



Australian Government

Comcare

**Proposed amendments to the
*Occupational Health and Safety (Safety
Standards) Regulations 1991 - Part 4
Plant* for the coverage of lifts**

Consultation Paper

Comcare

Consultation period finishes 15 February 2008

Foreword

The Safety, Rehabilitation and Compensation Commission (the Commission) oversees the operation of the *Occupational Health and Safety Act 1991* (the Act). The functions of the Commission include:

- developing occupational health and safety policies and strategies and ensuring compliance with the Act; and
- overseeing legislative policy and advising the Minister for Employment and Workplace Relations on matters relating to the Act.

Comcare is a statutory body established by the Australian Government to lead and promote efforts to prevent and reduce the incidence of occupational injury and disease as well as promote safety by producing a healthy and safe work environment.

Comcare undertakes a number of functions on behalf of the Commission. Comcare's activities include education, regulation, enforcement, research and provision of relevant policy advice to both the Commission and persons covered by the Act.

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Purpose

1. The purpose of this paper is to seek comments from stakeholders on proposed amendments to regulations under the *Occupational Health and Safety Act 1991* (the Act). These amendments to Part 4 and Schedule 6 of the *Occupational Health and Safety (Safety Standards) Regulations 1994* (the Regulations) are to recognise that the definition of plant includes lifts.

Background

2. The Act defines the basic duty of care provisions for employers and employees. This includes an employer's responsibility to take reasonably practicable steps to:
 - under section 16(1) protect the health and safety at work of the employer's employees;
 - under section 16(2)(a) provide and maintain a working environment (including plant and systems of work) that is safe, without risk to employees' health, and provides adequate facilities for their welfare at work;
 - under section 16(2)(b) ensure that workplaces under the employer's control are safe, without risk to employees' health and provide safe means of access to, and egress from, the workplace; and
 - under section 16(2)(c) ensure the safety and absence of risks at work for employees in connection with the use, handling, storage or transport of plant.
3. Plant is defined in Section 5 of the Act to *include any machinery, equipment or tool, and any component thereof*.
4. Employers also have specific obligations under Part 4 –*Plant* of the Regulations to protect the health and safety of employees, contractors and other persons at or near a workplace under an employer's control from hazards arising from plant and associated systems of work.

This includes:

- ensuring that hazards associated with the use of plant at work or at a workplace are identified and risks to health and safety are assessed and controlled;
 - eliminating or at least minimising risks to health and safety;
 - specifying requirements relating to the design, manufacture, testing, installation, commissioning, use, repair, storage and disposal of plant;
 - requiring the provision of relevant information and training; and
 - requiring that certain plant not be operated unless the employer is licensed to operate the plant and certain plant not be operated unless the design has been appropriately registered.
5. Schedule 6 of the Regulations has two parts: Part 1 lists plant requiring design registration and Part 2 lists plant requiring a licence.

Issues

6. The National Standard for Plant [NOHSC:1010(1994)] includes lifts as plant. Lifts are considered to be high risk plant in all jurisdictions except the Commonwealth.
7. Past legal advice had excluded buildings and integral parts to buildings from the definition of plant. As a result lifts, which are integral parts to buildings, have not been recognised as plant in the Commonwealth jurisdiction.
8. Comcare recently sought new legal advice following court decisions which use a broader definition of plant than the one referred to above. This updated legal advice characterised lifts as plant as long as they are used in a workplace and are necessary for an employer to carry on their business.
9. To ensure that risks associated with design, installation, use and maintenance of lifts are controlled, and for the Commonwealth to be consistent with nationally agreed priorities, it is appropriate that the Commonwealth regulations are amended.

Recommendations

10. Comcare proposes to amend the Regulations to ensure that the requirements of Part 4 *Plant* apply to lifts. Proposed amendments to the Regulations are to include:
 - lifts in Schedule 6 as plant requiring design registration and licensing.
 - the responsibilities of employers who own or have control of the lifts in Part 4, *Plant* as below:
 - An employer must ensure that -
 - (a) a clearly legible notice is affixed, in a conspicuous place, on the *plant* or any lifting gear, specifying the safe working load in appropriate metric units or maximum number of people, as may be appropriate;
 - (b) where an assessment shows a *risk* to the health or safety of a person working in a *lift* well from the person falling, objects falling on the person or movement of the *lift* car, adequate protection of the person is provided, including -
 - (i) a safe working platform;
 - (ii) adequate protection decking; and
 - (iii) suitable access to the *lift* well, safe working platform and protection decking; and
 - (c) a *lift* is installed, inspected and tested in accordance with *AS 1735 Lifts, escalators and moving walks* and having regard to the instructions of the *designer* and *manufacturer*.

Invitation for Comments

11. Comcare is committed to improving the health and safety of employees in the Commonwealth jurisdiction and engaging our customers and stakeholders in the process of achieving that improvement.
12. Employers, employees and other stakeholders in the Commonwealth jurisdiction are encouraged to participate in this consultation process and to provide comments (see Attachment A). Comments should be submitted to Comcare by close of business 15 February 2008.

Attachment A - Comment Form

Thank you for taking the time to review this consultation paper on proposed amendments to the *Occupational Health and Safety (Safety Standards) Regulations 1991* for the coverage of lifts under Part 4 - *Plant*.

This form is designed to be either printed and mailed or faxed. Alternatively it can be filled out and sent electronically to the email address listed below.

Please ensure your response is submitted to Comcare by C.O.B on the 15 February 2008 via:

Mail to: Astrid Jeffress
OHS Policy
Research and Policy Branch
Comcare
GPO Box 9905
Canberra ACT 2601

Email to: OHS.Policy@comcare.gov.au

Fax to: (02) 6274 8877

Your contact details

Name:	
Organisation:	
Position held:	
Address:	
Phone no:	
Email address:	

Your comments

Comcare is particularly interested in your comments on the following aspects of the discussion paper.

Question 1.

Do you agree with Comcare’s proposal to amend the regulations to cover lifts under Part 4 - <i>Plant</i> ?
Please mark your answer with an X
Yes (<input type="checkbox"/>) No (<input type="checkbox"/>)
If “No” please explain:

Question 2.

Do you agree with the recommendations of the consultation paper?
Please mark your answer with an X
(<input type="checkbox"/>) Yes (<input type="checkbox"/>) Yes, with minor changes (<input type="checkbox"/>) Yes, with significant changes (<input type="checkbox"/>) No
Comments:

Please use this space if you have further comments on any aspect of this discussion paper.