



New South Wales

Occupational Health and Safety (Clothing Factory Registration) Regulation 2001

under the

Occupational Health and Safety Act 2000

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Occupational Health and Safety Act 2000*.

JOHN DELLA BOSCA, M.P.,

Special Minister of State

Explanatory note

Previously, section 11 of the *Shops and Industries Act 1962* (formerly the *Factories, Shops and Industries Act 1962*) required the occupier of a factory to ensure that the factory was registered under that Act. That section was repealed by the *Occupational Health and Safety Amendment Act 1997*.

The object of this Regulation is to re-introduce a registration requirement in respect of premises used in connection with certain aspects of the clothing industry. The Regulation will require an occupier of a clothing factory (which includes premises used in connection with the making of footwear, buttons and hats) who is an employer and is a respondent to, or subject to, a relevant clothing industry award to ensure that the premises are registered as a clothing factory for the purpose of facilitating inspection and enforcement of occupational health and safety requirements. Relevant clothing industry awards are defined to include certain clothing and footwear industry awards made under the *Workplace Relations Act 1996* of the Commonwealth and the *Industrial Relations Act 1996*.

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Explanatory note

Under the Regulation, if an application for registration is duly made to WorkCover, WorkCover is required to register the premises as a clothing factory and to issue a certificate of registration. The certificate of registration ceases to be in force if the premises cease to be used as a clothing factory or the occupancy details change.

The Regulation includes provisions of a saving or transitional nature. Under those provisions, any premises that were registered under the repealed provisions of the *Shops and Industries Act 1962*, and that are required to be registered under the new requirements, are to be treated as having been registered under the new requirements.

This Regulation is made under the *Occupational Health and Safety Act 2000*, including section 33 (the general regulation-making power) and section 35.

The Regulation comprises or relates to matters of a machinery nature, matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public, and matters of a savings or transitional nature.

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Part 1 Preliminary

Occupational Health and Safety (Clothing Factory Registration) Regulation 2001

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Occupational Health and Safety (Clothing Factory Registration) Regulation 2001*.

2 Commencement

This Regulation commences on 1 January 2002.

3 Definitions

In this Regulation:

approved form means a form approved for the time being by WorkCover for the purposes of the provision in which the expression is used.

certificate of registration means a certificate of registration of a clothing factory issued by WorkCover under this Regulation, and includes a replacement certificate of registration issued under this Regulation.

clothing factory means any building or place in which:

- (a) four or more persons are engaged directly or indirectly in any handicraft or process in or incidental to the making, altering, preparing, ornamenting or finishing of any clothing, fabrics, footwear, hats, buttons or related products for trade, sale or gain, or
- (b) mechanical power is used in aid of any handicraft or process in or incidental to the making, altering, preparing, ornamenting or finishing of any clothing, fabrics, footwear, hats, buttons or related products for trade, sale or gain.

clothing industry award means:

- (a) any of the following awards made under the *Workplace Relations Act 1996* of the Commonwealth:
 - (i) the *Clothing Trades Award 1999*,
 - (ii) the *Felt Hatting Industry Award 1999*,
 - (iii) the *Footwear Industries Award 2000*,
 - (iv) the *Textile Industry Award 2000*, or
- (b) any of the following awards made under the *Industrial Relations Act 1996*:
 - (i) the *Buttonmakers & c. (State) Consolidated Award (Award Code: 077)*,
 - (ii) the *Clothing Trades (State) Consolidated Award (Award Code: 139)*,
 - (iii) the *Footwear Manufacturing Industry (State) Consolidated Award (Award Code: 168)*,
 - (iv) the *Textile Industry (State) Consolidated Award (Award Code: 212)*.

occupier, in relation to a clothing factory, has the same meaning as occupier, in relation to a shop, has in the *Shops and Industries Act 1962*.

mechanical power means power generated by water, steam, gas, oil electricity, or any power other than manual power.

registered clothing factory means premises in respect of which a certificate of registration is for the time being in force.

the Act means the *Occupational Health and Safety Act 2000*.

4 Notes

Notes included in this Regulation do not form part of this Regulation.

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Part 2 Registration

Part 2 Registration

5 Clothing factories to be registered

An occupier of a clothing factory who is an employer and is a respondent to, or subject to, a clothing industry award, is guilty of an offence unless the clothing factory is a registered clothing factory.

Maximum penalty: 20 penalty units.

6 Registration of clothing factories

- (1) An application for the registration of premises as a clothing factory is to be made to WorkCover in an approved form.
- (2) WorkCover must, if the application is duly made, register the premises as a clothing factory and issue to the applicant a certificate of registration for the premises.

7 Duration of certificate of registration

A certificate of registration takes effect from the date of issue of the certificate, and remains in force until it ceases to have effect under this Regulation.

8 Change in use of clothing factory or in occupier details

- (1) A certificate of registration ceases to have effect if:
 - (a) the premises in respect of which the certificate was issued cease to be used as a clothing factory, or
 - (b) a person other than a person named in the certificate of registration as the occupier of the clothing factory to which the certificate applies becomes the occupier of the clothing factory, or
 - (c) the person named in the certificate of registration as the occupier of the clothing factory to which the certificate applies changes his or her name.

- (2) A person named in a certificate of registration as the occupier of the clothing factory to which the certificate applies must notify WorkCover in writing if the certificate ceases to have effect under this clause, within 14 days after it ceases to have effect.

Maximum penalty: 20 penalty units.

Note. A new certificate of registration may be applied for in respect of the factory under clause 6.

9 Replacement certificate

- (1) WorkCover may at any time issue to the occupier of premises that are registered as a clothing factory a replacement certificate of registration for those premises.
- (2) A certificate of registration for any premises ceases to be in force if WorkCover issues a replacement certificate of registration for those premises.
- (3) An application for a replacement certificate of registration is to be made to WorkCover in an approved form.

10 Certificate of registration to be displayed

The occupier of a registered clothing factory must cause a copy of a certificate of registration that is in force in respect of the clothing factory to be displayed at the clothing factory in a conspicuous position at or near the principal entrance to the clothing factory.

Maximum penalty: 2 penalty units.

11 Manner of giving applications and notices

An application or notice under this Regulation is to be given to WorkCover by leaving it at, or sending it by post to, an office of WorkCover.

12 Public register

- (1) WorkCover is to keep a public register in accordance with this clause.
- (2) WorkCover is to record in the register details of each certificate of registration issued under this Regulation, including such of the following details as WorkCover considers appropriate:
- (a) the registered business name or trading name (if any) of the occupier of the clothing factory,

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- (b) the address of the clothing factory,
 - (c) a description of the type of building or place in which the clothing factory is located (such as whether the factory forms part of an industrial estate or complex),
 - (d) the type of work being carried out in the clothing factory,
 - (e) the number of employees working in the clothing factory.
- (3) However, WorkCover is not to record in the register any information that would disclose:
- (a) the name of an individual, or
 - (b) any manufacturing or commercial secrets or working processes.
- (4) The register may be kept in any form determined by WorkCover.
- (5) The register is to be available for public inspection, free of charge, at the principal office of WorkCover during ordinary office hours.
- (6) A copy of any entry in the register may be taken on payment of such fee as may be determined by WorkCover.

Part 3 Transitional

13 Transitional

- (1) On the commencement of this Regulation, any premises that were registered under section 11 of the *Shops and Industries Act 1962* (formerly the *Factories, Shops and Industries Act 1962*) immediately before the repeal of that section, and that are premises that are required to be registered as a clothing factory under this Regulation, are taken to have been registered as a clothing factory under this Regulation.
- (2) A certificate or permit issued under section 11 of that Act in respect of the premises, that was in force immediately before the repeal of that section, is taken to be a certificate of registration issued under this Regulation. However, WorkCover may issue a replacement certificate of registration for the premises, as provided by clause 9.
- (3) A reference in a clothing industry award or other instrument to a factory registered under a law of New South Wales (however expressed) is taken (unless the context otherwise requires) to be a reference to a factory registered under this Regulation, until otherwise provided by the award or instrument.