

INDEPENDENT FISKVILLE INVESTIGATION SURVEY OF APPLICABLE STATUTES AND REGULATIONS

1 Dangerous Goods Regulatory Regime

Legislation	Summary and examples of main obligations	Applies to	Period of application and key amendments
<p><i>Inflammable Liquids Act 1966</i> (as passed)</p> <p>(repeals the <i>Inflammable Liquids Act 1963</i>)</p>	<p>Storage (Part II)</p> <p>No person is to store ten thousand gallons or more of inflammable liquid other than at premises licensed for bulk storage licenced under the Act (s 12).</p> <p>Part II does not apply to certain storages (s 11), such as storage of:</p> <ul style="list-style-type: none"> inflammable liquid Class A in containers with capacity of less than 1 gallon; inflammable liquid Class B in containers with capacity of less than 5 gallon; or inflammable liquid at petrol stations. <p>The person in charge of a bulk storage shall report any accident by fire or explosion in the bulk storage or any leakage of inflammable liquid which escapes beyond the boundary of the bulk storage (s 16).</p> <p>The person in charge of and every person entering or remaining on any bulk storage shall take all reasonable precautions to prevent escape of inflammable liquid from any container and any accident by fire or explosion in the bulk storage (s 17).</p> <p>Governor in Council may make regulations in respect of certain matters (s 18).</p> <p>Transportation (Part III)</p> <p>A person must not transport inflammable liquid in an unlicensed vehicle or boat (s 21).</p> <p>Part III does not apply to certain modes of transport (s 20) such as:</p> <ul style="list-style-type: none"> transport in any vehicle or boat in containers each with a capacity of less than 90 gallons and with a total capacity of less than 540 gallons (s 20). <p>The person in charge of a vehicle or boat transporting inflammable liquid shall:</p>	<p>“Inflammable liquid ” means liquid having a flash-point of less than 150 degrees Fahrenheit (65 degrees Celsius) but does not include liquefied petroleum gas or other liquefied inflammable gas or any semi-solid inflammable substance.</p> <p>“Inflammable liquid class A” means inflammable liquid which has a flash-point of less than 73 degrees Fahrenheit.</p> <p>“Inflammable liquid class B” means inflammable liquid which has a flash-point of not less than 73 degrees Fahrenheit.</p>	<p>1966 – 1985</p> <p><i>Inflammable Liquids (Amendment) Act 1975</i></p> <ul style="list-style-type: none"> Amends the definition of inflammable liquid from 65 degrees Celsius, to 61 degrees Celsius. Inserts definition of “Combustible liquid” to mean liquid capable of burning and having a flash-point of not less than 61 degrees Celsius.

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	<ul style="list-style-type: none"> report without delay to the appropriate fire authority and to an inspector any accident by fire or explosion or any leakage of inflammable liquid in or from such vehicle or boat (s 23). take all reasonable precautions to prevent any accident by fire or explosion (s 24). <p>Governor in Council may make regulations in respect of certain matters (s 25).</p>		
<p>Local Government Act 1958 (as passed)</p>	<p>Storage (Part XXVII)</p> <p>The Minister may make regulations in respect of storage of petroleum or any product of petroleum (including kerosene), turpentine or other volatile or flammable fluids and carbide or other combustible substances. The Minister may also make regulations for the maintenance of tanks or containers in which flammable fluids are stored (s 696(1)).</p> <p>Other</p> <p>Part XXI gives councils the power to regulate with respect to sewerage, drainage and water courses, and makes it an offence for a person to interfere with the council in this regard. For example, it is an offence to:</p> <ul style="list-style-type: none"> make, stop or obstruct a drain, or obstruct a water course, without the council's authorisation or consent (section 653). 		<p>1958-1994</p> <p>Treatment and disposal of waste</p> <p>As of 1966, it is an offence to deposit refuse or rubbish on any land in the municipality without the consent of the council (Part XXVIIA, s 696B(1)).</p>
<p><i>Local Government (Storage of Petroleum and Other Volatile Fluids) Regulations 1977</i> (as passed)</p> <p>(made under the <i>Local</i></p>	<p>Storage</p> <p>Storage of more than 250 litres of specified volatile fluids, or more than 1250 litres of petroleum or other volatile fluids must meet certain requirements, such as (reg 3):</p> <ul style="list-style-type: none"> The site of all buildings in which liquid is stored must be first approved by Council. The floor of the buildings must be made of earth, concrete or brick. The roof must be made of incombustible material. <p>Certain precautions must be observed in buildings in which more than 250 litres of specified volatile fluids or more than 1250 litres of petroleum or other volatile fluids are stored (reg 4). For example:</p>	<p>The following volatile fluids are specified in the regulation ("specified volatile fluids"):</p> <ul style="list-style-type: none"> Methylated spirits; Benzene; petrol; naphtha; and any other volatile fluids that will flash or emit an inflammable 	<p>1977-1989</p> <p>From 1970-1977, the applicable regulations were the <i>Regulations for the Storage of Petrol and Other Volatile Fluids, Applicable to the Whole of Victoria</i> (Gazetted in 22 Dec 1954)</p>

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<p><i>Government Act 1958)</i></p>	<ul style="list-style-type: none"> • The use of sawdust to absorb volatile fluids is prohibited. • At least two buckets of dry sand must be kept so as to be easy access in the event of a fire. <p>Certain precautions must be observed in constructing tanks to store more than 1250 litres of petroleum or other volatile fluids (reg 5). For example:</p> <ul style="list-style-type: none"> • The site of storage tanks shall be approved by the Council for that purpose. • Underground tanks shall be constructed of galvanised steel plate not less than 2 mm and be placed not less than 600 mm below the surface of the ground. <p>Storage of less than 250 litres of specified volatile fluids or less than 1250 litres of petroleum or other volatile fluids must comply with certain requirements (reg 6) such as:</p> <ul style="list-style-type: none"> • Vessels must be so securely closed that neither liquid nor vapour can escape and all due precautions taken to prevent the escape of any such volatile fluids into a sewer or drain. <p>Containers in which volatile liquids are stored must comply with certain labelling requirements, including displaying the markings set out in the regulation (reg 8).</p>	<p>vapour below a temperature of 23 degrees Celsius</p> <p>The regulations also apply to petroleum or any products of petroleum, turpentine, or other volatile fluids that will flash or emit an inflammable vapour at not below 23 degrees Celsius (“petroleum or other volatile fluids”).</p>	
<p><i>Dangerous Goods (Road Transport) Act 1984</i> (as passed)</p>	<p>Transport</p> <p>Aims to promote the safety of people and property in relation to the transport of dangerous goods by road.</p> <p>The Act provides that the Governor in Council may make regulations for or with respect to:</p> <ul style="list-style-type: none"> • Dangerous goods generally, including their classification, odourisation, methods to be used in determining their properties, inspectors’ identification cards and fees to be paid for tests on dangerous goods or the vessels they are transported in (s 26) • Labelling (s 27) • Containers, packages and vehicles (s 28) • Stowage and compatibilities, including the conditions under which dangerous 	<p>“Dangerous Goods” means any substance or article prescribed as dangerous goods for the purposes of the Act</p>	<p>1984 – 1985</p>

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	<p>goods may be loaded onto vehicles, maximum quantities that can be transported, transfer of dangerous goods into containers and container contents (s 29)</p> <ul style="list-style-type: none"> Transport procedures, including transfer and handling of dangerous goods, restrictions transportation times, training to be undertaken by employees involved in transfer, maintenance of any containers used in the transfer, conditions for the installation of containers used in connection with dangerous good, safety precautions and clothing, responsibility of driver to take precautions, insurance and inspection records (s 30). 		
<p><i>Dangerous Goods Act 1985</i> (as passed)</p> <p>Repeals <i>Inflammable Liquids Act 1966</i>, <i>Dangerous Goods (Road Transport) Act 1984</i> and other acts.</p>	<p>Where a person is required by the regulations to hold a licence, the Director General may issue a licence to that person (s 21).</p> <p>The licence may contain any conditions which the Director General thinks appropriate to ensure the safety of persons and property or to ensure compliance with the Act (s 23(1)). It is an offence to fail to comply with such a condition (s 23(2)).</p> <p>Reporting requirements</p> <p>Licencees (or occupiers of premises of a prescribed class) must, every three months, provide the following information to the Director-General about dangerous goods present on the premises (s 27(1)):¹</p> <ul style="list-style-type: none"> The names (technical, chemical and trade) of the dangerous goods; The quantity of each of the dangerous goods; Details of the container in which the goods are kept and the extent to which container is filled with dangerous goods; and Any other prescribed matter. <p>It is an offence for licencees or occupiers not to provide this information (s 27(3)).</p> <p>A person commits an offence if they disclose this information to anyone other than the Director-General (s 27(4)), but disclosure between officers and members of a fire authority are exempt if made for the purposes of preventing injury or damage from a fire,</p>	<p>“Dangerous goods” means any substance or article prescribed as dangerous goods and includes explosives.</p> <p>“Explosives” means any substance or article manufactured or used to produce a practical effect by explosion or a pyrotechnic effect and includes—</p> <p>(a) gunpowder, nitroglycerine, nitroglycol, gelignite, guncotton, blasting powder, fulminating compounds, coloured fires, smoke compositions, fog signals, fireworks, fuses, rockets, percussion caps,</p>	<p>1985 – still in force</p>

¹ But see reg 310 of *Dangerous Goods (Storage and Handling) Regulations 1989*.

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	<p>explosion, leakage or spillage of dangerous goods that has occurred or may occur (s 28(2) and (3)).</p> <p>Handing of dangerous goods</p> <p>The following persons must take all reasonable precautions for the prevention of tampering, theft or unauthorised access; fire or explosion; leakage; damage to property or danger to the public (s 31(1)(a)):</p> <ul style="list-style-type: none"> • An occupier or person in charge of premise on which dangerous goods are manufactured, stored or sold; • An owner or person in charge of a vehicle or boat used to transfer dangerous goods; and • A person who uses, handles or transfers dangerous goods. <p>The above persons must also not abandon, discard or otherwise neglect to dispose safely of any dangerous goods in the ownership, control or possession of that person (s 31(1)(b)).</p> <p>A person must not do anything in or near any licenced premises which causes or is likely to cause an accident involving dangerous goods (s 31(2)).</p> <p>A person who carries out any work involving installation, alteration, repair, maintenance or testing of equipment (which are not prescribed as exempt) shall take all reasonable precautions to ensure the equipment is safe for use and will not cause or contribute to a fire, explosion, leakage or spillage involving dangerous goods (s 31(4)).</p> <p>A person who negligently or carelessly deals with explosives so as to endanger the life of a person or safety of property is guilty of an offence (s 37).</p> <p>Reporting accidents</p> <p>A licensee or prescribed persons shall report any fire, explosion, spillage, leakage or escape involving dangerous goods in the ownership, possession or control of that person (not including prescribed dangerous goods) to the nearest fire authority or police station without delay (s 32(1)).</p> <p>The occupier of premises, or the owner or person in charge of a vehicle or boat, where a fire or explosion involving dangerous goods has occurred must take all reasonable</p>	<p>detonators, cartridges and ammunition of all descriptions;</p> <p>(b) substances or articles of whatever form or composition intended for blasting or demolition purposes;</p> <p>(c) substances or articles used for the initiating of explosive charges or fillings;</p> <p>(d) every adaptation or preparation of explosives; and</p> <p>(e) any substance or article prescribed as explosives for the purposes of this Act.</p>	

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	<p>action to ensure that no personal shall disturb, move or remove any wreckage or debris without the permission of an inspector (s 32(3)). This prohibition does not cover any reasonable precautions taken to prevent injury or damage to persons or property in the vicinity, or steps taken to rescue injured persons, recover bodies or extinguish a fire (s 32(4)).</p> <p>Where such an accident has occurred, the licensee or prescribed person must not commence repairs or reconstruction work without the approval of the Director – General (s 33).</p>		
<p><i>Dangerous Goods (Prescribed List) Regulations 1986 (as passed)</i></p>	<p>Prescribes certain substances to be “dangerous goods” for the purposes of the <i>Dangerous Goods Act 1985</i> (reg 4, set out in Schedule 1) and allocates each substance to one of the following classes of dangerous goods (reg 5):</p> <ul style="list-style-type: none"> • Class 2.1 – Flammable gases, compressed or liquefied; • Class 2.2 – Non-flammable, non-toxic gases, compressed or liquefied; • Class 2.3 – Toxic gasses, compressed or liquefied; • Class 3.1 – Flammable liquids having a flash point not lower than 23 degrees Celsius; • Class 3.2 - Flammable liquids having a flash point not lower than 23 degrees Celsius and not higher than 61 degrees Celsius but not including liquids which – (i) have a fire point higher than 104 degrees Celsius; or (ii) boil before the fire point is reached; • Class 3.3 – Combustible liquids having a flash point higher than 61 degrees Celsius but not higher than 150 degrees Celsius; • Class 3.4 - Combustible liquids having a flash point higher than 150 degrees Celsius; • Class 4.1 – Flammable solids; • Class 4.2 – Substances liable to spontaneous combustion; • Class 4.3 – Substances which when wet with water evolve flammable gases or spontaneously ignite; 	<p>Substances listed in the schedule.</p>	<p>1986 – 1996</p>

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	<ul style="list-style-type: none"> • Class 5.1 – Oxidising substances; • Class 5.2 – Organic peroxides; • Class 6.1 - Poisonous and toxic substances; • Class 8 – Corrosive substances; • Class 9 – Miscellaneous dangerous substances; and • Class R – Substances which, being – unstable or liable to spontaneous chemical reaction are deemed unsafe for storage, transport, handling or use or all of those things. <p>Prescribes vehicles used for lifting freight containers to be “prescribed vehicles” and dangerous goods carried as freight (other than explosives) to be “prescribed dangerous goods” for the purposes of the <i>Dangerous Goods Act 1985</i> (reg 9).</p>		
<p><i>Dangerous Substances (Placarding of Workplaces) Regulations 1985</i> (as passed)</p>	<p>Storage</p> <p>A warning notice must be displayed if the quantity of dangerous goods held on the premises exceeds the quantity specified in Schedule 1 to the regulations.</p>	<p>“Dangerous substances” are those listed in Schedule 5 to the Regulations.</p>	<p>1985-1989</p>
<p><i>Dangerous Goods (Flammable Liquids) Storage Regulations 1988</i> (as passed)</p>	<p>Storage</p> <p>A person must not occupy a bulk storage unless a licence is in force (reg 8). A licence issued under the <i>Inflammable Liquids Act 1966</i> continues to apply.</p> <p>A licensee requires approval to modify premises (construct or extend buildings, construct or materially alter storage tanks, etc).</p> <p>An occupier of a bulk storage must comply with the requirements of AS 1940 – The Storage and Handling of Flammable and Combustible Liquids (reg 12). Licensees and occupiers must also comply with additional storage requirements (regs 13, 14 and 15). For example (reg 15):</p> <ul style="list-style-type: none"> • A licensee or occupier must ensure dangerous goods are not stored in a tank 	<p>Only applies to “bulk storages” defined to be storages where the aggregate quantity of flammable liquid stored exceeds 50 metres cubed.</p>	<p>1988-1989</p>

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	<p>located under another storage tank containing dangerous goods or under an area which is used for the catchment of spills (unless otherwise approved).</p> <p>Persons must also comply with requirements for transporting flammable liquids (regs 16, 17 and 18). For example (reg 16):</p> <ul style="list-style-type: none"> An industrial truck used in an area in which flammable liquids are stored must comply with AS 1915 or AS 2359.1. <p>Reporting accidents</p> <p>In the event of an accident (fire, spillage, leakage or escape of dangerous goods), the inspector may require a report to be prepared, which must contain certain information and be provided within 15 days (reg 20).</p> <p>Section 32 of the <i>Dangerous Goods Act 1985</i> (requirement to report accidents) does not apply to:</p> <ul style="list-style-type: none"> leakage of Class 2.2 dangerous goods (non-flammable, non-toxic gases compressed or liquefied) except those listed in schedule 2 (carbon dioxide and oxygen mixtures, carbon dioxide and nitrous oxide mixtures, nitrous oxide compressed, nitrous oxide refrigerated liquid, oxygen compressed, oxygen refrigerated liquid, sulphur hexafluoride, sulphuryl fluoride and air refrigerated liquid) (reg 22); or leakage, spillage or escape which is confined within the bulk storage and does not cause injury to any person or damage to property. 		
<i>Dangerous Goods (Explosives) Regulations 1988</i> (as passed)	<p>Handling</p> <p>Imposes various safety requirements in relation to the manufacturer, use and transport of explosive materials. Requires various persons who deal with explosive materials to hold a licence, for example manufacturers of explosives (reg 201), manufacturers of explosive mixtures (reg 304) and persons who store explosives (reg 705).</p>	“ Explosives ” as defined in the <i>Dangerous Goods Act 1985</i>	1988 – 2000
<i>Dangerous Goods (Storage and Handling) Regulations</i>	<p>Storage</p> <p>Imposes various requirements to obtain authorisation or licences depending on the “assessment factor” of the dangerous goods kept on the premises, which is calculated according to a formula set out in the regulations. For example:</p>	Does not apply to explosives (reg 105) or to flammable liquid stored in containers each with capacity of less than 25L	1989 - 2000

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<p>1989 (as passed)</p> <p>Revokes:</p> <p><i>Dangerous Goods (Flammable Liquids) Storage Regulations 1988;</i></p> <p><i>Dangerous Substances (Placarding of Workplaces) Regulations 1985;</i> and</p> <p><i>Local Government (Storage of Petroleum and Other Volatile Fluids) Regulations 1977</i></p>	<ul style="list-style-type: none"> • If the assessment factor is greater than 10 but less than 40, the occupier must register the premises with the Director – General (reg 201). • If the assessment factor is greater than 40 but less than 100, the occupier of the premises must notify the Director-General of matters set out in Schedule 3 to the regulation (reg 202). • If the assessment factor is greater than 100, the occupier must obtain approval (reg 204) and can only keep dangerous goods on the premises if a licence is held (reg 205). A licensee then cannot construct or materially alter a building or storage tank without approval (reg 208). <p>The assessment factor for the premises is weighted according to the class and quantities of dangerous goods stored and according to whether dangerous goods are manufactured on the premises (schedule 2).</p> <p>An occupier of premises with an assessment factor greater than 10 must undertake a self assessment to ensure compliance with the regulations, identification of hazards, steps are in place to prevent accidents, sufficient information is provided to workers and appropriate signage is in place (reg 200).</p> <p>Sets out requirements for placarding of premises and safety signs. For example:</p> <ul style="list-style-type: none"> • An occupier of a workplace must display outer warning notices (HAZCHEM notices) if the quantity of dangerous goods exceeds the limits set out in a schedule to the regulation (reg 300). • Instructions on appropriate action to be taken in the event of a spillage, leakage or fire, must be displayed at locations where dangerous goods are stored (other than in minor quantities) (reg 304). <p>If assessment factor is greater than 10, the occupier must have a written emergency plan (reg 306) and must keep a manifest of all dangerous goods kept on the premises (regs 308 and 309).</p> <p>A licensee is exempt from s 27(1) of the <i>Dangerous Goods Act 1985</i> (reg 310).</p> <p>The regulations set out general requirements that an occupier of premises must comply with for the storage of dangerous goods, which seek to ensure that:</p>	<p>with an aggregate capacity of less than 250 L.</p>	

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	<ul style="list-style-type: none"> • All spills are contained. • Laboratories are constructed in accordance with Australian Standards. • Package storage areas are set well clear of neighbouring properties and residential buildings, and contain indoor-fire proof cabinets or rooms (Division 3). • Ignition sources are eliminated, through restrictions on smoking, static electricity and storage temperatures (Division 5 and reg 436). • The premises are secure by installing fences, locks and providing continuous supervision (reg 424). • Packaging and labelling requirements are met. • Safe work and maintenance practices are established, such as providing personal protective equipment which is suitable for use with the dangerous goods (reg 428). <p>The regulations also set out specific requirements depending on the class of the goods which general include:</p> <ul style="list-style-type: none"> • Restrictions on storing certain dangerous goods together. • Segregation of storage goods with free space, fire-rated walls and separate rooms. • Restrictions on the location of mixed storages in relation to public areas. • Various requirements relating to fire protection, prevention and spillage protection. <p>Reporting accidents</p> <p>In relation to s 32 of the <i>Dangerous Goods Act 1985</i> (reporting accidents), the regulations provide that (reg 316):</p> <ul style="list-style-type: none"> • An occupier of premises with an assessment factor of between 10 and 100 is a prescribed person under the Act. • S 32 does not apply to dangerous goods Class 2.2 (non-flammable, non-toxic 		

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	<p>gases compressed or liquefied), except those listed in schedule 6 (such as carbon dioxide and nitrous oxide mixtures).</p> <ul style="list-style-type: none"> S 32 also does not apply to a leakage or spillage of less than 200 kg of dangerous goods from packages (not including Class 2.3 goods or packaging group I) which is confined within the premises and does not cause injury to any person or damage to property. 		

2 Related Occupational Health and Safety Regulatory Regime

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<p>Health Act 1958 (reprint No 4 current at 1982)</p>	<p>Treatment and disposal of waste</p> <p>A person shall not:</p> <ul style="list-style-type: none"> establish or materially extend any trade business or undertaking which is likely to produce any liquid or solid waste which may enter or flow or pass or seep into any stream or source water supply; alter any system of disposal of liquid or solid waste produced in the course of any trade business or undertaking to cause waste to seep into any stream or source of water supply <p>unless provision to purify the waters is in place and is approved by the Commission (s 82).</p> <p>A person shall not use waste water for any purpose unless the Commission has granted a permit authorising that use (s 84(3)).</p> <p>No person shall establish or extend an offensive trade without approval of the planning appeal board (s 95).</p>	<p>“Waste water” means water which, having been used on any premises, is drained or discharged from those premises.</p> <p>“Offensive trade” includes any trade whatsoever causing effluvia or offensive fumes or vapours or gases, or discharging dust or foul liquid or blood or other impurity.</p>	1958- still in force
<p><i>Lead Workers (Medical Examination) Regulations</i></p>	<p>OHS</p> <p>Employers must require employees to undergo regular health checks.</p>	<p>Occupations listed in the First Schedule, which includes:</p> <ul style="list-style-type: none"> Smelting of 	1953 - 1973

Legislation	Summary and examples of main obligations	Applies to	Period of application and key amendments
1953 (as passed)		<ul style="list-style-type: none"> • materials containing lead • Spraying of molten lead • Handling lead 	
<p><i>Lead Workers (Medical Examination) Regulations 1973</i> (as passed)</p> <p>Made under the <i>Health Act 1958</i></p> <p>Revokes <i>Lead Workers (Medical Examination) Regulations 1953</i></p>	<p>OHS</p> <p>Employers must require employees (and employees must comply with requirement) to undertake regular medical examinations (reg 4).</p> <p>The regulations also specify the form (reg 6) and procedure of examinations (regs 7-8) and the procedures that apply where an employee refuses to submit to the examination (reg 9-10).</p>	<p>Applies to specified occupations in which there is a high risk of lead poisoning. These include:</p> <ul style="list-style-type: none"> • Manufacture, production, handling or packing of dry compounds of lead • Spraying with molten lead or alloy containing more than five per cent by weight of lead • Spray painting with paint containing lead. 	1973 - 1988
<p><i>Occupational Health and Safety (Lead Control) Regulations 1988</i> (as passed)</p> <p>Revokes <i>Lead Workers</i></p>	<p>OHS</p> <p>Purpose of the regulations is to require an employer to control lead exposure in workplaces.</p> <p>A person under 16 years must not be permitted in a lead process area.</p> <p>General requirement to reduce as far as practicable the exposure of employees to lead (reg 7(1)) and provides specific examples such as (reg 7(3) and (4)):</p> <ul style="list-style-type: none"> • limiting the level of lead in the air to less than or equal to 0.15mg per metre cubed as a time weighted average concentration for a normal 8-hour work day; or 	<p>“Lead process” includes any work which exposes a person to dust or fumes of lead arising from the manufacture or handling of dry lead compounds.</p>	1988 - 2000

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<i>(Medical Examinations) Regulations 1973</i>	<ul style="list-style-type: none"> providing respiratory protective equipment. <p>Employers must also:</p> <ul style="list-style-type: none"> Supply protective clothing and equipment (reg 9). Assess employees lead exposure, record and keep results for 20 years (reg 11). Require employees to undertake medical examinations every 1, 2 or 5 years depending on the length of their employment in the industry (reg 18). Undertake biological monitoring if an employee is exposed for an extended period (reg 16). <p>Prospective employees must provide applicants with information about the health risks and toxic effects of lead exposure.</p>		
<i>Harmful Gases, Vapors, Fumes, Mists, Smokes and Dusts Regulations 1945 (as passed)</i> Made under the <i>Health Act 1941</i>	<p>OHS and handling of certain substances</p> <p>An occupier of, and employer on, premises on which Column One substances are manufactured, processed or used must ensure the presence of those substances in the air does not exceed the concentrations set out in the Regulations (reg 4(1)).</p> <p>A suction exhaust apparatus, or another suitable system of ventilation approved by the Minister, must be installed if necessary to ensure reg 4(1) is complied with (reg 4(2)). In the alternative, and if approved by the Minister, employees may be required to wear respirator distant breathing apparatus, or positive pressure air masks (reg 4(3)).</p>	Applies to certain substances including: <ul style="list-style-type: none"> Ammonia; Carbon Monoxide; Chromic Acid; Gasoline (Petrol); and Lead 	1945 - 1984
<i>Health (Harmful Gases, Vapors, Fumes, Mists, Smokes and Dusts) Regulations</i>	<p>OHS</p> <p>An occupier of any premises in which the specified substances are produced, manufactured or used, and an employer on the premises:</p> <ul style="list-style-type: none"> shall not allow concentrations to exceed the limits set out in the schedule to the regulations (reg 4(1)); and must install exhaust apparatus to reduce the concentration, or some other 	Substances set out in the schedule	1984 - 1989

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1984 (as passed)	suitable ventilation or breathing apparatus (as approved by the minister) (reg 4(2)).		
Industrial Safety, Health and Welfare Act 1981 (as passed)	<p>OHS</p> <p>The occupier of a workplace must ensure, so far as is reasonably practicable, the safety, health and welfare of persons employed or engaged in or on that workplace (s 11(1)). This includes a requirement to ensure the safety and absence of risks to health in connexion with the use, handling, storage and transport of articles and substances (s 11(2)(b)).</p> <p>Any person who manufactures, imports or supplies any substance for use in the workplace must ensure, so far as is reasonably practicable, that the substance is safe and without risks to health when properly used, and that person must also carry out such testing to ensure safety (s 13(3)).</p> <p>If an accident occurs which causes loss of life or bodily injury (preventing the injured person from attending work) in the workplace or on any other land, the occupier of the workplace must provide written notice to the inspector (s 20).</p> <p>Regulations may be made under this Act with respect to prohibiting or regulating the handling, use or storage of any dangerous, flammable, toxic or harmful substances (s 33(1)(d)).</p>	<p>Applies to “Workplaces” which are defined as any building structure site or place where work is or is normally performed by any person for his or his employer’s monetary compensation, gain or reward.</p> <p>Most of the obligations are placed on the “occupier” of a workplace, which means the person who has the management or control of the workplace.</p>	1981 - 1985
<p>Occupational Health and Safety Act 1985 (as passed)</p> <p>Repeals <i>Industrial Safety, Health and Welfare Act 1981</i></p>	<p>OHS</p> <p>An employer shall provide and maintain so far as is practicable for employees a working environment that is safe and without risks to health (s 21(1)). Specific requirements include:</p> <ul style="list-style-type: none"> To make arrangements for ensuring so far as is practicable safety and absence of risks to health in connexion with the use, handling, storage and transport of plant and substances (s 21(2)(b)). <p>An employer must also so far as is practicable monitor the health of employees, keep information and records relating to the health of employees, employ persons to provide advice to the employer in relation to the health and safety of employees, monitor conditions at any workplace under their care and control and provide information to the</p>	<p>“Workplace” means any place, whether or not in a building or structure, where employees or self-employed persons work.</p> <p>“Occupier” means a person who has the management or control of the workplace.</p> <p>“Employer” means a person who employees one or more other persons</p>	1985 - 2004

Legislation	Summary and examples of main obligations	Applies to	Period of application and key amendments
	<p>employees with respect to health and safety (s 21(4)).</p> <p>Every employer (and self-employed person) must also ensure so far as is practicable that persons (other than the employees of the employer or self-employed person) are not exposed to risks to their health or safety arising from the conduct of the undertaking of the employer or self-employed person (s 22).</p> <p>An occupier of a workplace must take such measures as are practicable to ensure that the workplace and the means of access to the workplace are safe and without risks to health (s 23).</p> <p>Persons who design, manufacturer, import or supply any plant (machinery, equipment etc) for use at a workplace must also ensure the plant is designed to be safe and without risks to health, and must take such action as is necessary to make available information about the use and testing of the plant (s 24).</p> <p>Employees must, to the extent that they are capable, take care of their own health and safety and that of other persons who may be affected by the employee's acts or omissions (s 25).</p> <p>If an issue concerning health and safety arises at a workplace, the employer must meet with a health and safety representative for the relevant work group to resolve the issue, and may cease the work if there is an immediate threat to health and safety of any person (s 26).</p> <p>Regulations may be made to regulate or prohibit the manufacture, supply, storage, transport or use of any substance (schedule 1).</p>	<p>under contracts of employment or apprenticeship.</p>	
<p><i>Occupational Health and Safety (Hazardous Substances) Regulations 1999</i> (Version 1 as at 1 June 2000)</p>	<p>The objective of the Regulations is to protect employees against health risks associated with the use of hazardous substances (reg 100).</p> <p>Use of hazardous substances</p> <p>Employers must ensure that hazardous substances are not used in the workplace for certain purposes.</p> <p>Certain requirements must be satisfied before a hazardous substance can be supplied to an employer. The employer must ensure that:</p>	<p>“Hazardous substance” is defined as substances listed in the <i>List of Designated Hazardous Substances</i> or those substances which meet the <i>Approved Criteria for Classifying Hazardous Substances</i></p>	<p>1999 - 2007</p> <p>Revoked on 1 July 2007 by regulation 1.1.4(1) (Schedule 1) of the <i>Occupational Health and Safety Regulations 2007</i></p>

Legislation	Summary and examples of main obligations	Applies to	Period of application and key amendments
<p>Made under s59 <i>Occupational Health and Safety Act 1985</i></p>	<ul style="list-style-type: none"> • A current Material Safety Data Sheet (MSDS) has been prepared by the manufacturer or importer and is accessible to any employee who may be exposed to the hazardous substance (reg 302). • Containers holding the hazardous substance are labelled with the manufacturer's or importer's label, subject to certain exceptions. For example: <ul style="list-style-type: none"> • Where the hazardous substance is contained in a plant that forms part of the manufacturing process – piping (reg 304). <p>Employers must ensure that a register of hazardous substances supplied to the workplace is maintained and made accessible to all employees exposed to the substance (reg 307).</p> <p>Identification of hazardous substances by the employer</p> <p>Employers must make sure that employees are made aware that hazardous substances are contained in any plant that forms part of the manufacturing process, for example, substances contained in piping or process vessels (reg 306).</p> <p>Risk assessment</p> <p>Employers must ensure that a risk assessment is undertaken with respect to the use of a hazardous substance in the workplace. Where the substance was in use at the work place before 1 June 2000, the risk assessment must have been undertaken prior to 1 September 2000 (reg 308). The employer must record the results of the risk assessment and retain the record whilst the substance is used in the workplace (reg 310).</p> <p>Where necessary, employers must ensure that the risk assessment is reviewed and revised where work processes change or the risk assessment no longer reflects the risk associated with the use of the substance (reg 311).</p> <p>Risk control</p> <p>Employers must ensure that risks associated with the use of hazardous substances are:</p> <ul style="list-style-type: none"> • Eliminated • Reduced so far as practicable • Controlled by (reg 313): 	<p>“Schedule 1 substances” include:</p> <ul style="list-style-type: none"> • 2-Acetylaminofluorene [53-96-3] • Aflatoxins • 4-Aminodiphenyl [92-67-1] • Benzidine [92-87-5] • bis(Chloromethyl) ether [542-88-1] • Chloromethyl methyl ether [107-30-2] • 4-Dimethylaminoazobenzene [60-11-7] • 2-Naphthylamine [91-59-8] and its salts • 4-Nitrodiphenyl [92-93-3] <p>“Schedule 1 carcinogenic substances” are defined as including the substances listed above in pure form or in a mixture containing 0.1% of the substance (reg</p>	

Legislation	Summary and examples of main obligations	Applies to	Period of application and key amendments
	<ul style="list-style-type: none"> • Substituting the hazardous substance with an alternative substance that is less hazardous • Isolating employees from the substance • Using engineering controls • Administrative controls – if the points listed above are insufficient to control the risk associated with the use of the substance • Providing personal protective equipment - if the points listed above are insufficient to control the risk associated with the use of the substance <p>Exposure to hazardous substances</p> <p>The employer must ensure that employees are not exposed to an atmospheric concentration of hazardous substances above the exposure standard for that substance or its ingredients (reg 315).</p> <p>Atmospheric monitoring must be undertaken if the exposure levels or health risks are uncertain (reg 316), unless health surveillance is required (reg 316, 318); that is, monitoring the health of an individual exposed to a hazardous substance for the purpose of identifying changes in their health status (reg 103).</p> <p>The results of atmospheric monitoring must be provided to employees who have the potential to be exposed to the monitored substance as soon as reasonably possible (reg 316). Record must be maintained for a maximum of 30 years or as determined by the Authority (reg 317).</p> <p>OHS</p> <p>Employers have a duty to provide health surveillance to employees exposed to hazardous substances, excluding asbestos (see Schedule 3 <i>National Model Regulations for the Control of Workplace Hazardous Substances</i>), and those substances which are likely to adversely affect the employee's health (reg 318).</p> <p>Schedule 3 of the <i>National Model Regulations for the Control of Workplace Hazardous Substances</i> includes:</p> <ul style="list-style-type: none"> • Crystalline silica 	<p>400).</p> <p>“Schedule 2 carcinogenic substances” include benzene and those substances listed in Schedule 2 of the <i>National Model of Regulations for the Control of Scheduled Carcinogenic Substances</i>, whether in pure form or in a mixture containing 0.1% of the substance (reg 400). These include:</p> <ul style="list-style-type: none"> • Acrylonitrile [107-13-1] • 3,3'-Dichlorobenzidine [91-94-1] and its salts • Diethyl sulfate [64-67-5] • Dimethyl sulfate [77-78-1] • Ethylene dibromide [106-93-4] - when used as a fumigant • 4,4'-Methylene bis(2-chloroaniline) [101-14-4] 2-Propiolactone [57-57-8] 	

Legislation	Summary and examples of main obligations	Applies to	Period of application and key amendments
	<ul style="list-style-type: none"> • Vinyl chloride • Isocyanate <p>Employers must ensure that (reg 318):</p> <ul style="list-style-type: none"> • Health surveillance is performed under the supervision of a medical practitioner; and • A medical report is prepared and provided to the employee (reg 318): <ul style="list-style-type: none"> • Identifying adverse health effects that may be attributed to the hazardous substance; and • Providing recommendations to ensure the employee is not exposed to the substance for some time; and • Including an interpretation of results. <p>Training to be provided to employees</p> <p>Employers must ensure that information, instruction and training is provided to employees using or likely to be exposed to hazardous substances (reg 321). This will include:</p> <ul style="list-style-type: none"> • Nature of the hazards • Risk associated with the use of the substance • Measures to control the risk such that employees can work in a safe environment <p>Special requirements which apply to carcinogenic substances</p> <p>Carcinogenic substances are listed in the <i>National Model of Regulations for the Control of Scheduled Carcinogenic Substances</i>.</p> <p>Schedule 1 and Schedule 2 carcinogenic substances can only be used in the workplace in a laboratory and under a licence (reg 403).</p> <p>Supply of scheduled carcinogenic substances (Schedule 1 and Schedule 2)</p> <p>The supply of scheduled carcinogenic substances to an employer must be recorded by the supplier (reg 401).</p>	<ul style="list-style-type: none"> • Toluidine [95-53-4] and • Toluidine hydrochloride [636-21-5] • Vinyl chloride monomer [75-01-4] 	

Legislation	Summary and examples of main obligations	Applies to	Period of application and key amendments
	<p>Records</p> <p>The employer must maintain records of every employee who works with a scheduled carcinogenic substance (reg 419). These records should detail the employees personal details, the name of the carcinogenic substance and the period of time the employee worked with that substance (reg 419). Records should be kept for 30 years from the date the employee worked with the substance.</p>		

3 Environmental Protection Regulatory Regime

Legislation	Summary and examples of main obligations	Applies to	Period of application and key amendments
<p>Environment Protection Act 1970 (as passed)</p>	<p>Pollution</p> <p>Certain discharges must be in accordance with declared State environment protection policy:</p> <ul style="list-style-type: none"> • discharge or deposit of wastes into water (s 37); • discharge or emission of wastes into the atmosphere (s 40); • discharge of wastes into or deposit of wastes in the soil (s 44). <p>A person commits an offence if they pollute any waters (s 39(1)), the atmosphere (s 41(1)) or the soil (s 45(1)) so that the physical, chemical, or biological condition of the waters/atmosphere/soil is so changed as to make or be reasonably expected to make those waters/atmosphere/soil or any part of those waters/atmosphere/soil:</p> <ul style="list-style-type: none"> • unclean, noxious, poisonous or impure; • detrimental to the health, welfare, safety, or property of human beings; • poisonous or harmful to animals, birds, wildlife, fish or other aquatic life, or to plants; or • detrimental to any beneficial use made of those 	<p>“Waste” includes any matter prescribed to be waste and any matter, whether liquid, solid, gaseous, or radio-active, which is discharged, emitted, or deposited in the environment in such volume, constituency or manner as to cause an alteration of the environment.</p>	<p>1970 – still in force</p> <p><i>Environmental Protection (Review) Act 1984</i> inserted:</p> <ul style="list-style-type: none"> • s 53A: the owner of a commercial goods vehicle must not transport waste for fee or reward unless they hold a permit to do so (for the purposes of this section waste means any non-hazardous refuse whether solid or liquid which is of

Legislation	Summary and examples of main obligations	Applies to	Period of application and key amendments
	<p>waters/atmosphere/soil.</p> <p>Also sets out specific examples of where a person commits an offence by polluting the atmosphere, the waters or soil. Some examples include (ss 39(2), 41(2) and 45(2)):</p> <ul style="list-style-type: none"> • using or burning any fuel which is prohibited by the regulations; • burning rubbish otherwise than at times or in the manner or place prescribed; and • causing the temperature of receiving waters to be raised or lowered by more than the prescribed limits. 		<p>a type of class prescribed as waste).</p>
<p>Environment Protection Act 1970</p> <p>(as at 1985) after being amended by the <i>Environmental Protection (Industrial Waste) Act 1985</i> (and other acts)</p>	<p>Pollution</p> <p>Certain discharges must be in accordance with declared State environment protection policy:</p> <ul style="list-style-type: none"> • discharge or deposit of wastes into water (s 37); • discharge or emission of wastes into the atmosphere (s 40); or • discharge of wastes into or deposit of wastes in the soil (s 44). <p>A person commits an offence if they pollute any waters (s 39(1)), the atmosphere (s 41(1)) or the land (s 45(1)) so that the physical, chemical, or biological condition of the waters/atmosphere/soil is so changed as to make or be reasonably expected to make those waters/atmosphere/soil:</p> <ul style="list-style-type: none"> • noxious or poisonous; • harmful or potentially harmful to the health, welfare, safety, or property of human beings; • harmful or potentially harmful to animals, birds, wildlife, fish or other aquatic life; • poisonous, harmful or potentially harmful to plants or other vegetation; or • detrimental to any beneficial use made of those waters/atmosphere/soil. 	<p>“Waste” includes</p> <p>(a) any matter whether solid liquid or gaseous or radioactive which is discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an alteration in the environment;</p> <p>(b) any discarded, rejected, unwanted, surplus or abandoned matter;</p> <p>(c) any otherwise discarded, rejected, abandoned, unwanted or surplus matter intended for recycling, reprocessing, recovery or purification by a separate operation from that which produced the matter; and</p> <p>(d) any matter prescribed to be</p>	<p>1970 – still in force</p>

Legislation	Summary and examples of main obligations	Applies to	Period of application and key amendments
	<p>A person also commits an offence with respect to land if they do anything to make the land obnoxious or unduly offensive to the senses of human beings (s 45(1)(e)).</p> <p>Transport of waste</p> <p>A licence must be held by any person conducting a business the operation of which includes the transport of prescribed waste on a highway (s 53A).</p> <p>Industrial Waste Management Policies (IWMPs).</p> <p>The Governor in Council may declare industrial waste management policy to be observed with respect to (s 16(1A):</p> <ul style="list-style-type: none"> • The generation, storage, treatment, transport and disposal and generally the handling of industrial waste; • The procedure to be implemented in the recycling, recovery reclamation and re-use of industrial waste and the use of recycled substances; • The methods by which specified substances are to be disposed of; • the routes and methods by which industrial waste is to be transported; • the location of treatment and disposal plants; • the allocation of responsibility for industrial waste; • management operations and disposal; and • the use and disposal of notifiable chemicals. <p>It is an offence to fail to comply with an industrial waste management policy (s 17(2)).</p> <p>Any person who stores, transport, reprocesses, treats, disposes of other otherwise handles industrial waste in such a manner as to (s 27A(1)):</p> <ul style="list-style-type: none"> • contravene any rules or requirements specified in an industrial waste management policy, 	<p>waste.</p> <p>“Industrial waste” means (a) any waste arising from commercial, industrial or trade activities or from laboratories; or (b) any waste containing substances or materials which are potentially harmful to human beings or equipment.</p> <p>“Notifiable chemical” means a chemical (a) for which the authority has certified that there is not available arid accessible in Victoria a satisfactory facility for the destruction or disposal of the chemical and (d) which is prescribed to be a notifiable chemical.</p>	

Legislation	Summary and examples of main obligations	Applies to	Period of application and key amendments
	<ul style="list-style-type: none"> • contravene any regulations relating to industrial waste or • cause an environmental hazard <p>commits an offence.</p> <p>Any person who dumps or abandons industrial waste at a place not licensed to accept industrial waste under the Act, or at a place which is licensed to accept industrial waste but without the knowledge or consent of the licence holder commits an offence (s 27A(2)).</p> <p>Notifiable chemicals</p> <p>An occupier of premises must not use those premises to process, store or conduct any operation involving the use of more than the prescribed quantity of notifiable chemicals, unless the occupier notifies the Authority, complies with any applicable industrial waste management policy and notifies the Authority as to how the waste will be disposed (s 30C).</p>		
<p><i>Environment Protection (Prescribed Waste) Regulations 1987</i> (as passed)</p>	<p>Prescribes certain waste to be industrial waste for the purposes of the <i>Environmental Protection Act 1970</i> including:</p> <ul style="list-style-type: none"> • Paint sludge and residues • Detergents • Adhesives • “waste other than those already specified which pose an environmental hazard”. 		1987 – 1998
<p><i>Environment Protection (Transport) Regulations 1987</i> (as passed)</p>	<p>Transport</p> <p>A person operating a vehicle with a load of less than 1.60 tonne is exempt from section 53A of the <i>Environmental Protection Act 1970</i> (is not taken to operate a commercial goods vehicle and therefore does not need to hold a licence to transport waste) (reg 6).</p>	<p>“Prescribed industrial waste” as prescribed for the purpose of the <i>Environment Protection Act 1970</i></p>	1987 – 1998

Legislation	Summary and examples of main obligations	Applies to	Period of application and key amendments
	<p>Regulations define a transport certificate system, used to trace and cross reference the transport of prescribed industrial waste. The transport certificate is comprised of sections A, B and C:</p> <ul style="list-style-type: none"> • Part A: This part should contain details of the origin, type, class, quantity, associated hazard, UN number, destination and description of the prescribed industrial waste (reg 14). • Part B: To be completed by the waste transporter and should acknowledge the receipt of Part A waste (reg 15). • Part C: To be completed by the occupier of the storage, disposal, treatment or premises receiving waste, contain details of the premises and disposal route (reg 16). 		
<p><i>Environment Protection (Prescribed Waste) Regulations 1998</i> (Version as at 22 July 1998) Repeals the <i>Environment Protection (Prescribed Waste) Regulations 1987</i> and the <i>Environment Protection (Transport) Regulations</i></p>	<p>Purpose of the regulations is to prescribe requirements for the management and transport of prescribed waste and prescribed industrial waste, as well as the tracking of prescribed industrial waste.</p> <p>Transport</p> <p>Prescribed industrial waste producer must take reasonable steps to ensure that prescribed industrial waste transported from the premises of that waste producer is consigned to and received by:</p> <ul style="list-style-type: none"> • An entity licenced to dispose of, treat , store or reprocess that prescribed industrial waste; • A waste recycler or reuser; or • An exempted entity under Part 3 of the Environment Protection (Scheduled Premises and Exemptions) Regulations 1996. <p>Waste containers supplied by the prescribed industrial waste producer must be suitable for transporting prescribed industrial waste and should not leak (reg 11).</p> <p>Each consignment of prescribed industrial waste should be accompanied by a transport certificate. Both the prescribed industrial waste producer , waste</p>	<p>“Prescribed industrial waste” defined as including waste that arises from an industrial, commercial or trade activity or from a laboratory and is listed in Part B Schedule 1 of the Regulations.</p> <p>“Prescribed industrial waste producer” defined as an occupier of premises from which prescribed industrial waste is disposed of on the premises or transported from the premises, other than through a sewer</p> <p>“Prescribed waste” - see Schedule 1 of the Regulations</p> <p>“waste transporter” is person who transports prescribed</p>	<p>1998 – 2009</p> <p>Revoked on 1 July 2009 by regulation 4(1) of the <i>Environment Protection (Industrial Waste Resource) Regulations 2009</i></p>

Legislation	Summary and examples of main obligations	Applies to	Period of application and key amendments
1987	<p>transporter and waste receiver must ensure that certain obligations are met in relation to (reg 13):</p> <ul style="list-style-type: none"> • The content of the transport certificate; and • Distribution of information contained in Schedule 2 <p>An accredited prescribed industrial waste producer is exempt from obligations under reg 13 and reg 14, which relates to record keeping. Part 6 specifies the requirements of an application for accreditation and the conditions governing the accreditation.</p>	industrial waste on a highway	