

Workplace Health and Safety Queensland

# Introduction to OHS obligations commencing 1 July 2007

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# Background

- The *Queensland Workplace Health and Safety Strategy 2004-12* is part of the Government's commitment to reducing the human and financial cost of work-related injury and illness.
- Priorities have been identified in order to achieve a sustained and substantial improvement in Queensland's workplace health and safety performance.
- Construction industry is a targeted priority industry.
- One of the priorities is to “**eliminate hazards at the design stage**”.

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- In 2003, State and Territory governments agreed that work should be undertaken to develop national material for the construction industry.
- The *National Standard for Construction Work* [NOHSC:1016 (2005)] was developed at a National level.
- Amendments were made to the Queensland *Workplace Health and Safety Act 1995* in November 2005 to align the regulatory requirements with the national standard.

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# 1 July 2007

New obligations on:

- clients
- project managers

Amended obligations:

- designers
- principal contractors

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# What is safe design?

*“the integration of hazard identification and risk assessment methods early in the design process to eliminate or minimise the risks of injury throughout the life of the product being designed. It encompasses all design including facilities, hardware, systems, equipment, products, tooling, materials, energy controls, layout and configuration.”*

Australian Safety and Compensation Council (2006)  
*Guidance on the principles of safe design for work*

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# The possible benefits of safe design

- Prevention of injury and disease
- Improved useability of structures
- Improved productivity
- Reduced costs
- Better prediction and management of production and operational costs over the lifecycle of a structure
- Compliance with legislation
- Innovation, in that safe design demands new thinking

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# Designers

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# Who is a designer of a structure?

A legal entity or natural person, whose profession, trade or business involves them in:

- preparing designs for structures, including variations to a plan or changes to a structure; or
- arranging for people under their control to prepare designs for structures.

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Designers include, but are not limited to:

- anyone who specifies or alters a design, or who specifies the use of a particular method of work or material; or
- anyone specifying or designing how demolition, dismantling work, structural alteration or the formation of openings to be carried out.

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For example:

- architects
- building surveyors
- geotechnical engineers
- civil and structural engineers
- landscape designers
- temporary works engineers
- interior designers
- engineering contractor.

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# What obligations do designers have?

A designer of a structure has an obligation to prevent or minimise risks in the design of the structure so that the design does not adversely affect the workplace health and safety of persons –

- during construction of the structure; and
- when the structure has been constructed and is being used for the purpose for which it was designed.

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# When do the obligations commence?

- Since 2003, designers have had an obligation to design a structure (that is intended to be used as a workplace) that is without risk to persons when it is being used for the purpose for which it was designed (s 34B).
- On 1 July 2007, the amended obligation extends the designers obligation to structures that are not a workplace (excluding class 1a buildings) and to other phases of the structure lifecycle such as the construction phase (s 30B).

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# How can designers meet their obligation?

A designer's obligation is discharged if risks to a persons' health or safety arising out of the design are prevented or minimised.

*Note: Regard must be had to the standards of design prevailing when the designer designed the structure, and a designer's obligation applies only to the extent that the content of the design of the structure falls under the control of the designer.*

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# How can designers ensure a person's health and safety?

- Following the principles of safe design.
- Using the guidance material published by WHSQ, developed in consultation with designers' associations.
- Using the systematic risk management process.

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# Systematic risk management

1. Identify hazards
2. Assess the risk
3. Decide on control measures
4. Implement control measures
5. Monitor and review

*Section 27A Workplace Health and Safety Act 1995*

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# Defence for designers

If no regulation, ministerial notice, or code of practice has been made about exposure to a risk, the person must choose any appropriate way and take reasonable precautions and exercise proper diligence to prevent a contravention of an obligation.

Section 37 of the *Workplace Health and Safety Act 1995*

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# Guidance material

- The Queensland guidance material has adopted material already published.
- The Queensland guidance material is consistent with other jurisdictions:
  - it uses definitions developed by the Australian Safety and Compensation Council (ASCC); and
  - is based on Victorian guidance material.
- The Queensland guidance material will be available on 1 July 2007.

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# Guidance material

The following associations were involved:

- Association of Consulting Engineers Australia, Queensland Division
- Building Designers' Association of Queensland
- Built Environment Design Professionals, Queensland division
- Department of Public Works, Queensland Government
- Department of Main Roads, Queensland Government
- Engineers Australia, Queensland division
- Royal Australian Institute of Architects, Queensland Chapter

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# Clients

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# Who is a client?

The ***client*** for construction work is the person who commissions the construction work and—

(a) engages a project manager to plan and manage construction work; or

(b) appoints a principal contractor to manage and perform construction work

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does not apply where:

(a) the construction work is for a structure that is a class 1a building; or

(b) the construction work is not a prescribed activity, and the estimated final price for the construction work is \$80000 or less

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# Clients' obligation

The **client** has an obligation to:

- (i) consult with the designer, project manager and principal contractor about how the construction work can be undertaken safely; and
- (ii) provide to the designer, project manager and/or principal contractor any information regarding hazards and risk of which the client is aware

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# Project managers

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# Who is a project manager?

The *project manager* for construction work is the person engaged by the client to carry out the planning and management of the construction work

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Does not apply where—

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# Project managers' obligation

A **project manager** has an obligation to ensure construction work is planned and managed in a way that prevents or minimises risks to health and safety of all persons undertaking the construction work and persons at or near the workplace during the construction work.

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# Principal contractors

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# Who is a principal contractor?

Principal contractor is the person appointed by the client to undertake the construction work.

Does not apply where the estimated final price for the construction work is \$80000 or less.

If no appointment is made then client is the principal contractor by default.

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# Principal contractors' obligations

New additional obligations:

- coordinate, supervise and oversee the construction work
- consult with client, designer and project manager
- notify persons of anything that may affect the capacity of that person to comply with the person's obligations under the Act

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# Further information

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Queensland

1300 369 915

[www.deir.qld.gov.au](http://www.deir.qld.gov.au)

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