

## Personal submission by Tim Hunter

### General comments

In general I am very supportive of the harmonised legislation. The current OSH Act has been amended considerably to deal with unforeseen circumstances, changing patterns of work arrangements and closing loopholes. The result is a complex and convoluted Act that is difficult to read and to follow.

The proposed Bill goes a long way to simplify the provisions by making very broad definitions like PCBU (although they could have picked a pronounceable acronym). and providing the wide general duties.

I believe that one of the greatest obstacles to effective OHS is still apathy – especially on the part of senior management

I consider that the greatest advantage of the harmonised legislation lies in the introduction of the personal liability of an officer of an organisation and the concept of “due diligence”.

The concept of management taking personal responsibility, rather than hiding behind the corporation, may provide an incentive to take an interest in OHS and from that incentive to provide effective leadership. The spelling out clearly of what is meant by “due diligence” effectively removes any doubt as to what is required.

I do have some concerns with the Draft Regulations in the following areas:

#### **Removal of the requirement to comply with Australian Standards**

There appear to be few requirements in the regulations to comply with any recognised Australian Standards. I have found some references in the Codes of Practice but to a great degree the requirement to comply with a recognised standard appears to have been lost. Please find examples below:

#### **Personal Protective Equipment**

The regulations state:

R 3.2.2....

(2) A person conducting a business or undertaking must, in relation to personal protective equipment used by a worker or other person, ensure that:

(a) the equipment is selected to minimise risk to health and safety in accordance with **[any relevant technical standard] published by Safe Work Australia on its website**; and

(b) the equipment is maintained, repaired or replaced so as to ensure that it continues to minimise the risk to the person who uses it, including by ensuring that the equipment is:

(i) in good working order; and

(ii) clean and hygienic.....

I have so far been unable to find  
“[any relevant technical standard] published by Safe Work Australia on its website”

apart from the odd reference such as:

#### Draft Managing Noise and Preventing Hearing Loss at Work - P18

You must ensure that personal hearing protectors provide reliable and adequate protection. Personal hearing protectors must be selected and maintained in accordance with AS/NZS 1269.3 *Occupational Noise management – Hearing protector program*. Involve your workers in the selection process and offer a reasonable choice from a range of types.

You should ask suppliers of hearing protectors to provide you with full information on the attenuation (noise reduction) likely to be provided including the SLC80 ratings, Class and octave band attenuation values. The attenuation values should be derived from attenuation measurements made in accordance with AS/NZS 1270 *Acoustics – hearing protectors*.

I have been unable to find a standard for Safety Helmets

#### Scaffolding

The draft regulations state:

##### 5.1.42 Scaffolds

- (1) This regulation applies to:
  - (a) a suspended scaffold; and
  - (b) a cantilevered scaffold; and
  - (c) a spur scaffold; and
  - (d) a hung scaffold; and
  - (e) any other scaffold from which a person or thing could fall more than 4 metres.
- (2) A person with management or control of a scaffold at a workplace must ensure that the scaffold is not used unless the person receives written confirmation from a competent person that construction of the scaffold has been completed.
- (3) A person with management or control of a scaffold at a workplace must ensure that the scaffold and its supporting structure are inspected by a competent person:
  - (a) before the scaffold is used; and
  - (b) before use of the scaffold is resumed after an incident occurs that may reasonably be expected to affect the stability of the scaffold; and
  - (c) before use of the scaffold is resumed after repairs; and
  - (d) at least every 30 days.
- (4) If an inspection indicates that a scaffold at a workplace or its supporting structure is unsafe, the person with management or control of the scaffold at the workplace must ensure that:
  - (a) all appropriate repairs, alterations and additions are made or carried out; and
  - (b) the scaffold and its supporting structure are inspected again by a competent person before use of the scaffold is resumed.
- (5) A person with management or control of a scaffold at a workplace must ensure the implementation of controls that prevent unauthorised access to the scaffold while the scaffold is incomplete and unattended.

## Example

Danger tags and other warning signs.

While th

CODE OF PRACTICE | MANAGING THE RISK OF FALLS AT WORKPLACES - P15

## Regulation 225 (*not sure what this refers to*)

Regulation 225

### SCAFFOLDING

Scaffolding can be very effective protection in preventing falls; however, there are specific requirements that apply to some types of scaffold under the WHS Regulations.

A person with management or control of a scaffold must not allow the use of a scaffold from which a person or object could fall more than four metres unless a competent person provides written confirmation that the scaffold has been completed. The person must also ensure that:

- the scaffold and its supporting structure is inspected by a competent person before use, after any incident that could affect its stability (such as a severe storm), after any repairs, and at least every 30 days
- unauthorised access is prevented on scaffolding that is incomplete and left unattended (for example, by attaching danger tags and warning signs at appropriate locations).

Scaffolding work platforms are generally rated as light, medium or heavy duty. Safety considerations include:

- scaffolding conforms to AS/NZS 4576 *Guidelines for scaffolding* and the AS/NZS 1576 *Scaffolding series*
- all scaffolding is erected, altered and dismantled by competent persons. Any scaffold from which a person or object could fall more than four metres must be erected, altered and dismantled by or under the direct supervision of a licensed scaffolder.
- prefabricated scaffolds are of the same type and not mixed components, unless the mixing of components has been approved by the manufacturer
- safe access to and egress from the scaffold is provided
- edge protection (hand rails, mid-rails and toe boards) is provided at every open edge of a work platform (see Figure 5).

I question the enforceability of these provisions within the Code of Practice

## Tilt Panel Construction

I also have concern about the lack of regulation in relation to Tilt-panel construction, spray painting, welding, abrasive blasting, isocyanates and styrene all of which relate to industries with well known and understood hazards that require very specific solutions

Tim Hunter