



The model WHS Regulation is broadly comparable to the existing Queensland *Workplace Health and Safety*

*Regulation 2008* (WHS Regulation 2008) in most areas and includes additional regulations in some areas such as manual handling, asbestos, remote and isolated work, issue resolution and falls and falling objects in non-construction workplaces. However, there are several important differences.

Firstly, the model WHS laws do not include specific regulations for recreational diving and snorkelling. In order to continue to maintain Queensland's high standards of safety for this important industry, the *Safety in Recreational Water Activities Regulation 2011*, which replicates the existing regulations for underwater recreational diving and snorkelling in the *WHS Regulation 2008*, will be enacted under the *Safety in Recreational Water Activities Act 2011*. Maintenance of the existing regulations is strongly supported by the Queensland dive industry.

Secondly, under the model WHS regulations a person conducting a business or undertaking (PCBU) is not required to keep a record of their reasons for using lower end administrative control measures such as relying on training to prevent falls from height in high risk construction work.

This is considered to be a diminution of the existing Queensland standards, which require administrative controls to be used in combination with higher order control measures for a fall risk greater than 2 metres. Falls from height in construction is a significant issue with eight fatalities and approximately 2,832 serious injuries between 2004-05 and 2009-10. The *WHS Regulation 2011* will require a person conducting a business or undertaking to document why higher order controls such as edge protection were not used. This variation has the strong support of unions and employer representatives.

Thirdly, much of the prescriptive requirements currently specified in the *Workplace Health and Safety Regulation 2008* will be contained in specialised national model Codes of Practice. Codes provide business operators with flexibility while drawing a "line in the sand" regarding acceptable levels of safety. Safety standards will not be lowered as the national codes of practice have evidentiary status under the *WHS Act 2011*. Duty holders can adopt other ways that provide a level of safety equal to or better than the standards set out in the national codes.

On 10 August 2011, the Workplace Relations Ministers Council (WRMC) approved a number of priority codes of practice. These will be adopted in Queensland and will commence on 1 January 2012 along with the *WHS Regulation*. The IGA envisages the ongoing development of codes of practice. Codes will continue to be developed throughout 2012 (and beyond). There are matters that are currently administered through regulations that are proposed to be dealt with in codes of practice. As such codes are still under development, in order to avoid a regulatory gap, and as an interim measure until the relevant national model codes of practice are approved, the *WHS Regulation 2011* will contain additional requirements relating to construction amenities, falling objects and excavation and spray painting. These additional regulations will be repealed once the relevant codes of practice are approved and made.

For more information contact

<http://www.deir.qld.gov.au/workplace/law/whslaws/legislation/codes/index.htm>