

Australian “Legal” Frame Work



To put this into context, the relationship between WHS Acts, Regulations, Codes of Practice (or Compliance Codes) and Guidance Material can be clarified as follows:

1. **Regulations support Acts** by stating the general obligations of how an Act will be applied in the workplace;
2. **Acts and Regulations are legally enforceable and consequences arise from breaches;**
3. **Codes of Practice** apply wherever Acts and Regulations apply but are generally more specific in nature;
4. Codes of Practice and guidance material (**including Standards**) are **not legally enforceable** but act as guidelines and benchmarks;
5. **Codes of Practice are admissible as evidence in legal proceedings** as evidence of compliance (and in Victoria, a person who complies with a Compliance Code may be taken to comply with the Act);
6. Codes of Practice and Standards can be built (or specifically written) into either Acts or Regulations as legally enforceable benchmarks, giving them equal standing.

Australian “Duty of Care” Frame

Visit: www.legislation.sa.gov.au

Legislative Compliance - Mandatory Requirements

It shall be noted that an Act is a law made by a Parliament, which is commonly known as a ‘statute’ or ‘legislation’. The compliance with an Act is compulsory as it sets out the legal rules which shall not be contravened. Breaches of these rules are considered offences and subject to designated penalties the likes of monetary fines or terms of imprisonment.

The compliance with an Act is typically enforced through a government’s nominated regulatory body, for eg SafeWork SA, Technical Regulator (OTR), EPA South Australia and so on.

For Example; the OTR conducts a range of activities as per their Compliance and Enforcement Policy, which includes auditing the Electrical installations and checking the public / workers’ safety requirements.

- **Road Traffic Act 1961 and SA Road Rules 2014**
- **Electricity Act 1996; Electricity (General) Regulations 2012**
- **SA WHS Act and SA WHS Regulations 2012**
- **Environment Protection Act 1993; Environment Protection Regs 2009**
- **Similarly for Finance / Management /Medical Professions.....More**

Obligatory:

- Hazard ID and Risk Management: AS/NZS ISO 31000
- Project Success and Financial Risk Assessment / Forecasting / Future Trends
- AS/NZS Standards / ISO / IEEE / IEC / ASTM...or similar

Non-Mandatory:

An effective Quality Management System (QMS) provides assurance that your products or services meet a certain level of quality. It demonstrates a commitment to reliability, safety, consistency, meeting customer expectations, continuous improvement and compliance with legislation.

- Quality Standards: AS/NZS ISO 9000; AS/NZS ISO 9001

Australian Employer's Expectations

.....How you did it.....NOT.....What you did....

1. Legislative Knowledge / **Understanding**
2. Standards: AS/NZS & ISO & World Standards
3. Licenses/Degrees/Job Skills & **Transferable Competences**
4. Business Management:
 - i) Project Management
 - ii) Contract Management
 - iii) Financial Management
 - iv) **Company Profile** –
Mission/Profit/Loss/Aims/Strategies
5. Personal Profile / Style of Thinking
 - i) Negotiation Skills
 - ii) **Flexible, Adoptable, Multi-Tasking Skills**
 - iii) Leadership Qualities
 - iv) Multi-Cultural Focus / Association Involvements
6. Team Player / Customer Service Standards / Strategies
 - i) Communication Skills – Read, Write, Speak
 - ii) **Life Experience**
 - iii) Share the Success
7. Record Keeping/Documentation
8. General Skills
 - i) Interstate/International Travels
 - ii) Driving Skills
9. QMS Systems
10. Wages/Packages
 - i) Contractual Agreements