

Managing Building Compliance – WHS and General Safety

Understanding the legislative requirements is an essential element of asset and facility management. The mechanisms to manage the risks associated with planning, acquiring and managing building assets are contained in a range of Acts, Regulations, Standards and Codes. They may be used to modify, reduce or eliminate risk throughout the asset's lifecycle.

This guideline is one of a series developed to assist with identifying Building Asset Compliance obligations for asset owners or occupiers.

The *Work Health and Safety Act 2012* and Regulations require that people conducting businesses or undertakings, or manage or control a workplace must ensure buildings meet a reasonable level of safety. Failure to provide a safe building environment is an offence that may incur a penalty for negligence under Statute Law or Common Law.

Owners/occupiers and employers must ensure, so far as is 'reasonably practicable' (see Glossary) that buildings are in a condition that allows employees (including contractors) and the public who might be affected by their activities to be safe from injury and risks to health¹.

The legislation is aimed primarily at securing the health, safety and welfare of people at work, and covers matters such as provision of amenities, prevention of falls, ventilation, drinking water, working in confined spaces, and general working space. Although mainly directed at workplaces, the legislation imposes more onerous responsibilities upon building owners and employers than other legislation. Individuals – such as negligent public sector managers – may be prosecuted under the legislation.

Approved codes of practice under work health and safety legislation give practical guidance on how a particular standard of health and safety can be achieved. They describe the preferred methods for meeting health and safety obligations. Whilst such standards must always be considered, there may be circumstances where upgrading to current standards is not 'reasonably practicable.' In some cases, a lesser standard may be acceptable if agencies can demonstrate that the general principles under the legislation have been followed and have established and documented reasons why the lesser standard was considered reasonable.

Sometimes buildings may need to be upgraded to a level that meets or exceeds current standards to provide an appropriate level of protection.

A comprehensive discussion of work health and safety issues is beyond the scope of this guideline. For more information, contact SafeWork SA.

¹ *Work Health and Safety Act 2012*, Part 2—Health and safety duties and *Work Health and Safety Regulations 2012*, Part 2—General workplace management, Division 2—General working environment.

Glossary of Terms

Agencies	Departments, Offices and Authorities of the Government of South Australia
Common Law Negligence	Failure to exercise the degree of care expected of a person of ordinary prudence in like circumstances in protecting others from a foreseeable and unreasonable risk of harm in a particular situation.
Determination of what is Reasonably Practicable	Has been determined through precedent of common law court decisions by assessing the following. <ul style="list-style-type: none"> • Foreseeability – was the injury/illness foreseeable? • Causation – was the injury related to an unsafe matter controlled by the individual and/or company? • Preventable – is there a practicable alternative/method to do the job safely? • Reasonableness – was it reasonable to do something about the unsafe matter?
Due Diligence	Such diligence as a reasonable person under the same circumstances would use: use of reasonable but not necessarily exhaustive efforts (also referred to as <i>reasonable diligence</i>). <i>Note:</i> Due diligence is used most often in connection with the performance of a professional or fiduciary duty, or with regard to proceeding with a court action. Due care is used more often in connection with general tort actions.
Duty of Care	A duty to use due care toward others in order to protect them from unnecessary risk of harm.
Holistic	Emphasising the importance of the whole and the interdependence of its parts.
Occupier	In relation to a place, means a person who has the management or control of the place.
Residual Risk	The remaining level of risk after risk treatment measures have been taken (see AS/NZS ISO 31000 Risk management—Principles and guidelines).
Risk	The effect of uncertainty on objectives. ISO31000:2009
Risk Management	The process of managing risks: <ul style="list-style-type: none"> • Contextualising the operational environment; • Identifying the Risks – finding out what might go wrong; • Assessing Risk Levels – Using the Risk management Toolkit to assess risk levels; • Treating Risks using the Hierarchy of Control as a guide; • Reviewing outcomes on a regular basis. ISO31000-2009