

# Legislation & Compliance



**A Stich in  
Time Saves a  
Fine**



# Compliance

Compliance generally refers to the act of adhering to rules, regulations, standards, or laws that are relevant to a particular context, such as a company's operations, industry standards, legal requirements, or ethical guidelines.

It involves ensuring that an individual or organisation behaves in accordance with established norms, policies, procedures, or agreements.

## Definitions



# Legal Compliance

Legal compliance refers to the adherence of individuals or organisations to laws, regulations, statutes, and legal requirements that are applicable to their activities, operations, or industry.

Legal compliance involves ensuring that all actions, decisions, and practices are in accordance with the relevant legal framework established by governments, regulatory bodies, or other authorities.

This can include compliance with labour laws, environmental regulations, consumer protection laws, taxation requirements, industry-specific regulations, and more.

Failing to comply with legal obligations can lead to penalties, fines, lawsuits, or other legal consequences. Therefore, legal compliance is essential for maintaining the legitimacy, reputation, and sustainability of individuals and organisations.

## Definitions

# Regulatory Compliance

Regulatory compliance refers to the adherence of individuals or organisations to the rules, regulations, guidelines, and standards set forth by regulatory authorities or governing bodies in a specific industry or jurisdiction.

These regulations are established to ensure the safety, fairness, transparency, and integrity of various aspects of business operations, products, services, or transactions.

Regulatory compliance involves understanding and complying with requirements related to areas such as financial reporting, consumer protection, data privacy, product safety, environmental protection, and more.

Failure to comply with regulatory requirements can result in fines, penalties, legal action, reputational damage, or other consequences. Therefore, regulatory compliance is crucial for maintaining trust, credibility, and legality in business practices.

## Definitions

# Environmental Compliance

Environmental Compliance: Compliance with regulations governing air quality, water quality, waste management, and hazardous materials handling set by agencies such as the Environmental Protection Agency (EPA)

## Definitions

# Management System Requirements

The organisation shall:

- a) determine and have access to the compliance obligations related to its environmental aspects;
- b) determine how these compliance obligations apply to the organisation;
- c) take these compliance obligations into account when establishing, implementing, maintaining and continually improving its environmental management system.

The organisation shall maintain documented information of its compliance obligations.

NOTE Compliance obligations can result in risks and opportunities to the organisation.

**AS/NZS  
ISO  
14001:2016  
Clause  
6.1.3**

# Management System Requirements

The organisation shall establish, implement and maintain the process(es) needed to evaluate fulfilment of its compliance obligations.

The organisation shall:

- a) determine the frequency that compliance will be evaluated;
- b) evaluate compliance and take action if needed;
- c) maintain knowledge and understanding of its compliance status.

The organisation shall retain documented information as evidence of the compliance evaluation result(s).

**AS/NZS  
ISO  
14001:2016  
Clause  
9.1.2**



# Management System Requirements

## AS/NZS ISO 45001:2018 Clause 6.1.3

The organisation shall plan actions to address these risks and opportunities, taking into account:

- a) The hierarchy of controls;
- b) Legal and other requirements;
- c) The results of consultation with workers and, where they exist, workers' representatives;
- d) Its technological options;
- e) Its financial, operational and business requirements;
- f) The need to address human factors;
- g) The consequences of actions taken, or not taken;
- h) The views of interested parties.

The organisation shall integrate and implement the actions into its OH&S management system processes, evaluate the effectiveness of these actions, and retain documented information as evidence of the results of the planning process."

# Management System Requirements

## AS/NZS ISO 45001:2018 Clause 9.1.2

The organization shall establish, implement, and maintain a process(es) for evaluating compliance with legal requirements and other requirements.

The organisation shall:

- a) determine the frequency and method(s) for the evaluation of compliance;
- b) evaluate compliance and take action if needed;
- c) maintain knowledge and understanding of legal and other requirements;
- d) retain documented information as evidence of the compliance evaluation result(s).

# WHS Legislation in Australia

## NSW, QLD, ACT, NT, and Commonwealth

Commenced harmonised legislation 1  
January 2012

## Tasmania and SA

Commenced harmonised legislation 1  
January 2013

## WA

Received assent on Nov 10, 2020.

## Victoria

Harmonisation delayed

## Harmonised WHS legislation in Australia



# Model WHS Framework

Model WHS Act and WHS Regulations supported by Codes of Practice

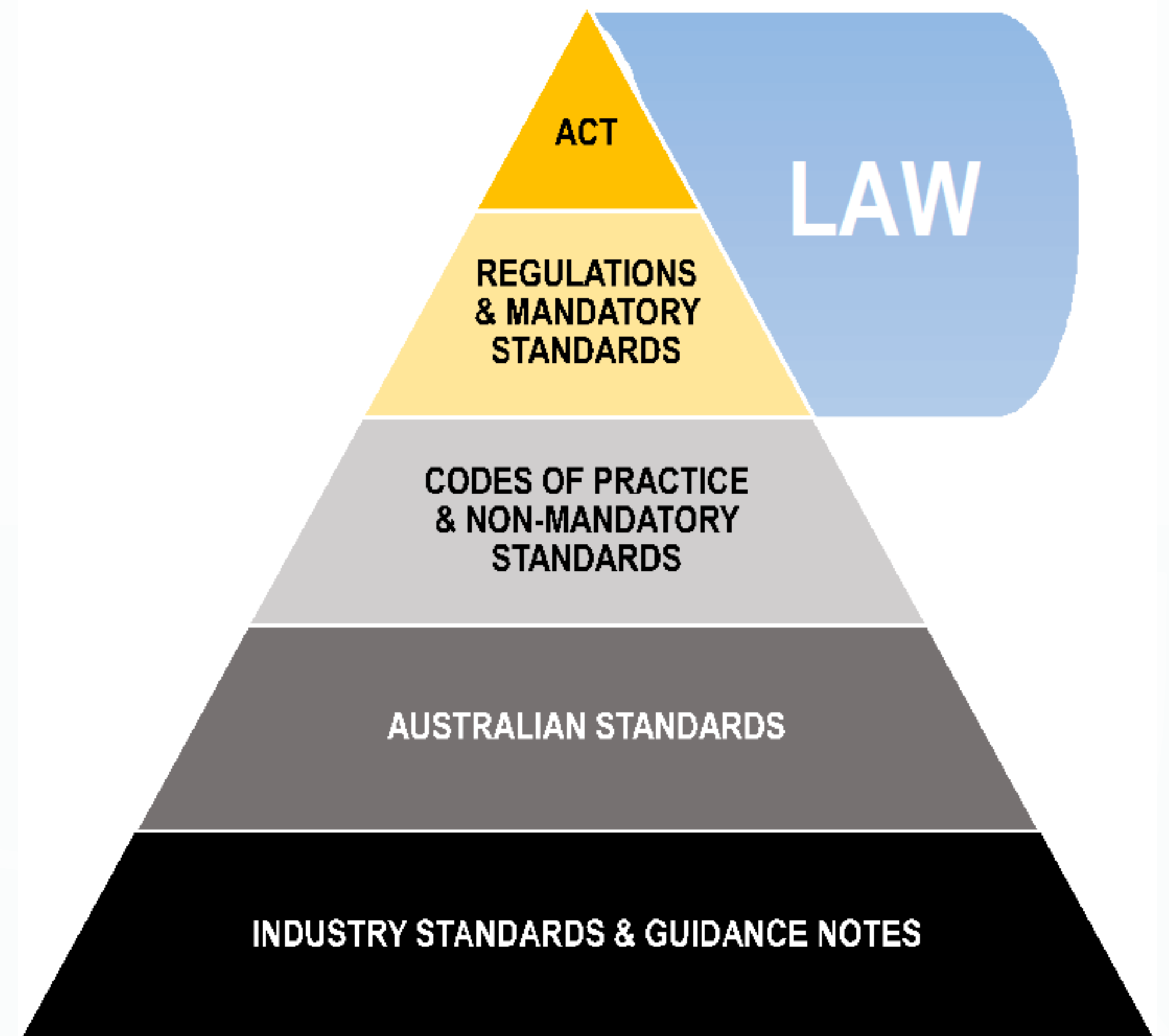
Mirrored by

**State** WHS Act,  
WHS Regulations,  
Codes of Practice

**Territory** WHS Act,  
WHS Regulations,  
Codes of Practice

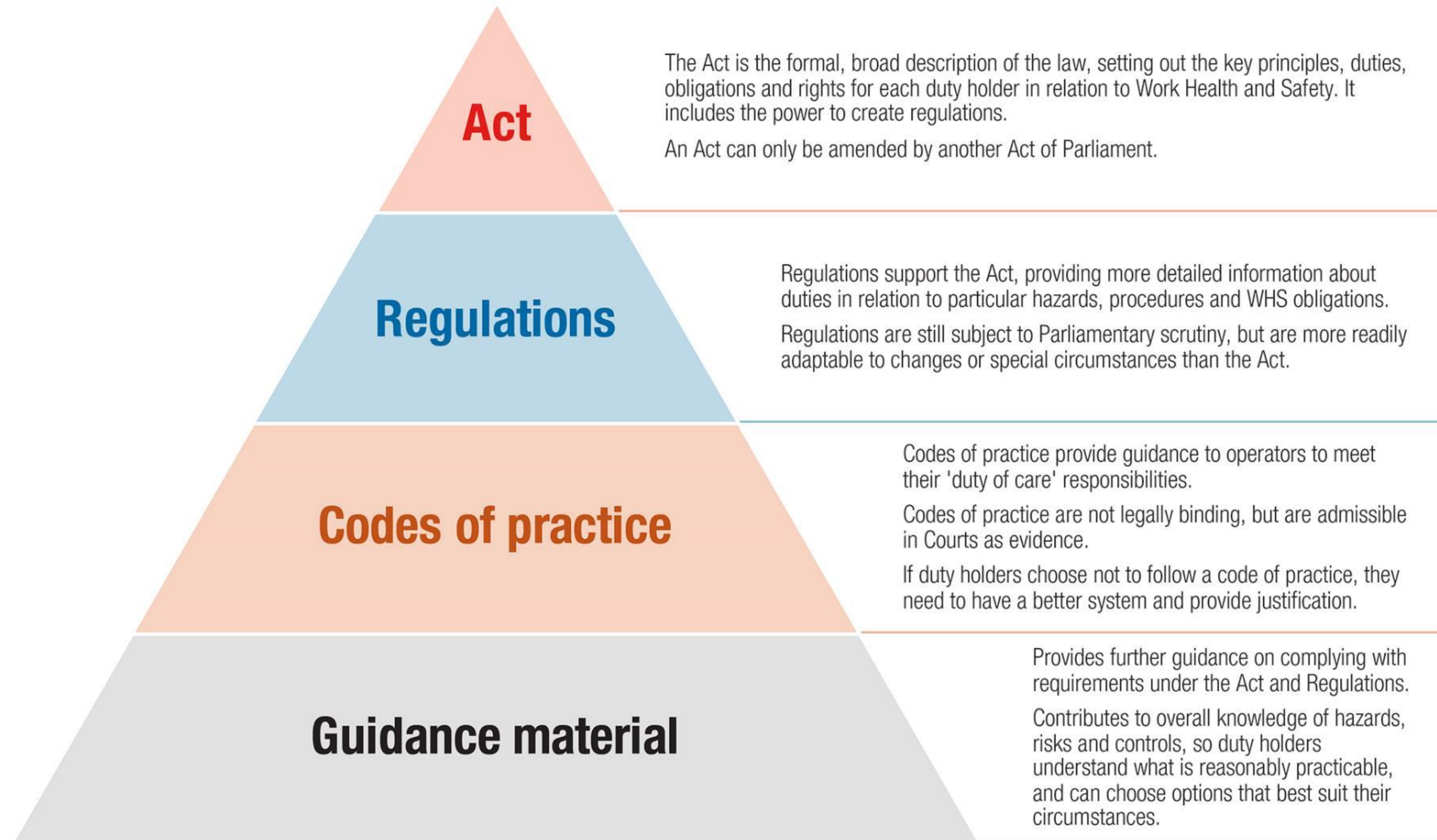
**Commonwealth**  
WHS Act, WHS Regulations,  
Codes of Practice

# The Structure of WHS Legislation





# The Structure of WHS Legislation



## The Structure of WHS Legislation



## Work Health and Safety Act 2011

In 2012 the Work Health and Safety Act 2011 (WHS Act) commenced, replacing the existing NSW Occupational Health and Safety Act 2000 (OHS 2000). The changes included:

- Change in definition of "workers" to include employees, contractors and others
- More diverse consultation obligations for those operating projects
- Tougher penalties for breaches



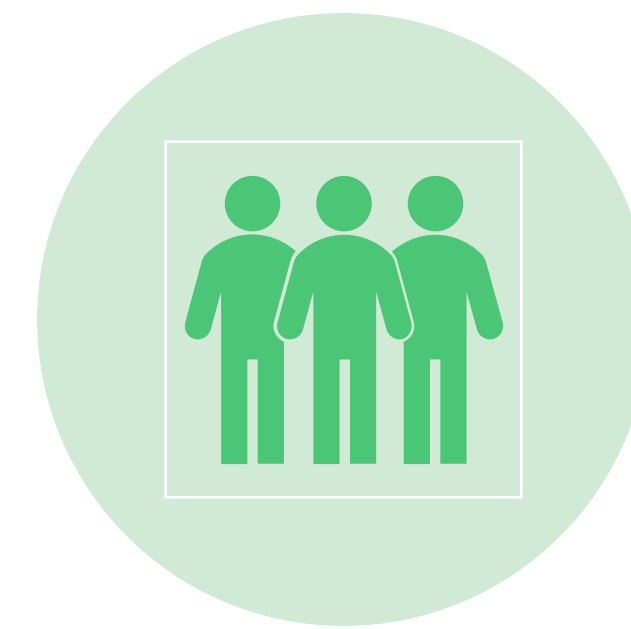
# The WHS Act

The intent Act of 2011 is to ensure the health, safety, and welfare of workers, as well as to protect others against risks to health and safety arising from work activities.

The Act aims to achieve this by:



Operationalize the provisions outlined in the WHS Act by providing specific guidance and requirements for various aspects of workplace health and safety management.



Clarify the duties and responsibilities of duty holders such as employers, workers, and other parties involved in work activities.



Establish standards and procedures for identifying, assessing, and controlling workplace hazards and risks, including specific requirements for high-risk activities or industries.



Prescribe measures for the safe handling, storage, and use of hazardous substances and dangerous goods in the workplace.

# The WHS Regulations

The intent Regulations of 2017 is to provide detailed requirements and specifications for the implementation of the NSW WHS Act of 2011.

These regulations serve to:

1. Operationalise the provisions outlined in the WHS Act by providing specific guidance and requirements for various aspects of workplace health and safety management.
2. Clarify the duties and responsibilities of duty holders such as employers, workers, and other parties involved in work activities.
3. Establish standards and procedures for identifying, assessing, and controlling workplace hazards and risks, including specific requirements for high-risk activities or industries.
4. Prescribe measures for the safe handling, storage, and use of hazardous substances and dangerous goods in the workplace.
5. Set out requirements for the design, construction, and maintenance of workplaces, plant, and equipment to ensure they are safe and fit for purpose.
6. Detail the obligations related to consultation, representation, and participation of workers and their representatives in matters concerning health and safety.
7. Provide guidance on incident reporting, investigation, and record-keeping requirements to facilitate learning from incidents and improving safety outcomes.
8. Specify enforcement mechanisms and penalties for breaches of the WHS regulations, including provisions for compliance notices, fines, and prosecution.



# The WHS Codes of Practice

The intent WHS Codes of Practice is to provide practical guidance on how to achieve compliance with the requirements of the WHS Act and Regulations.

These codes of practice serve several purposes:

1. **Clarification of Legal Requirements:** Codes of practice help interpret and explain the legal obligations outlined in the WHS legislation, making it easier for duty holders to understand what is required of them.
2. **Practical Guidance:** They offer practical advice, recommendations, and best practices for managing various workplace health and safety risks. This includes guidance on risk assessment, hazard control measures, safe work procedures, and the use of personal protective equipment.
3. **Industry-Specific Guidance:** Codes of practice are often tailored to specific industries or types of work, providing targeted advice relevant to the unique risks and challenges faced by those sectors.
4. **Assistance with Compliance:** By following the recommendations outlined in the codes of practice, duty holders can work towards achieving compliance with the WHS legislation and creating safer work environments.
5. **Recognition of Accepted Practices:** Following a code of practice can demonstrate that a duty holder has taken reasonable steps to comply with their legal obligations, which may be taken into account in the event of an inspection or investigation.
6. **Promotion of Consistency:** Codes of practice promote consistency in safety management approaches across industries and workplaces by providing standardized guidance on common health and safety issues.
7. **Encouragement of Continuous Improvement:** They encourage continuous improvement in safety performance by providing guidance on reviewing and updating safety management systems and practices.

# The Legal Effects of Codes of Practice

Admissible in court proceedings under the WHS Act and Regulations.

May be relied on by the courts as evidence of what is known about a hazard, risk or control and in determining what is **Reasonably Practicable**.

Designed to be used with the WHS Act and Regulations but do not have the same legal implications.

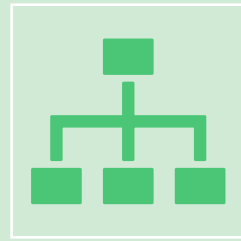
WHS Act and Regulations may be complied with by following another method if it provides an equal or higher standard.

An inspector may refer to an Approved Code of Practice when issuing an improvement or prohibition notice.

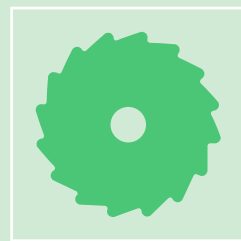
# Industry Standards

Industry standards play a significant role in WHS by providing guidance, best practices, and benchmarks for managing health and safety risks in specific industries.

The role of industry standards in WHS in NSW includes:



**Guidance on Risk Management:** Industry standards often outline best practices for identifying, assessing, and controlling workplace hazards and risks relevant to specific industries. They provide detailed guidance on implementing effective risk management processes tailored to the unique characteristics and challenges of each industry sector.



**Technical Specifications:** Industry standards may include technical specifications for equipment, machinery, and processes to ensure they meet safety requirements. Compliance with these standards helps ensure that workplace equipment and processes are designed, installed, and operated safely.



**Training and Competency Requirements:** Industry standards may define training and competency requirements for workers involved in high-risk activities or operating specialized equipment. Compliance with these standards helps ensure that workers have the necessary knowledge and skills to perform their tasks safely.



**Compliance Framework:** Industry standards often form part of the compliance framework for WHS regulations. They may be referenced or incorporated into WHS legislation, codes of practice, or regulatory requirements, making compliance with industry standards a legal obligation for duty holders.

# Industry Standards

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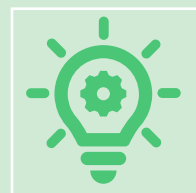
The role of industry standards in WHS in NSW includes:



**Benchmarking and Performance Improvement:** Industry standards provide benchmarks for assessing safety performance and comparing practices across organizations within the same industry. They help identify areas for improvement and promote continuous improvement in safety management systems and practices.



**Recognition of Best Practices:** Compliance with industry standards demonstrates that organizations are following recognized best practices for managing health and safety risks in their industry. It can provide assurance to stakeholders, including regulators, customers, and workers, that appropriate measures are in place to protect health and safety.




**Adaptation to Technological Advances:** Industry standards evolve to incorporate advancements in technology, changes in work practices, and emerging risks. They provide a mechanism for disseminating updated guidance and requirements to industry stakeholders to ensure that safety practices remain current and effective.





ENVIRONMENTAL  
LAW





In Australia, environmental legislation exists at both the federal and state/territory levels. While there is often overlap and interaction between the two, there are key differences in their scope, focus, and application:



# Jurisdictional Authority

- **Federal Legislation:** Federal environmental legislation applies across the entire country and covers matters of national environmental significance, such as World Heritage properties, national heritage places, migratory species, and Commonwealth marine areas. The primary federal environmental legislation is the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).
- **State/Territory Legislation:** State and territory environmental legislation applies within their respective jurisdictions and typically addresses a broader range of environmental issues, including land use planning, pollution control, water management, and natural resource management.



# Scope of Regulation

- **Federal Legislation:** Federal environmental legislation primarily focuses on matters that have significant national or international importance, such as protecting threatened species and ecosystems, managing impacts on World Heritage sites, and regulating activities in Commonwealth areas.
- **State/Territory Legislation:** State and territory environmental legislation addresses a wider range of environmental issues relevant to the local context, including land clearing, waste management, air and water quality, urban planning, and biodiversity conservation within state or territory boundaries.



# Environmental Assessment and Approval Processes

- **Federal Legislation:** The EPBC Act establishes a national environmental assessment and approval process for activities likely to have a significant impact on matters of national environmental significance. This process involves environmental impact assessments, consultations, and decisions by the federal government.
- **State/Territory Legislation:** State and territory governments have their own environmental assessment and approval processes for activities within their jurisdictions. These processes may vary in scope and requirements but generally assess impacts on state or territory-listed species and ecosystems, as well as local environmental values.

# Compliance and Enforcement



- **Federal Legislation:** Compliance and enforcement of federal environmental legislation, including the EPBC Act, are the responsibility of federal agencies such as the Department of Agriculture, Water and the Environment. These agencies have powers to investigate breaches, issue compliance notices, and impose penalties for non-compliance.
- **State/Territory Legislation:** Compliance and enforcement of state and territory environmental legislation are typically managed by state or territory government departments responsible for environment, natural resources, or planning. They enforce regulations, conduct inspections, and prosecute offenders for breaches of environmental laws within their jurisdictions.





# Interactions and Harmonisation

There are mechanisms for coordination and harmonisation between federal and state/territory environmental legislation to ensure consistency and avoid duplication of regulatory efforts. For instance, there may be agreements or memoranda of understanding between governments to streamline assessment processes and share information.

**In summary,** while both federal and state/territory environmental legislation aim to protect and manage the environment, they operate at different levels of jurisdiction and focus on distinct areas of responsibility. Collaboration and coordination between governments are essential to achieve effective environmental outcomes across Australia.



# Environment Protection and Biodiversity Conservation Act 1999

**The intent of the EPBC Act is to provide a framework for the protection and conservation of the environment and biodiversity in Australia at the national level.**

**The Act aims to achieve several key objectives:**

**Biodiversity Conservation:** The EPBC Act aims to conserve Australia's unique biodiversity, including native species, ecosystems, and ecological communities. It seeks to prevent the extinction of species and the degradation of ecosystems through measures such as habitat protection, species recovery plans, and invasive species management.

**Protection of Matters of National Environmental Significance (NES):** The Act identifies and protects matters of national environmental significance, including World Heritage properties, national heritage places, Ramsar wetlands, threatened species and ecological communities, migratory species, and Commonwealth marine areas. It establishes processes for assessing and managing activities that may impact these matters.

**Environmental Assessment and Approval Process:** The EPBC Act establishes a rigorous environmental assessment and approval process for activities likely to have a significant impact on matters of national environmental significance. This process involves conducting environmental impact assessments, considering potential environmental impacts, consulting with stakeholders, and making decisions on whether to approve proposed activities.

# Environment Protection and Biodiversity Conservation Act 1999

**The intent of the EPBC Act is to provide a framework for the protection and conservation of the environment and biodiversity in Australia at the national level.**

**The Act aims to achieve several key objectives:**

Consistent National Approach: The Act provides a consistent national approach to environmental protection and biodiversity conservation across Australia. It establishes principles and standards that apply consistently across states and territories, ensuring that environmental values are protected regardless of jurisdictional boundaries.

Integration with State and Territory Processes: While the EPBC Act operates at the federal level, it also aims to complement and integrate with state and territory environmental assessment and approval processes. It encourages cooperation and coordination between different levels of government to achieve effective environmental outcomes.

Public Participation and Transparency: The Act promotes public participation in environmental decision-making processes and enhances transparency by requiring the publication of information related to environmental assessments, approvals, and decisions.

The Protection of the Environment Operations Act 1997 (POEO Act) in New South Wales (NSW), Australia, serves as the primary legislation for regulating activities that may have an impact on the environment and public health.

The intent of the POEO Act is multi-faceted and includes several key objectives:

**Environmental Protection:** The primary intent of the POEO Act is to protect and enhance the quality of the environment in NSW. It aims to prevent pollution and environmental harm by regulating activities that may impact air, water, soil, and biodiversity.

**Public Health Protection:** The Act seeks to safeguard public health by regulating activities that may pose risks to human health through pollution or contamination of the environment. It aims to minimize exposure to harmful substances and ensure that communities are protected from environmental hazards.

**Pollution Prevention and Control:** The POEO Act establishes a framework for preventing and controlling pollution from various sources, including industrial activities, waste management, and hazardous substances. It sets standards and requirements for pollution prevention measures, emission controls, and pollution monitoring.

# Protection of the Environment Operations Act 1997 No 156 NSW



The Protection of the Environment Operations Act 1997 (POEO Act) in New South Wales (NSW), Australia, serves as the primary legislation for regulating activities that may have an impact on the environment and public health.

The intent of the POEO Act is multi-faceted and includes several key objectives:

**Waste Management:** The Act addresses the management of waste, including the collection, transport, storage, treatment, and disposal of waste materials. It aims to promote waste minimization, recycling, and environmentally sustainable waste management practices.

**Environmental Regulation and Compliance:** The POEO Act provides regulatory mechanisms for enforcing environmental laws and standards. It sets out obligations for individuals, businesses, and government agencies to comply with environmental requirements, obtain permits and licenses, and report incidents of pollution or environmental harm.

**Enforcement and Penalties:** The Act establishes enforcement powers and penalties for breaches of environmental regulations. It empowers regulatory authorities to investigate complaints, conduct inspections, issue pollution prevention notices, and prosecute offenders who violate environmental laws.

**Community Engagement and Participation:** The POEO Act encourages community engagement and participation in environmental decision-making processes. It provides avenues for public involvement in environmental impact assessments, pollution control measures, and development of environmental management plans.

# Protection of the Environment Operations Act 1997 No 156 NSW

# NSW Protection of the Environment Operations Regulations

The Protection of the Environment Operations Regulations in New South Wales (NSW) are a set of subordinate legislation designed to support and complement the objectives of the Protection of the Environment Operations Act 1997 (POEO Act).

Overall, the intent of the NSW Protection of the Environment Operations Regulations is to support the effective implementation of the POEO Act by providing detailed rules, standards, and procedures for managing environmental risks, preventing pollution, and promoting sustainable development in NSW. They aim to protect public health, safeguard natural resources, and minimize adverse impacts on the environment while facilitating responsible economic activities.

Protection of the Environment Operations  
(Noise Control) Regulation 2017

Protection of the Environment Operations  
(Waste) Regulation 2014

Protection of the Environment Operations  
(General) Regulation 2022

Protection of the Environment Operations  
(Underground Petroleum Storage Systems)  
Regulation 2019

# References

Follow the Links by Clicking on the Icons

Federal  
Legislation



NSW  
Legislation



NSW Codes of  
Practices



Standards  
Australia



# Advisory Organisations

## Peak WHS Body

A professional body dedicated to promoting and advancing health and safety practices in Australia.



## Independent WHS Body

A non-profit organisation dedicated to promoting workplace health and safety across Australia..

Follow the Links by Clicking on the Icons



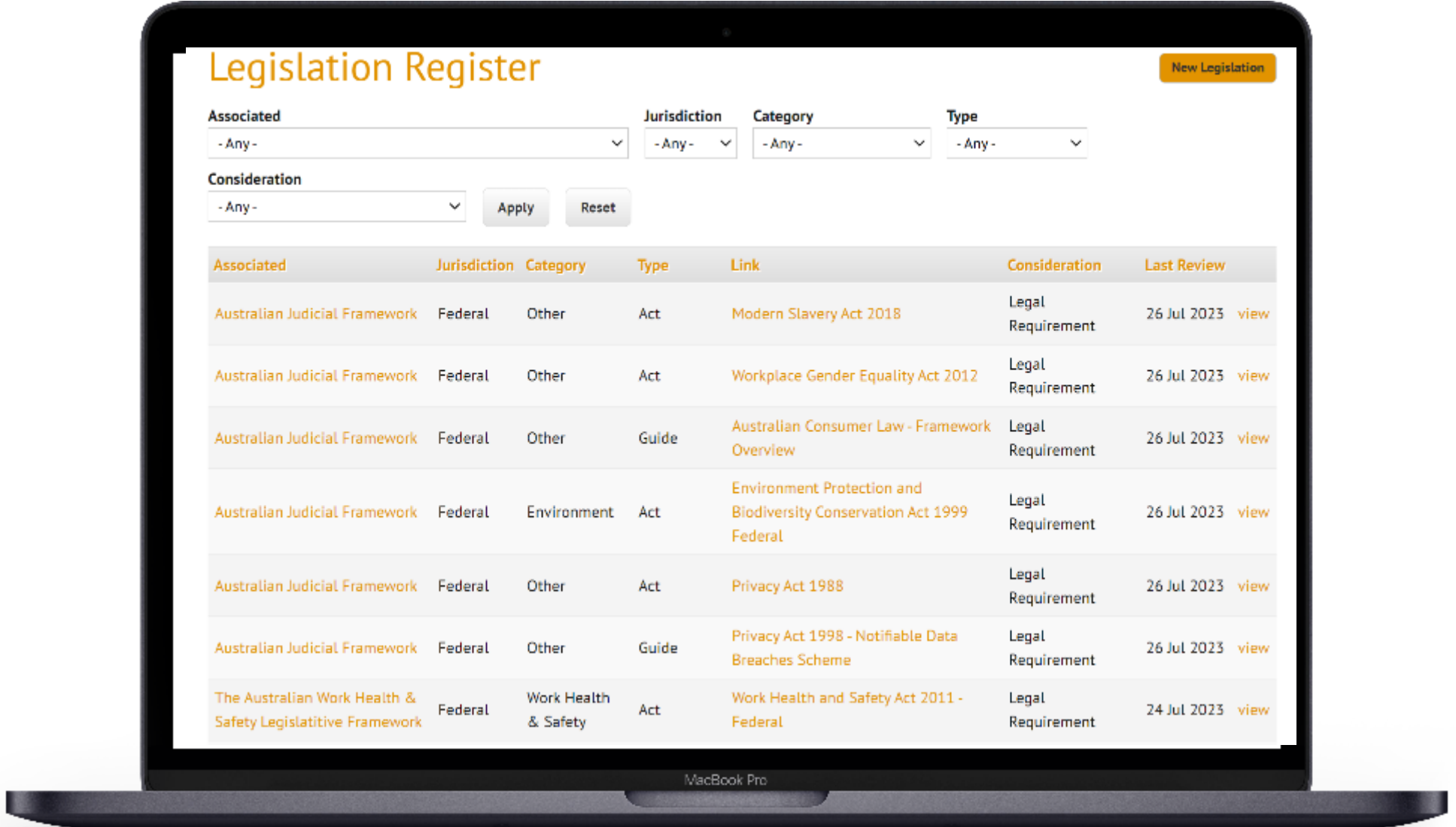
# The Legislation Register

A legal register is a list of legal instruments, whether legislation, regulation or otherwise, which apply uniquely to a given operation. Legal registers are used in the domains of environmental, health & safety, and quality and are mandated by the respective ISO management system standards for each such domain.

The location of the operation determines the legal jurisdiction or jurisdictions

The first step to complying with the law(s) is to know the law(s) as they apply to the company's operations, and maintaining a legal register is a common method of meeting this requirement.

Regular reviews of the Legislation Register ensures currency.



Associated	Jurisdiction	Category	Type			
- Any -	- Any -	- Any -	- Any -			
Consideration						
- Any -	Apply	Reset				
Associated	Jurisdiction	Category	Type	Link	Consideration	Last Review
Australian Judicial Framework	Federal	Other	Act	Modern Slavery Act 2018	Legal Requirement	26 Jul 2023 <a href="#">view</a>
Australian Judicial Framework	Federal	Other	Act	Workplace Gender Equality Act 2012	Legal Requirement	26 Jul 2023 <a href="#">view</a>
Australian Judicial Framework	Federal	Other	Guide	Australian Consumer Law - Framework Overview	Legal Requirement	26 Jul 2023 <a href="#">view</a>
Australian Judicial Framework	Federal	Environment	Act	Environment Protection and Biodiversity Conservation Act 1999 Federal	Legal Requirement	26 Jul 2023 <a href="#">view</a>
Australian Judicial Framework	Federal	Other	Act	Privacy Act 1988	Legal Requirement	26 Jul 2023 <a href="#">view</a>
Australian Judicial Framework	Federal	Other	Guide	Privacy Act 1998 - Notifiable Data Breaches Scheme	Legal Requirement	26 Jul 2023 <a href="#">view</a>
The Australian Work Health & Safety Legislative Framework	Federal	Work Health & Safety	Act	Work Health and Safety Act 2011 - Federal	Legal Requirement	24 Jul 2023 <a href="#">view</a>



# ISO14001

CERTIFICATION