



Information Bulletin

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Emergency Plans – when are they required?

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Purpose

The purpose of this document is to explain when emergency plans are required and to promote awareness and use of the relevant Australian Standards (AS 3745-2010 and AS 4083 2010).

Audience

This Information Bulletin is intended for:

- FPA Australia members
- Other stakeholders in the fire safety and construction industry
- Persons Conducting a Business or Undertaking (PCBUs), including owners, occupiers, managers and employers of a building, workplace or structure (facility) that may be occupied by people
- Members of Emergency Planning Committees (EPCs).

Background

A person conducting a business or undertaking at a workplace (also known as a facility) should prepare an emergency plan so that in the event of an emergency it is readily implemented to reduce or eliminate the negative impacts on building occupants and visitors.

However, despite the existence of relevant Australian Standards, whether an emergency plan is required by law and whether these Standards must be followed is not readily identified.

This Information Bulletin aims to provide this clarity.

Legislation

Overview

In most states, legislative requirements for emergency plans are part of workplace health and safety, which is managed by the states and territories under the applicable legislation in each jurisdiction.

Whilst, in Queensland, the Building Fire Safety Regulation 2008 (BFSR) is the legislated requirement which must be adhered to, with Work Health and Safety (WHS) being a secondary requirement.

Work Health and Safety requirements in each state or territory

State	Act	Regulation	Codes	Regulator
New South Wales	Work Health and Safety Act 2011 (NSW)	Work Health and Safety Regulation 2017 (NSW)	NSW codes of practice	SafeWork NSW
Victoria	Occupational Health and Safety Act 2004 (Vic)	Occupational Health and Safety Regulations 2017 (Vic)	Victoria compliance codes and codes of practice	WorkSafe Victoria
Queensland	Work Health and Safety Act 2011 (Qld)	Work Health and Safety Regulation 2011 (Qld)	Queensland codes of practice	Workplace Health and Safety Queensland
Western Australia	Work Health and Safety ACT 2020 (WA)	Work Health and Safety (General) Regulations 2022 (WA)	WA codes of practice	WorkSafe WA
South Australia	Work Health and Safety Act 2012 (SA)	Work Health and Safety Regulations 2012 (SA)	SA codes of practice	SafeWork SA
Tasmania	Work Health and Safety Act 2012 (Tas)	Work Health and Safety Regulations 2022 (Tas)	Tasmania codes of practice	WorkSafe Tasmania
Australian Capital Territory	Work Health and Safety Act 2011 (ACT)	Work Health and Safety Regulation 2011 (ACT)	ACT codes of practice	WorkSafe ACT
Northern Territory	Work Health and Safety (National Uniform Legislation) Act 2011 (NT)	Work Health and Safety (National Uniform Legislation) Regulations (NT)	NT codes of practice	NT WorkSafe
Commonwealth	Work Health and Safety Act 2011 (Cwth)	Work Health and Safety Regulations 2011 (Cwth)	Commonwealth codes of practice	Comcare

Work Health and Safety Act and Regulations (all jurisdictions except Victoria)

The model WHS Act and Regulations have been adopted in all states and territories, except for Victoria.

Regulation 43 of the model WHS Regulations requires a person conducting a business or undertaking (PCBU) at a workplace to ensure that an emergency plan is:

- prepared (and meets certain requirements)
- relevant to the workplace
- maintained
- tested
- implemented (in the event of an emergency).

Regulation 43 also prescribes the penalties to be applied to a PCBU or body corporate that fails to meet these requirements.

Further information on how to meet Regulation 43 is provided in Section 5 of the Safe Work Australia model Code of Practice (CoP) *Managing the Work Environment and Facilities*, which is an approved Code of Practice under Section 274 of the model WHS Act.

The CoP also includes reference to Australian Standard AS 3745-2010 for further information.

An approved CoP provides practical guidance on how to achieve the standards of health and safety required under the WHS Act and Regulations but is not required to be followed by law. However, an approved CoP is admissible in court proceedings and may be used by the court to determine if the measures implemented by the PCBU meet the standard of being "reasonably practicable".

Note: The term "model" in "model WHS Act and Regulations" refers to a set of uniform laws developed by Safe Work Australia in 2011 as part of the national WHS harmonisation process. These model laws serve as a template for consistent WHS legislation across Australia. To become legally binding, each state, territory, and the Commonwealth must separately implement them as their own laws. While Safe Work Australia maintains these model laws, it does not regulate or enforce them; each jurisdiction has its own WHS regulator for that purpose.

Additional requirements for Queensland

While the model WHS legislation is adopted in Queensland, there are legislated requirements for fire and evacuation plans, including diagrams, under the Building Fire Safety Regulation 2008 (BFSR), that must be adhered to in its entirety.

The BFSR includes specific requirements relating to:

- Form, content and accessibility of the plan
- Responsibilities of occupiers, managing entities and secondary occupiers
- Fire safety management procedures where they are part of an alternative solution
- Relevant building approval documents that must be kept with the plan
- How the plan must be updated and reviewed.

Additional requirements for Victoria

The applicable work health and safety legislation in Victoria is the Occupational Health and Safety Act (2004) and Regulations (2017).

Unlike the Model WHS legislation, this legislation does not include a specific requirement for all workplaces to have an emergency plan. However, specific workplaces—such as major hazard facilities and mines—are required to have an emergency plan. Additionally, other workplaces (e.g. construction) still require certain emergency procedures.

When the regulations were updated in 2017, FPA Australia recommended the adoption of a similar requirement to Regulation 43 of the Model WHS Regulation. However, the regulator at the time advised that they did not believe such a requirement was required for all workplaces, noting that any incidents could be addressed under the general provisions to provide a safe workplace.

While there is no specific requirement for an emergency plan for all workplaces, should an incident occur, the existence, implementation and appropriateness of an emergency plan would be considered in determining whether a safe workplace was being provided under the OHS legislation.

That an emergency plan is considered relevant is reflected in their compliance code Workplace amenities and work environment. This is not dissimilar to the abovementioned Model CoP, including reference to AS 3745 and AS 4083 for more information.

Australian Standards

AS 3745-2010 Planning for emergencies in facilities

Complying with relevant legislated requirements is a mandated legal responsibility. Whilst relevant and appropriate regulations and standards provide further opportunities to develop a best practices approach in the development of emergency plans for facilities.

While AS 3745 is not directly referenced by the model WHS Act or Regulations, it is cited in both the *Managing the Work Environment and Facilities Code of Practice* and the *Workplace amenities and work environment Compliance code*. The Code of Practice specifically directs PCBUs to refer to AS 3745 for further guidance on emergency plans and procedures, while the Compliance code lists it as a source of further information for employers on emergency management.

AS 3745-2010 sets out the requirements for emergency plans, including:

- The location and a description of the facility
- The procedures for responding to different types of emergencies (including natural disasters such as bushfire, cyclone, and earthquake)
- The roles and responsibilities of the Emergency Control Organisation (ECO)
- Descriptions of the emergency features (safety, fire and security) of the facility
- The arrangements for training and emergency response exercises.

AS 4083-2010 Planning for emergencies - Health care facilities

AS 4083-2010 Planning for emergencies - Health care facilities deals specifically with emergencies in health care facilities. While AS 3745 covers emergency planning for facilities in general, AS 4083 takes into consideration issues specific to health care facilities, such as:

- Continuing patient care
- Varying levels of patient disability and dependence on staff
- Frequent high patient to staff ratios.

Note: The 2010 edition of AS 4083 was published before the 2010 edition of AS 3745. A key difference between the standards is the terminology used for the Emergency Control Organization (ECO), with AS 4083 using terms specific to health care settings, particularly for patient or resident occupied areas. While AS 4083-2010 is tailored for health care facilities, it's not uncommon for AS 3745-2010 to be used instead, as it incorporates more recent improvements in emergency planning. However, relevant aspects from AS 4083-2010 may still be applied in conjunction with AS 3745-2010 to address the unique needs of health care facilities.

Performance Solutions

Some facilities may have been approved using a Performance Solution—formerly known as an Alternative Solution—to meet the Performance Requirements of the Building Code of Australia, as opposed to following the prescriptive Deemed-to-Satisfy Provisions.

Where Performance Solutions impact on emergency response, the Performance Solution (often in the fire engineering report that forms or informs it) may require an emergency plan to AS 3745 or AS 4083, as well as specifying requirements particular to the facility.

Summary and recommendations

So, is a workplace required by law to have an emergency plan?

Yes, if you are in any state or territory except Victoria, or if required by the Performance Solution for the facility.

In all states and territories except Victoria, workplaces are required by law to have an emergency plan under the model Work Health and Safety laws. In Victoria, while not explicitly required for all workplaces under OHS legislation, emergency plans are strongly recommended as best practice for workplace safety.

In regards to how these emergency plans are created, each state and territory provides guidance through relevant local regulations and documentation.

As such, FPA Australia recommends that:

- Anyone conducting a business or undertaking at a facility should ensure they have an emergency plan, whether they are explicitly required to by legislation or not
- The emergency plan should be compliant with the requirements of AS 3745-2010 and AS 4083-2010. If an emergency plan is required by legislation, then it must also meet all requirements under that legislation.

References

- Published by Standards Australia Limited:
 - Australian Standard AS 3745-2010 Planning for emergencies in facilities (including Amendment 1, 2014, and Amendment 2, 2018).
 - Australian Standard AS 4083-2010 Planning for emergencies - Health care facilities.
- Model Work Health and Safety Regulations, 2024 (amended on 1 September 2024), available at <https://www.safeworkaustralia.gov.au/doc/model-work-health-and-safety-regulations>, released by Safe Work Australia, published by the Parliamentary Counsel's Committee.
- Model WHS laws, <https://www.safeworkaustralia.gov.au/law-and-regulation/model-whs-laws>
- Managing the Work Environment and Facilities Code of Practice, May 2018, available at <https://www.safeworkaustralia.gov.au/doc/model-code-practice-managing-work-environment-and-facilities>, published by Safe Work Australia.
- Queensland Building Fire Safety Regulation 2008, <https://www.legislation.qld.gov.au/view/html/inforce/current/sl-2008-0160>.
- Workplace amenities and work environment, Compliance Code, available at <https://content.api.worksafe.vic.gov.au/sites/default/files/2020-02/ISBN-Compliance-code-workplace-amenities-work-environment-2008-09.pdf>, WorkSafe Victoria.
- Work Health and Safety - business.gov.au, webpage, available at <https://business.gov.au/risk-management/health-and-safety/work-health-and-safety>