



## Health and Safety Codes of Practice

### Policy Background

- Many WHS requirements are set out in Codes of Practice which are referenced by legislation as a means of meeting a workplace health and safety obligation.
- Codes of Practice play an important role in providing guidance on how workplace health and safety in the residential building industry can be effectively managed on-site.
- At a national and state level there are a range of Codes of Practice now available to support businesses understand their WHS obligations and development appropriate workplace management systems to minimize safety risk.
- Codes of Practice provide scope for different approaches to be developed for different types of building work (commercial, civil, residential) to provide a more appropriate tailored approach to safety requirements.

### Policy Issues

- Codes of practice are meant to provide practical guidelines and solutions for compliance with health and safety laws. However, these codes have multiplied over the years, and are used to impose impractical and often confusing provisions for compliance, or to impose additional requirements that are not prescribed in the WHS laws.
- Codes of practice needs to set out practical options for compliance and include deemed to comply provisions.
- In recent years there has been a proliferation of referencing of secondary technical standards, such as Australian Standards, in Codes of Practice. This can add to the compliance burden on industry.
- Using Codes of Practice to reference system or processes that are familiar to the residential building industry may improve workplace health and safety practices and compliance with workplace health and safety laws.

### HIA Policy Statement on Health & Safety Codes of Practice

1. Provisions in codes of practice should be practical options for duty holders to consider in order to help them to comply with workplace health and safety laws. They should not be used to set out additional provisions that are not prescribed by the workplace health and safety laws.
2. Codes of practice should:
  - a) set out practical guidance on how to comply with a workplace health and safety duty for the performance of work;
  - b) provide guidance on minimum acceptable practices for industry to follow;
  - c) be based on evidence as to the extent of the risk and the need for the practice to be set out in the code;
  - d) be written for use by, and in a manner accessible to, the persons doing the work; and
  - e) be subject to regulatory impact assessment for any new codes or changes to current codes.
3. Demonstrated compliance with 'deemed to comply' standards set out in a code of practice must be acceptable as a non-contestable defence to an allegation of a breach of workplace health and safety duty.
4. A code of practice should not make recommendations for keeping records or paperwork that is not required by the workplace health and safety laws.

5. The process for the inclusion of technical standards, such as Australian Standards, as part of a code of practice must include a comprehensive regulatory impact assessment to prove a demonstrable need for its inclusion. Standards not subject to this assessment, should not carry any weight in meeting workplace health and safety obligations and should be described as 'optional information that may be considered by duty holders' only.
6. Failure to comply with a code of practice should not in itself be an offence or have any evidentiary weight in a prosecution for the alleged commission of any offence. As an alternative to compliance with a code of practice, the option should exist to use evidence, such as a Job Safety Analysis or Safe Work Method Statement, as a defence to an alleged breach.
7. There should be a housing specific safety code. Low rise residential building work should not be included under the same codes as general and large scale construction activities.