

Occupational Health and Safety (Prevention of Falls) Regulations 2003

S.R. No. 121/2003

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STATUTORY RULES 2003

S.R. No. 121/2003

Occupational Health and Safety Act 1985

Occupational Health and Safety (Prevention of Falls) Regulations 2003

The Lieutenant-Governor as the Governors Deputy with the advice of the Executive Council makes the following Regulations:

Dated: 14 October 2003

Responsible Minister:

ROB HULLS
Minister for WorkCover

SUDHA KASYNATHAN
Acting Clerk of the Executive Council

PART 1—PRELIMINARY

101. Objective

The objective of these Regulations is to prevent incidents at workplaces involving falls of more than 2 metres and to prevent or reduce injury resulting from those falls.

102. Authorising provision

These Regulations are made under section 59 of the **Occupational Health and Safety Act 1985**.

103. Commencement

These Regulations come into operation 31 March 2004.

104. Definitions

In these Regulations—

"administrative controls" means systems of work or work procedures which eliminate or reduce the risk of a fall;

"AS 1657" means Australian Standard 'Fixed platforms, walkways, stairways and ladders—Design, construction and installation, AS 1657:1992', as published by Standards Australia and amended from time to time;

"emergency service employee" means—

- (a) an officer or member of the police force of Victoria; or
- (b) an officer or member of a metropolitan fire brigade; or
- (c) an officer or member of an urban or rural fire brigade; or
- (d) an employee of an ambulance service; or
- (e) a member of the Victoria State Emergency Service; or
- (f) an officer or member of an organisation that engages in an emergency activity as determined by the Authority by notice in the Government Gazette;

"fall" means a person's involuntary fall of more than 2 metres;

"fall hazard" means potential to fall;

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"fall injury prevention system" means equipment or material or a combination of equipment and material that is designed to arrest the fall of a person;

Example

Industrial safety net, catch platform or safety harness system (other than a travel restraint system).

"industrial rope access system" means a system designed for the purpose of carrying out work on a building or structure by a person and consists of—

- (a) equipment that enables a person to manually raise or lower himself or herself in a harness or seat supported by one or more fibre ropes; and
- (b) equipment used to anchor the ropes;

"passive fall prevention device" means material or equipment, or a combination of material and equipment, that is designed for the purpose of preventing a fall, and that, after initial installation, does not require any ongoing adjustment, alteration or operation by any person to ensure the integrity of the device to perform its function;

Example

Temporary work platform, roof safety mesh or guardrailing.

"solid construction" means an area that has—

- (a) a surface that is capable of supporting any people and material that may be on it; and
- (b) barriers around its perimeter and any open penetrations to prevent a fall from the area; and

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(c) an even and readily negotiable surface and gradient; and

(d) a safe means of access and egress;

"task" includes moving to and from a task;

"temporary work platform" means—

(a) a fixed, mobile or suspended scaffold;
or

(b) an elevating work platform; or

(c) a mast climbing work platform; or

(d) a work box supported and suspended by a crane, hoist, forklift truck or other form of mechanical plant; or

(e) building maintenance equipment, including a building maintenance unit;
or

(f) a portable or mobile fabricated platform such as a step platform; or

(g) any other temporary platform that provides a working area for the duration of work carried out at height and that is designed to prevent a fall;

"theatrical performance" means acting, singing, playing a musical instrument, dancing, or otherwise performing literary or artistic works or expressions of folklore;

"travel restraint system" means equipment that is worn by or attached to a person and is designed for the purpose of physically restraining a person from reaching an edge or elevated surface from which he or she may fall;

"unprotected edge" means the edge of a surface from which there is a horizontal gap, void or space of more than 300 mm and which is not provided with a barrier to prevent a fall;

"work positioning system" means—

- (a) an industrial rope access system; or
- (b) a drainer's hoist; or
- (c) a travel restraint system; or
- (d) any other equipment, other than a temporary work platform, that enables a person to be positioned and safely supported at a work location for the duration of the task being undertaken at height.

105. Regulations do not apply in certain cases

- (1) These Regulations do not apply in relation to—
 - (a) the following activities that are carried out under the control or management of an employer—
 - (i) the performance of stunt work; or
 - (ii) the performance of acrobatics; or
 - (iii) a theatrical performance; or
 - (iv) a sporting or athletic activity; or
 - (v) the riding of a bicycle, motorbike or all-terrain vehicle; or
 - (vi) horse riding; or
 - (vii) rock climbing, abseiling or any other similar activities; or

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- (b) a task that is undertaken on those parts of a building or structure (including stairs, fixed ladders, ramps and balconies) that—
 - (i) comply with any applicable requirements of AS 1657 and the Building Regulations 1994¹; and
 - (ii) are used for the purpose for which they were designed, including for access and egress; or
 - (c) any activity exempted by the Authority in accordance with this regulation.
- (2) The Authority may exempt an activity from the application of these Regulations if—
- (a) the Authority is satisfied that the activity is of a similar nature to an activity referred to in sub-regulation (1)(a); and
 - (b) the Authority causes notice of the exemption under this regulation to be published in the Government Gazette.

106. Application of certain provisions to employers of emergency service employees

Without limiting the application of these Regulations (other than regulations 206 and 209), regulations 206 and 209 apply so far as is practicable to an employer of—

- (a) an emergency service employee when that employee is—
 - (i) undertaking the rescue of a person; or
 - (ii) providing first aid to a person; or
 - (iii) undertaking training to deal with emergency and rescue operations; or
 - (iv) carrying out an emergency response; or

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- (b) a law enforcement officer within the meaning of the **Surveillance Devices Act 1999** when that officer is—
- (i) installing, using, maintaining or retrieving a surveillance device or a tracking device under an emergency authorisation or a warrant issued under that Act; or
 - (ii) engaged in any other surveillance operation authorised by a senior law enforcement officer under that Act; or
 - (iii) undertaking training in relation to surveillance duties or operations required in the application of that Act.

107. Duty of employer to independent contractor

For the purposes of these Regulations, except regulation 303—

- (a) "**employee**" includes an independent contractor engaged by an employer and any employees of the independent contractor; and
- (b) the duties of an employer extend to such an independent contractor and employees of the independent contractor, in relation to matters over which the employer—
 - (i) has control; or
 - (ii) would have had control but for any agreement between the employer and the independent contractor to the contrary.

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Part 2—Identification of Tasks and Control of Risks

PART 2—IDENTIFICATION OF TASKS AND CONTROL OF RISKS

Division 1—Hazard Identification and Risk Assessment

201. Employer's duty to identify tasks involving a fall hazard

- (1) An employer must ensure that any task that an employee is required to undertake at a workplace that involves a fall hazard is identified.
- (2) An employer must have regard to the state of knowledge about fall hazards when identifying tasks in accordance with sub-regulation (1).
- (3) Without affecting the generality of sub-regulation (1), the employer must identify any task that involves a fall hazard that is required to be undertaken—
 - (a) on any plant or structure being constructed, demolished, inspected, tested, maintained, repaired or cleaned;
 - (b) on a fragile, slippery or potentially unstable surface;
 - (c) using equipment to gain access to an elevated level or to carry out the task at an elevated level;
 - (d) on a sloping surface on which it is difficult to maintain balance;
 - (e) in close proximity to an unprotected edge;
 - (f) in close proximity to a hole, shaft or pit which is of sufficient dimensions to allow a person to fall into the hole, shaft or pit.

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202. Employer's duty to undertake risk assessment

If an employer identifies a task under regulation 201, the employer must assess the risk of a fall having regard to—

- (a) the nature and duration of the task; and
- (b) the physical surroundings in which the task is to be performed and the conditions during which the task is to be performed.

Example

Examples of physical surroundings are the type and condition of supporting surface and proximity to powerlines and trees.

Examples of conditions are lighting and weather conditions.

203. Employer may make a generic risk assessment

- (1) For the purposes of regulation 202, if an identified task is to be undertaken in the same or similar circumstances at more than one workplace or at more than one work area within a workplace, an employer may apply a single generic assessment of the task to each of those workplaces or work areas.
- (2) If an employer applies a generic assessment under sub-regulation (1), the employer must ensure that it is appropriate to apply the assessment in the circumstances and that all risks associated with the task are taken into account.

Division 2—Risk Control

204. Employer's duty to undertake control of risk

If an employee is required to undertake a task that involves a fall hazard at a workplace, the employer must ensure that the risk of a fall is—

- (a) eliminated; or

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- (b) if it is not practicable to eliminate the risk, reduced so far as is practicable.

Note: The **Occupational Health and Safety Act 1985** requires an employer to provide and maintain a working environment and plant and systems of work that are so far as is practicable safe and without risks to health. Other Regulations made under this Act impose duties in relation to certain risks and hazards not dealt with in these Regulations.

205. Hierarchy of control of risk

- (1) For the purposes of complying with regulation 204, an employer must ensure that a risk of a fall at the workplace is controlled, so far as is practicable, by arranging for tasks to be undertaken—
- (a) on the ground; or
- (b) on a solid construction.
- (2) If it is not practicable to comply with sub-regulation (1), or only part of a task may be undertaken in accordance with sub-regulation (1), and a risk of a fall remains, the employer must control the risk, so far as is practicable, by ensuring that a passive fall prevention device is used.

Note: Examples of a "passive fall prevention device" are given in the definition of that term in regulation 104.

- (3) If it is not practicable to comply with sub-regulations (1) and (2), or only part of a task may be undertaken in accordance with those sub-regulations, and a risk of a fall remains, the employer must control the risk, so far as is practicable, by using a work positioning system.

Note: "Work positioning system" is defined in regulation 104.

- (4) If it is not practicable to comply with sub-regulations (1), (2) and (3), or only part of a task
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may be undertaken in accordance with those sub-regulations, and a risk of a fall remains, the employer must control the risk, so far as is practicable, by putting in place a fall injury prevention system.

Note: Examples of a "fall injury prevention system" are given in the definition of that term in regulation 104.

- (5) If it is not practicable to comply with sub-regulations (1), (2), (3) and (4), or only part of a task may be undertaken in accordance with those sub-regulations, and a risk of a fall remains, the employer must control the risk, so far as is practicable, by ensuring that—
- (a) a fixed or portable ladder is used in accordance with regulation 206; or
 - (b) an administrative control is implemented.

206. Use of ladder as a control measure

If an employer chooses a fixed or portable ladder under regulation 205 to control the risk of a fall, the employer must ensure that the ladder—

- (a) is appropriate for the task to be undertaken; and
- (b) is appropriate for the duration of the task; and
- (c) is set up in a correct manner.

207. Where only administrative controls are used

- (1) If an employer uses only an administrative control to control the risk of a fall, the employer must, before the task is undertaken, record—
- (a) a description of the administrative control used; and
 - (b) a description of the task to which the administrative control relates.

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- (2) In complying with sub-regulation (1), an employer may make a generic record in respect of a task to which an administrative control relates if the task will be undertaken in the same or similar circumstances at more than one workplace or at more than one work area within a workplace.
- (3) The employer must keep a record made under this regulation for the period that the task to which the administrative control relates is being undertaken.

208. Control measures to be properly used and maintained

An employer must ensure that any measure referred to in regulation 205 that is used, or is available for use, to control the risk of a fall is properly used and maintained.

209. Employer's duty when plant is used to control risk

- (1) An employer must ensure that any plant used to control a risk of a fall is—
 - (a) designed and constructed for the task or range of tasks to be undertaken; and
 - (b) designed and constructed in such a way to enable its safe use in the physical surroundings in which it is to be used and the conditions during which it is to be used.

Example

Examples of physical surroundings are the type and condition of supporting surface and proximity to powerlines and trees.

Examples of conditions are lighting and weather conditions.

Note: "Plant" is defined in section 4 of the **Occupational Health and Safety Act 1985**. It includes any machinery, equipment, appliance, implement and tool, any component thereof and anything fitted, connected or appurtenant thereto.

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Part 2—Identification of Tasks and Control of Risks

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- (2) An employer must ensure that the installation, erection or dismantling of plant used to control the risk of a fall is carried out in such a manner so as to reduce, so far as is practicable, any fall risk and non-fall risk, while that installation, erection or dismantling is being carried out.

Example

Examples of "non-fall risk" are the risk of electric shock, crushing and musculoskeletal disorder.

210. Emergency procedures

- (1) If an employer uses a risk control measure in accordance with regulation 205(2), (3), (4) or (5) to control the risk of a fall, the employer must ensure that emergency procedures are established before the task is undertaken.
- (2) An employer must ensure that emergency procedures, so far as is practicable, enable—
- (a) the rescue of an employee in the event of a fall; and
 - (b) the provision of first aid to an employee who has fallen.
- (3) An employer must ensure that an emergency procedure can be carried out as soon as possible after the emergency situation arises.
- (4) An employer must ensure that any risk, including a non-fall risk, associated with the carrying out of an emergency procedure is eliminated, or if it is not practicable to eliminate the risk, is reduced so far as is practicable.

Example

Examples of "non-fall risk" are the risk of electric shock, crushing and musculoskeletal disorder.

PART 3—OTHER DUTIES

301. Employer's duty to provide information, instruction and training to employees

An employer must provide any employees who are required to undertake any task identified as involving a fall hazard with such information, instruction and training as is necessary to enable the employees to perform their work in a manner that is safe and without risks to their health in relation to—

- (a) the nature of the task that involves a fall hazard; and
- (b) the need for, and proper use of, measures to control the risk of a fall.

302. Employer to consult health and safety representative in certain circumstances

An employer must, if practicable, when undertaking in accordance with these Regulations—

- (a) identification of a fall hazard; or
- (b) assessment of risk; or
- (c) control of risk—

that may affect the safety of any member of a designated work group, consult with that group's health and safety representative about the identification, assessment or control of risk, as the case may be.

303. Employee's duty to work as directed

An employee who has been provided with information, instruction and training in accordance with regulation 301 must—

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Part 3—Other Duties

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- (a) carry out a task in accordance with that information, instruction and training; and
 - (b) use any risk control measures put in place or provided by the employer in accordance with that information, instruction and training.
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Endnotes

ENDNOTES

- ¹ Reg. 105(1)(b): S.R. No. 81/1994. Reprint No. 6 as at 1 July 2002.
Subsequently amended by S.R. Nos 132/2002, 43/2002 and 79/2003.

**Table of Applied, Adopted or Incorporated Matter Required by
Subordinate Legislation Regulations 1994**

Note that the following table of applied, adopted or incorporated matter is included in accordance with the requirements of regulation 6 of the Subordinate Legislation Regulations 1994.

Statutory Rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 105(1)(b)(i)	AS 1657: 1992, Australian Standard 'Fixed platforms, walkways, stairways and ladders—Design, construction and installation', as published by Standards Australia and amended from time to time	The whole