe publication *Controlling OHS hazards and risks – a handbook for workplaces*.

How to decide whether a control measure is reasonably practicable

All of the following things must be taken into account when deciding whether a control measure is reasonably practicable:

- How likely is it that there will be some harm?
- How serious could the consequences be?
- What do, or should, you know about the hazard or risk and ways of eliminating or reducing it (taking into account what's generally known in the industry and information such as Material Safety Data Sheets (MSDS)/Safety Data Sheets (SDS) and manufacturers' instructions)?
 - Are suitable ways to eliminate or reduce the hazard or risk available?
 - How much will it cost to eliminate or reduce the hazard or risk?

A more detailed explanation on how to decide if a control measure is reasonably practicable can be found in the publication *How WorkSafe applies the law in relation to reasonably practicable*.

Reviewing risk control measures

Once the risk control measures have been implemented, they should be reviewed regularly to make sure that they remain effective.

The risk controls **must** be reviewed (and revised if necessary) in any of the following circumstances:

- before any change is made to the way the construction work is done (e.g. a new system of work is introduced, or the place where the work is to be done is changed)
- if new information about the hazards involved in the construction work becomes available to the employer (e.g. WorkSafe issues an Alert on a particular hazard)
- if for any other reason the risk control measures are not adequately controlling health and safety risks (e.g. if there have been injuries or illnesses connected with the work), or
- after receiving a request from an HSR.

Reviewing the risk controls involves considering whether a higher order risk control is now reasonably practicable.

When can health and safety representatives request a review?

HSRs can request a review of the control measures at any time when they believe on reasonable grounds either of the following:

- any of the first three circumstances outlined in the previous section exist, and the employer has not reviewed the control measures as required, or
- the employer's review or revision of the control measures has not been done properly (e.g. has not taken all the circumstances into account).

Duties of employers – high-risk construction work

In addition to the duties outlined in the previous section, employers have specific duties in relation to high-risk construction work.

What is high-risk construction work?

High-risk construction work comprises the following types of work:⁴

Construction work where there is a risk of a person falling more than 2 metres

Example

- Installing an evaporative cooler on the roof of a double-storey building

Construction work on telecommunications towers

Example

- Installing equipment on a telecommunications tower

Construction work involving demolition

Example

- Knocking down load-bearing walls as part of a warehouse conversion

Construction work involving the removal or likely disturbance of asbestos

Examples

- Removing floor tiles containing asbestos as part of a building refurbishment
- Cutting or drilling into an asbestos cement sheet wall

Construction work involving structural alterations where some sort of temporary support will be used to prevent the structure from collapsing

Example

- Using props to support a ceiling where a load-bearing wall will be removed

4. In some cases, such as in relation to falls and asbestos, other requirements in the Regulations also apply.

Duties of employers – high-risk construction work

Construction work involving a confined space

A confined space is any space in an enclosed or partially enclosed structure that:

- may be entered, and
- is difficult to get into or out of, and
- is (or should be) at normal atmospheric pressure while someone is in it, and
- contains (or could contain) a contaminated atmosphere, an unsafe level of oxygen or a substance that could engulf a person.

Examples

- Connecting a new sewer to an existing sewer main in a 3-metre trench
- Refurbishing the inside of an oil storage tank

Construction work involving a trench or shaft deeper than 1.5 metres

Examples

- Laying or repairing pipes and conduits in a 2-metre trench
- Testing drainage pipes in a 2-metre trench

Construction work involving a tunnel

Example

- Building a tunnel in the course of constructing an underground railway or road

Construction work involving the use of explosives

Example

- Blasting in preparation for the construction of a building or road
- Breaking up rock during construction of foundations

Construction work on or near:

- pressurised gas distribution mains or piping
- chemical, fuel or refrigerant lines, or
- electrical installations or services.

'Near' means close enough that there is a risk of hitting or puncturing the mains, piping, electrical installation or service. High-risk construction work is not limited to electrical safety 'no-go zones'. Electrical installations do not include power leads and electrically powered tools.

Examples

- Working near overhead or underground power lines
- Construction work that involves drilling into a wall where live electrical wiring may be present

Duties of employers – high-risk construction work

Construction work in an area that may have a contaminated or flammable atmosphere

Examples

- Demolishing a petrol station and removing old tanks
- Decommissioning plant and removing pipework that may contain residue of hazardous substances

Construction work involving tilt-up or precast concrete

Examples

- Building a factory using tilt-up panels
- Installing a precast drainage pit

Construction work on or next to roads or railways that are in use

Examples

- Breaking up and replacing a footpath alongside a roadway that is in use
- Building a footbridge over an operational rail line

Construction work at a workplace where there is any movement of powered mobile plant

Example

- Working in an area of a construction site that is not isolated from the movement of skid steer loaders, telehandlers, backhoes, mobile cranes or trucks

Construction work in an area where there are artificial extremes of temperature

Examples

- Construction work in an operating coolroom or freezer
- Construction work alongside an operating boiler

Construction work in, over or near water or other liquids if there is a risk that someone may drown

Examples

- Constructing a bridge over a river
- Restoring a wharf

Construction work involving diving

Example

- Divers undertaking structural repairs to a jetty, pier or marina

Duties of employers – high-risk construction work

What are the employer's duties?

Employers have three duties in relation to high-risk construction work:

1. Ensure a safe work method statement is prepared

Before any high-risk construction work is done, the employer must ensure that a safe work method statement (SWMS) is prepared if anyone's health or safety is at risk because of the work.

The SWMS is similar to a job safety analysis (JSA), which has been widely used in the Victorian construction industry. Employers may continue to use existing JSA formats providing they contain all the information required of an SWMS.

Preparing an SWMS is part of the planning of the work. The SWMS is designed to help employers think through the hazards and risks involved in the work, and to choose effective control measures.

Each employer (including contractors) must ensure that an SWMS is prepared for their direct employees. Builders should encourage their contractors to prepare an SWMS if that is required. However, nothing prevents a builder, by agreement, from preparing an SWMS on behalf of contractors.

Employees, HSRs, as well as contractors and their employees, must be consulted in the preparation of the SWMS so far as is reasonably practicable.

If the work does not involve any risks to anyone, an SWMS does not have to be prepared.

If the high-risk work that would normally require an SWMS involves the removal of asbestos, the employer only needs to prepare and comply with the asbestos control plan (see the asbestos requirements of the Regulations).

2. Make sure the work is done in accordance with the SWMS

The work must be done in the way outlined in the SWMS.

If any work is being done that is not in line with the SWMS, the employer must stop the work immediately (or as soon as it is safe to stop it). The work must not be started again until:

- it can be done in the way outlined in the SWMS, or
- the SWMS has been reviewed and if necessary changed (e.g. if circumstances have changed and the SWMS is no longer accurate or suitable).

3. Keep a copy of the SWMS

The employer must keep the SWMS for as long as the high-risk construction work is being done.

Duties of employers – high-risk construction work

What is a safe work method statement?

An SWMS is a document that:

- lists the types of high-risk construction work being done
- states the health and safety hazards and risks arising from that work
- describes how the risks will be controlled, and
- describes how the risk control measures will be put in place.

One SWMS can be prepared to cover all the high-risk construction work, provided that it takes into account the changing nature of the construction environment. Alternatively, a separate SWMS can be prepared for each type of high-risk work. In this case, thought must be given to situations where different types of high-risk work impact on each other (for example, movement of powered mobile plant during the construction of a tunnel).

Note that an SWMS needs to deal with the specific hazards and risks on the site where the high-risk work is being done. For this reason, a pre-prepared generic SWMS (e.g. for electrical work on all building sites) is unlikely to meet the new requirements, unless it has first been reviewed in light of the hazards and risks on the specific site and amended as necessary.

See page 29 of this handbook for a sample SWMS.

When must the safe work method statement be reviewed?

The SWMS must be reviewed (and revised if necessary) if either of the following situations occur:

Whenever the high-risk construction work changes.

Examples

- When using more powerful explosives for blasting work
- When changing the type of powered mobile plant being used

If there is reason to believe that risk control measures are not adequate.

Example

- If there has been an incident or 'near miss' while doing high-risk work

Duties of employers – high-risk construction work

How to develop an SWMS

Step 1

Before any high-risk construction work is done, develop an SWMS using the information on page 16 of this handbook.



Step 2

Just prior to starting the high-risk construction work, identify any additional hazards and risks at the worksite.



Step 3

Amend the SWMS if necessary.



Step 4

Start the high-risk construction work.



Step 5

If changes occur, stop the high-risk construction work and return to step 2.

Duties of self-employed people

Self-employed people must comply with the Regulations in the same way as employers. They need to make sure that their work does not expose people to health and safety risks.

In most cases, self-employed people working on a construction site (such as bricklayers, plasterers or roofers) will be working in a situation where they may put people at risk. For example, a bricklayer working at height may possibly drop something that could injure a worker below. It is therefore necessary for self-employed people to identify hazards and control risks associated with their work.

Before starting high-risk construction work that puts any person at risk, they must also ensure that a safe work method statement (SWMS) is prepared. See page 16 for more information.

Self-employed people have the same duties as an employer in relation to any independent contractors that they engage.

Training

In the construction industry, people work in a dynamic environment. Hazards and risks change frequently on a site as construction work progresses and as workers move from project to project. A large majority of the industry's workforce is employed by sub-contractors who undertake work on many different sites managed by different contractors, and often within different sectors of the industry.

The instruction and training required to ensure people can work safely on construction sites needs to recognise the pattern of employment and the way the construction industry operates. Therefore, two types of OHS induction training are required – construction induction training and site induction.

An agreed national approach to such training now applies.⁵

Construction induction training

Construction induction training aims to provide people new to construction work with an understanding of:

- their rights and responsibilities under OHS law
- common hazards and risks in the construction industry
- basic risk management principles, and
- the standard of behaviour expected of workers on construction sites.

Employers must ensure that anyone employed to do construction work has completed construction induction training before they start work. This includes apprentices and anyone who is doing pre-apprenticeship training at the site. It also includes any employee who has not actually done any construction work in the past two years, even if they have previously completed an induction.

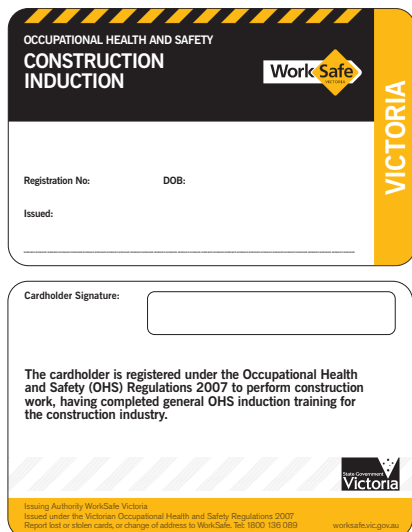
The induction training must be provided by a registered training organisation (RTO).

Evidence of training

The employer must accept any of the following things as evidence that the worker has done construction induction training:

- a 'red card', which shows that the person completed the previous Victorian Construction Industry Basic Induction Course, which existed before 1 July 2008
- a construction induction card issued by WorkSafe following successful completion of induction training by an RTO
- a construction statement of attainment issued by an RTO, pending processing of a construction induction card, or
- recognised evidence of construction induction training (e.g. a statement or card issued under similar requirements in another Australian state or territory).

5. For further information on the agreed national approach, refer to the Australian Safety and Compensation Council's *National Code of Practice for Induction for Construction Work*.



Obtaining a construction induction card

If a person carrying out construction work does not already have one of the forms of evidence listed previously (including a Victorian 'red card' or recognised interstate evidence), they must obtain a construction induction card.

In order to obtain a construction induction card, a person must provide WorkSafe with proof of their identity and evidence that they have satisfactorily completed the training, which involves the RTO issuing a 'statement of attainment'.

As long as they have a statement of attainment, a person can do construction work while waiting to receive their construction induction card.⁶

Construction induction cards remain valid while the holder continues to do construction work. However, if a person does not do any construction work for two years, their construction induction card lapses.

A construction induction card must not be intentionally destroyed, altered or defaced.

WorkSafe will replace a lost, stolen or destroyed construction induction card if the holder provides a copy of their statement of attainment or other written evidence.

Temporary exemption

A person can do construction work for 28 consecutive days without being inducted if:

- they have not done any construction work in the past two years, and
- the employer has arranged and paid for them to do construction induction training.

The purpose of the exemption is to enable a person to work while awaiting a training opportunity.

A person who has been exempted for 28 days must be directly supervised at all times and be given the information and instruction they need to work safely.

Who is *not* covered by the construction induction requirement?

The construction induction requirements do **not** apply to:

- **Visitors to the site** provided that they are accompanied at all times by a person who has received construction induction training. Visitors include clients and other people who are not involved in the construction work. The person accompanying the visitor must have the visitor in sight at all times, and must be able to intervene immediately if any health and safety incident arises.
- **People who are temporarily at the site** to deliver plant, supplies or materials. If they are untrained, these people are only permitted to remain on the site for the time reasonably needed to make their delivery. Otherwise, they must be accompanied in the same way as other visitors.

People who are frequently on construction sites to make deliveries, such as a driver delivering concrete to different sites or to different parts of a site, should be trained.

6. Unlike licences for high-risk work, these cards are not processed at post offices.

Site induction

Employers must ensure that anyone employed to do construction work is given OHS training about the particular workplace where the work will be done before they start work on the site.

The aim of site induction is to make sure that workers are familiar with the OHS rules and procedures of the site – for example, the emergency procedures, the arrangements for supervision of the work, who the HSRs are and any specific issues on the site.

The detail required in the site induction will vary between construction sectors and between phases of a construction project. The length of time it takes will depend on these factors, as well as things like the size of the site, the number and variety of trades working on the site and how much the site is expected to change as work progresses.

There should be an opportunity for workers to ask questions about their responsibilities and to have any issues clarified.

Where there are a number of employers, the employer who has management and control of the site must provide sufficient information to enable contractors to fulfil their site induction obligations.

Duty to notify WorkSafe of construction excavation work

The Regulations include a duty for employers to notify WorkSafe of construction excavation work.⁷

Which excavations must be notified?

An employer must notify WorkSafe if:

They plan to excavate a tunnel, a shaft deeper than 2 metres or a trench deeper than 1.5 metres, and

The excavation will be big enough for a person to get into or it could involve a risk to anyone's health or safety.

Examples

- Trenches dug to lay services in a new housing estate
- A tunnel built for a new freeway or railway

Which excavations do not have to be notified?

Even if they fit into the above description, the following kinds of excavations do not have to be notified to WorkSafe:

Any shaft or trench that is part of building work covered by a building permit issued under the *Building Act 1993* or

Any shaft, trench or tunnel that is:

- a mine
- a water bore covered by the *Water Act 1989*
- a quarry under the *Extractive Industries Development Act 1995*
- part of emergency work or rescue, or
- a grave.

Example

- A trench from a building under construction to the property boundary (it is part of the building work for which a building permit has been issued)

7. This duty is similar to a duty under the *Mines Act 1958*, which continues to apply until 30 June 2008.

Duty to notify WorkSafe of construction excavation work

How to notify WorkSafe

The employer must notify WorkSafe in writing at least three full days before starting the excavation work.

The notification must include the following information:

- the employer's name
- the name and contact details of the person who will supervise the construction excavation work
- the date of notification
- a description of the proposed construction excavation
- whether explosives will be used in carrying out the excavation
- the dates when the work will start and finish, and
- where the work is to be done.

One notification can cover a number of excavations that are part of a single project, even if they will be made in a number of places and at different times.

A notification form can be downloaded from [worksafe.vic.gov.au](https://www.worksafe.vic.gov.au)



Health and safety co-ordination plan

Project:

Location:

Prepared by:

Date:

Name of principal contractor:

Phone number:

Note: This co-ordination plan must be reviewed if there are any significant changes to the work. It must be available for inspection by anyone doing construction work on the project, new employees, health and safety representatives, and members of the health and safety committee.

People with specific health and safety responsibilities

Name

Position

Phone number

Brief description of OHS responsibilities

Health and safety co-ordination plan (continued)

Site safety rules

Each rule should be simple and clear, covering only one issue. Set out who is covered by each rule and who is responsible for communicating it.

Rule

Responsible person

Responsible person	Rule





Safe work method statement

This SWMS is a site-specific statement that must be prepared before any high-risk construction work is commenced.

Person responsible
for ensuring
compliance with
this SWMS:

Date:

High-risk job:

Location:

What are the tasks involved?

What are the hazards and risks?

**How will hazards and risks be controlled?
(describe the control measures and how they will be used)**

Think about the worksite and each stage of the project, including preparation and clean-up.

Safe work method statement (continued)

Steps for filling out

1. Discuss with relevant employees, contractors and HSRs what work will be high-risk, the tasks, and associated hazards, risks and controls.
2. In the 'What are the tasks involved?' column, list the work tasks in sequence to how they will be carried out.
3. In the 'What are the hazards and risks?' column, list the hazards and risks for each work task.
4. In the 'How will the hazards and risks be controlled?' column, select the hazard or risk and then work through the control levels 1 – 4 from top to bottom. Choose a control measure (and how it is to be used) that is as close to level 1 as is reasonably practicable.

Control levels

1. **Eliminate** any risk to health or safety associated with construction work.
2. **Reduce** the risk to health or safety by one or any combination of the following:
 - **Substituting** a new activity, procedure, plant, process or substance
 - **Isolating** persons from the hazard, such as barricading, fencing or guardrailing, or
 - **Using engineering controls**, such as mechanical or electrical devices.
3. **Use administrative controls**, such as changing the way the work is done.
4. **Provide appropriate personal protective equipment.**
5. Brief each team member on this SWMS before commencing work. Ensure team knows that work is to immediately stop if the SWMS is not being followed.
6. Observe work being carried out. If controls are not adequate, stop the work, review the SWMS, adjust as required and re-brief the team.
7. Retain this SWMS for the duration of high-risk construction work.





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