

1990 - No. 426

**OCCUPATIONAL HEALTH AND SAFETY ACT 1983 -  
REGULATION**

(Occupational Health and Safety (Confined Spaces)  
Regulation 1990)

NEW SOUTH WALES



*[Published in Gazette No. 82 of 29 June 1990]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Occupational Health and Safety Act 1983, has been pleased to make the Regulation set forth hereunder.

JOHN FAHEY  
Minister for Industrial Relations and Employment.

---

**Citation**

1. This Regulation may be cited as the Occupational Health and Safety (Confined Spaces) Regulation 1990.

**Commencement**

2. This Regulation commences on 1 August 1990.

**Definitions**

3. (1) In this Regulation:

"**confined space**" , in relation to a place of work, means a space of any volume which a person may at any time enter or be allowed to enter and in which:

- (a) the atmosphere is liable to be contaminated at any time by dust, fumes, mist, vapour, gas or other harmful substances;
- or

- (b) the atmosphere is liable at any time to be oxygen deficient, and includes, but is not limited to, the following:
- (c) storage tanks, tank cars, process vessels, boilers, pressure vessels, silos and other tank-like compartments usually having only a manhole for entry;
- (d) open-topped spaces of more than 1.5 metres in depth, such as pits or degreasers which are not subject to good natural ventilation;
- (e) pipes, sewers, tunnels, shafts, ducts and similar structures;
- (f) any shipboard spaces entered through a small hatchway or manhole, cargo tanks, cellular double bottom tanks, duct keels, cofferdams, ballast and oil tanks and void places (but not cargo holds);

"**the Act**" means the Occupational Health and Safety Act 1983.

(2) In this Regulation, a reference to AS 2865-1986 is a reference to the publication of that number of the Standards Association of Australia entitled Safe Working in a Confined Space (as in force on the day on which this Regulation takes effect).

(3) For the purposes of this Regulation, a reference in AS 2865-1986 to a confined space is to be read as a reference to a confined space as defined in subclause (1).

### **Application**

4. This Regulation applies to all places of work other than mines within the meaning of the Coal Mines Regulation Act 1982 or the Mines Inspection Act 1901.

### **Non-compliance with standard for safe working in a confined space**

5. For the purposes of Part 3 of the Act (the provisions of which are adapted accordingly), a confined space at a place of work is unsafe and a risk to health if the requirements and procedures set out in AS 2865-1986 are not complied with.

### **Exemptions**

6. (1) The WorkCover Authority may, by certificate in writing, exempt a place of work or classes of places of work, either absolutely or subject to conditions, from any provision of AS 2865-1986.

(2) Any application made by a person for an exemption under this clause is to be in writing.

---

**NOTE**

**TABLE OF PROVISIONS**

1. Citation
2. Commencement
3. Definitions
4. Application
5. Non-compliance with standard for safe working in a confined space
6. Exemptions

---

**EXPLANATORY NOTE**

The object of this Regulation is to make provision under the Occupational Health and Safety Act 1983 for safe working in confined spaces at all places of work (other than mines). As part of an employer's general duty to ensure the health, safety and welfare of his or her employees at work, the employer will be required to comply with the requirements and procedures set out in the Australian Standard dealing with safe working in a confined space. Under the Act, if the employer fails to provide or maintain a place of work that is safe and without risk to health the employer is guilty of an offence.

---