

Workplace Health and Safety Queensland

Legislative guide – working at heights in construction (LG-C1)**Work Health and Safety Regulation 2011****General provisions for managing the risk of falls**

The *Work Health and Safety Regulation 2011* contains a number of provisions relating to the management of the risk of falls that apply to all industries, including construction work.

The Regulation requires that any risk of a fall from one level to another that is likely to cause injury must be managed (s.78). In the first instance, duty holders (i.e. a person in control of a business or undertaking, or PCBU) are required to carry out work on the ground or on a solid construction [s.78(3)]. Where this is not possible or not reasonably practicable, PCBUs must provide adequate protection that minimises the risk of a fall [s.79(2)].

In identifying appropriate controls PCBUs must work through the hierarchy of control outlined in s.79(3) of the Regulation, using higher order controls (e.g. edge protection) wherever it is reasonably practicable to do so.

These provisions aim to ensure that each hazard that may result in a fall that causes death or injury is identified, assessed, and that control measures are implemented to prevent or minimise the exposure to risk. This is an effective continuation of the requirements under the *Workplace Health and Safety Regulation 2008*, section 317(3), which applied to construction work at less than 3m, for housing construction, and less than 2m, in all other construction work.

Codes of practice for the construction industry

On 10 August 2011, the Workplace Relations Ministers Council (WRMC) approved a number of priority codes of practice, including the *Managing the Risk of Falls at Workplaces* code. These codes will be adopted in Queensland and will commence on 1 January 2012 along with the *Work Health and Safety Regulations 2011*.

Further guidance on managing the risk of a fall in the construction industry will be provided in the following two codes of practice:

- Managing Risk in Construction Work
- Preventing Falls in Housing Construction.

These codes of practice have been approved by the Safe Work Australia Council, but, in accordance with the *Inter-Governmental Agreement on Regulatory and Operational Reform in Occupational Health and Safety*, will not become model codes until approved by the Ministerial Council for Workplace Relations. These codes **will not** commence on 1 January 2012.

In the interim, to ensure that guidance on the use of appropriate control measures is available, Queensland has retained a number of provisions from the current regulation in the *Work Health and Safety Regulation 2011*. These can be found at s.306A to s.315M. As the Explanatory Notes to the *Work Health and Safety Regulation 2011* indicate, the intention of including these is to maintain the status quo until such time as the relevant national codes are approved and introduced into Queensland (see p.67 Explanatory Notes to the *Work Health and Safety Regulation 2011*)

These additional regulations will be repealed once the two codes of practice relating to the construction industry are approved and introduced into Queensland. Given the number of new requirements anticipated in these codes, an appropriate time period will be provided for PCBUs to transition to the new requirements once these codes are introduced.

Safe work method statements

For construction work in particular, any work that involves the risk of a person falling more than 2 m is considered *high risk construction work* and will require the PCBU to prepare a safe work method statement (s.291 and s.299). This requirement applies to all construction work, including housing construction.

In the event that a PCBU determines that the only appropriate way of managing the risk of a fall of 2 m or more is through administrative controls (e.g. signs or training) and the use of personal protective equipment, the PCBU must describe on the safe work method statement each of the control measures that were considered in reaching this decision.

How to comply on 1 January 2012

Until the codes take effect WHSQ inspectors will look to industry standard practice to determine what is 'reasonably practicable'. Inspectors will take the action described in the table below where there is an uncontrolled risk to a worker of a fall from one level to another that is likely to cause injury. For example, workers carrying out construction work above 2 m, for commercial construction, or above 3 m, for housing construction, that are exposed to the risk of a fall may result in the issue of an Improvement Notice or a Prohibition Notice.

Control measures may still be required for work below 3 m, in housing construction, and below 2 m, for all other construction work, if a risk assessment suggests control measures should be provided. This is consistent with the requirements under the *Workplace Health and Safety Regulations 2008*.

On 10 August 2011, Workplace Relations Ministers endorsed [National Compliance and Enforcement Policy](#), which sets out how regulators will go about enforcing work health and safety laws.

Height	Expected controls and inspector response
For housing construction work below 3 m	An advice to use fall prevention if reasonably practicable, or other appropriate controls. Consideration will be given to issuing improvement or prohibition notices if risk is not adequately managed.
For housing construction work above 3 m	Fall prevention to be used. If not, an improvement notice or prohibition notice will be issued.
Commercial below 2 m	An advice to use fall prevention if reasonably practicable, or other appropriate controls. Consideration will be given to issuing improvement or prohibition notices if risk is not adequately managed.
Commercial above 2 m	Fall prevention to be used. If not, an improvement notice or prohibition notice will be issued.

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