



**Guidance Note
GNM-004**

**NSW DPI Guidance Note
Contractors (Mines - Metalliferous and Extractive)**

***Mine Health and Safety Act 2004
Mine Health and Safety Regulation 2007***

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NSW DPI Guidance Note GNM-004: Contractors

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PURPOSE

The purpose of this guidance note is to provide guidance on the implementation of the *Mine Health and Safety Act 2004* and the *Mine Health and Safety Regulation 2007* as they relate to the duties of:

- Operators with respect to contractors working at their mines; and
- Contractors and subcontractors working at mines.

SCOPE

This guidance note applies to metalliferous and extractive mines in NSW under the *Mine Health and Safety Act 2004*.

The *Mine Health and Safety Act 2004* is an act to secure the health, safety and welfare of persons in connection with certain mines as defined under the Act.

This guidance note outlines the duties of contractors working at mines, and of operators with respect to those contractors in relation to maintaining health, safety and welfare and coordinating efforts to prevent injury to workers.

When reading this guidance note the reader should consider the following legislation:

- *Mine Health and Safety Act 2004 (MHSA)*
- *Mine Health and Safety Regulation 2007 (MHSR)*
- *Occupational Health and Safety Act 2000 (OHSA)*
- *Occupational Health and Safety Regulation 2001 (OHSR)*

Relevant extracts from the *Mine Health and Safety Act 2004*, *Mine Health and Safety Regulation 2007* and the *Occupational Health and Safety Act 2000* are provided.

DEFINITIONS

Contractor, in relation to a mine, means a person who is not an employee at a mine, who undertakes work at the mine, but does not include the operator of the mine. It should be noted that the term “contractor” in this document is referring to the legal entity (commonly a corporation) which has entered into a contract to provide services to the mine. It is not referring to the individual employees of the contractor who will be carrying out the services. This differs from the common industry usage of the term “contractor” which may be referring to the contracting company/employer &/or the individual employee(s) of a contracting company.

Contractor management plan for a mine means a contractor management plan prepared for the mine under section 37 MHSA.

Employee means an individual who works under a contract of employment or apprenticeship or, subject to the regulations, under some other arrangement whereby the individual expects to receive something of value for the individual’s work, being a share of, or payment out of proceeds from the sale of, a mineral recovered or a payment dependent on the recovery of a mineral.

Employer means a person who employs another person under a contract of employment or apprenticeship or, subject to the regulations, enters some other arrangement whereby the person agrees to give another person, who is an individual something of value for the other person’s work, being a share of, or payment out of proceeds from the sale of, a mineral recovered or a payment dependent on the recovery of a mineral.



Mine Safety Management Plan for a mine means a mine safety management plan prepared for the mine under section 27 of the MHSa.

Operator of a mine means:

- (a) the mine holder, if the mine holder nominated himself, herself or itself as the operator of the mine under section 22 of the MHSa and that nomination is not rejected, or
- (b) the person nominated by the mine holder as the operator of the mine, and not rejected by the Chief Inspector, under section 22 of the MHSa, or
- (c) the person declared by the Chief Inspector to be the operator under section 23 of the MHSa, or
- (d) the person prescribed by, or determined in accordance with, the regulations to be the operator of the mine.

OHS is a common acronym for occupational health and safety.

Safe work method statement (SWMS) is a written document prepared by a contractor that must:

- describe how work is to be carried out, and
- identify the work activities assessed as having safety and health risks, and
- identify those safety and health risks, and
- describe the control measures that will be applied to the work activities, and
- make provision for any matters that may be required by the regulations.

Subcontractor means a contractor who has been contracted by a person other than the operator i.e. contracted by a contractor.



WHAT IS A CONTRACTOR?

The term contractor is defined under legislation. Generally speaking a contractor is a legal entity which undertakes work at a mine using employees that are not employed directly by the operator of the mine. Common legal entities which may operate as a “contractor” include corporations, partnerships and individuals.

The terms employee and employer are also defined under legislation but simple ways of determining who a person’s employer is include:

- Who pays the employee e.g. which name appears on their pay docket or group certificate?
- Who is responsible for providing the employee with tools, equipment, PPE, etc?
- Who determines which employees attend a mine to conduct the work?
- Who determines the hours of work for the employee?
- Who is responsible for providing workers compensation insurance and leave etc, for the employee?

There are occasions where companies closely related to the operator also directly employ persons at the mine. For example, ABC Mining Pty Ltd may be the nominated operator and employ the management for the mine. ABC Mining Company Pty Ltd, a wholly owned subsidiary, may employ the mineworkers working at the mine. In this type of situation the employees of the subsidiary or wholly related company would, for the purposes of this guidance note, be considered to be employees of the operator.

GENERAL CLASSIFICATIONS OF CONTRACTORS

Contractors who work at mines can be divided into three general sub-classifications based on the nature of the work they perform. These sub-classifications include:

1. **Non-mining or non-construction contractors.** This class of contractor provides ancillary services (i.e. not connected with mining or construction) to the mine and are not subject to specific duties created under the MHSA or MHSR. These types of contractors are described in detail in clause 30 of the MHSR and without limiting the types of contractor referred to include:
 - Office equipment service contractors
 - Office cleaning contractors
 - Catering contractors



2. **Specialised services contractors.** This class of contractor provide services to the mine that would not normally, at that particular mine, be performed by the employees of the operator. Examples of this type of contractor may include contractors who:
 - Carry out major rebuilds or overhauls of large equipment
 - Construct or demolish buildings, treatment plants etc.
 - Carry out specialised electrical or mechanical maintenance
 - Provide expert advice and service in technical areas e.g. geotechnical matters etc.

3. **Labour hire contractors.** This class of contractor provides supplementary labour to the operator. Labour hire contractors perform the type of work that would normally, at that particular mine, be performed by the employees of the operator. For example labour hire contractors may be hired to cover short-term absences in the normal workforce due to leave or recruitment difficulties. If, for example, an operator normally has 10 haul truck drivers on a shift and two are absent due to leave he may choose to use labour hire contractors to operate the spare haul trucks and supplement the shift's workforce.

It should be noted that the types of work performed by contractors may vary from mine to mine. Whether a contractor is a labour hire or specialised services class of contractor will depend on the normal practices in place at that mine. The examples provided, in this guidance note, for these types of contractors may not be applicable for every mine. For example:

- Some surface mines may use contractors to carry out all electrical maintenance work whilst others may directly employ their own electricians

Individual mines should make their own assessment as to which contractors are providing labour hire or specialised services at their mine.

GENERAL DUTIES OF OPERATORS IN RELATION TO CONTRACTORS

Sections 37 to 40 (inclusive) of the MHSR and clause 29 of the MHSR set out the operator's specific duties regarding contractors. These can be summarised as:

- The operator must prepare a contractor management plan stating how the risks arising from the use of contractors at the mine will be managed

- The contractor management plan must make provision for:
 - Assessment of contractor health and safety policies, procedures, competence of persons, ohs safety performance and the extent to which plant is fit-for-purpose prior to engagement
 - Site induction of contractors and subcontractors and their employees
 - Communication arrangements between the operator and contractors and appropriate consultation with the contractor's employees



- The operator must ensure that before work commences that consultation occurs with the contractor so that:
 - The contractor is familiar with the relevant parts of the mine's safety management plan and
 - The contractor's arrangements for safety management are consistent with the mine's safety management plan
- The operator must ensure that every contractor is directed to comply with the relevant OHS legislation.
- The operator must ensure that the activities of the contractor are monitored to the extent necessary to determine whether or not the contractor is complying with the operator's mine safety management plan or with the contractor's safety management plan and the ohs legislation.
- The operator must also ensure that in the event of any non compliance the contractor is directed to take action immediately to comply.
- In the event that a non compliance results in a risk to health and safety the operator must direct the contractor to immediately cease the work giving rise to the risk until the non compliance is rectified. In the event that an immediate cessation of work may increase the risk to health and safety the operator must direct the contractor to stop work as soon as it is safe to do so.
- The operator must ensure that contractors and their employees receive induction training with respect to ohs as specified in the mine's safety management plan.
- The operator must ensure that details of any relevant changes to the mine's safety management plan are provided to the contractor.
- Where a contractor has elected to prepare a safety management plan for a mine the operator of that mine must not accept the safety management plan or any proposed amendment to the plan unless:
 - in the opinion of the operator, the plan is compatible with, and contains an equivalent standard of risk assessment and provides for an equivalent standard of safety to, the mine's safety management plan, and
 - the plan is otherwise acceptable to the operator.

GENERAL DUTIES OF CONTRACTORS AT MINES

Sections 62 to 67 (inclusive) of the MHSA set out the duties of contractors working at mines. These can be summarised as:

- Contractors must comply with the operator's mine safety management plan to the extent that it applies to work done by the contractor
- Prior to commencing work at a mine a contractor must:
 - Assess the risks of the work to be carried out
 - Prepare a written SWMS that includes a copy of the assessment of the risks, and



- Provide a copy of the SWMS to a person designated by the operator.
- Contractors must ensure that work carried out by them or their employees is carried out in compliance with the SWMS. In the event of a non compliance causing a risk to health and safety they must, as soon as it is safe to do so, cease work and rectify the non compliance.
- Contractors must ensure that SWMS's are maintained and kept up to date.
- If any change is made to a SWMS, the contractor must provide a copy of the relevant changes to a person designated by the operator and any affected subcontractor or employee of the contractor as soon as practicable after the change is made.
- Where there is a conflict between the operator's mine safety management plan and the contractor's SWMS the operator's mine safety management plan prevails.
- Contractors using subcontractors at a mine must ensure that:
 - The subcontractor provides the operator or their nominee with a SWMS for the work the subcontractor is to carry out before the subcontractor commences work at the mine.
 - The subcontractor complies with the operator's mine safety management plan.

Contractor's safety management plans

A contractor who works at a mine may prepare a safety management plan that includes an assessment of risks associated with the work to be carried out by the contractor at the mine.

Any such plan must address ohs issues and must include, as a minimum, details of the following:

- the work process,
- the equipment to be used in the work process,
- the standards or codes to be complied with,
- the records to be kept of the process,
- the competencies of the personnel doing the work,
- safe work method statements for all work activities assessed as having risks, and
- any other matter prescribed by the regulations.

A contractor may provide a copy of this plan to the mine operator. The operator must not accept the safety management plan of a contractor or any proposed amendment to the plan unless:

- in the opinion of the operator, the plan is compatible with, and contains an equivalent standard of risk assessment and provides for an equivalent standard of safety to, the mine's safety management plan, and
- the plan is otherwise acceptable to the operator.

If the safety management plan of a contractor is accepted by the operator of a mine, the contractor must maintain and keep the safety management plan up-to-date and



must submit to the operator any proposed amendment to the plan for the operator's acceptance.

A contractor who has prepared and had accepted a safety management plan must make the plan available for inspection on request by any authorised representative or by any site check inspector.

A contractor, employee of a contractor or subcontractor of the contractor who works at a mine must comply with the contractor's safety management plan, if that plan has been accepted by the operator.

A contractor, employee of a contractor or subcontractor who works at a mine in compliance with the contractor's safety management plan accepted by the operator only needs to comply with the operator's mine safety management plan to the extent that they are required to do so by the contractor's safety management plan.

A contractor must ensure that a copy of the contractor's safety management plan is available for inspection during the course of work by:

- any person working or about to commence work at the mine, and
- a representative of the operator, a government official, a site check inspector or an authorised representative.

MANAGING NON-MINING OR NON-CONSTRUCTION CONTRACTORS

As already described the MHSR do not create any specific duties relating to the management of non-mining or non-construction contractors. This means, for example, that the operator is not compelled under the legislation to ensure that these types of contractors are inducted and have a SWMS.

However, operators need to be aware that they still have OHS obligations towards this type of contractor arising out of section 8 (2) of the OHSR which states, "An employer must ensure that people (other than the employees of the employer) are not exposed to risks to their health or safety arising from the conduct of the employer's undertaking while they are at the employer's place of work".

The effect of the legislation is that the operator should manage this class of contractor to whatever degree is necessary to ensure compliance with section 8 (2) of the OHSR. The degree of management necessary should be commensurate with the types of hazards and the level of risk that the particular contractor is likely to be exposed to while working at the mine.

Low risk types of contractors such as a catering contractor who delivers platters of sandwiches to the mine should be managed differently to a more-high risk type of contractor such as an office equipment service contractor who may be working on electrical equipment.

The operator may, for example, require that all contractors carrying out repairs on electrical office equipment possess suitable qualifications and isolate power prior to opening electrical panels whilst at the same time not requiring the catering contractor to have any specific safety measures.

Operators should assess the risks to non-mining or non-construction types of contractor and take whatever measures are necessary to minimise the risks to the lowest level reasonably practicable as per clause 5 of the OHSR.



MANAGING SPECIALISED SERVICES CONTRACTORS

Specialised services contractors should be managed in accordance with the requirements of Sections 37 to 40 and 62 to 67 (inclusive) of the MHSR and clause 29 of the MHSR.

These requirements have been already summarised in General Duties of Operators in Relation to Contractors and General Duties of Contractors at Mines and include pre-assessments, inductions, and safe work method statements, etc.

MANAGING LABOUR HIRE CONTRACTORS

Labour hire contractors should also be managed in accordance with the requirements of Sections 37 to 40 and 62 to 67 (inclusive) of the MHSR and clause 29 of the MHSR as summarised.

It should be noted that the legislative requirement for SWMS's also applies to labour hire contractors.

Practically speaking this may result in difficulties as it is common for operators who use labour hire contractors to supplement their workforce, to require the contractors to operate under the operator's existing safe work procedures, etc.

It is recommended that, where an operator is utilising labour hire contractors to supplement their workforce and require the contractors and their employees to work under the operator's safe work procedures etc, the following should occur.

The operator should:

- In consultation with the labour hire contractor/employer, determine and document the scope of work to be carried out by the contractor's employees whilst they are working at the mine.
- Provide copies of all relevant risk assessments and procedures in place at the mine relating to the tasks contained within the agreed scope of work to the labour hire contractor/employer.

Upon receipt of these documents the labour hire contractor/employer should:

- Formally review the relevant risk assessments and procedures for adequacy in ensuring the health, safety and welfare of their employees whilst working at the mine. This review should be conducted in consultation with the employees of the contractor and be documented
- In the event that the operator's risk assessments and/or procedures are determined to be adequate, formally adopt the procedures as their own SWMS's while the contractor's employees are working at the mine or
- In the event that the operator's risk assessments and/or procedures are determined to be inadequate, advise the operator of the inadequacies and request a joint review of the areas of concern.



Note: Any adoption or request for a review of the operator's risk assessments or procedures should be done in writing and should record the fact that the employees of the contractor have been consulted during the process.

The operator and contractor should ensure that copies of the agreed scope of works and relevant risk assessments and procedures are made available to the employees of the contractor being required to carry out the work. They should also be readily available for inspection by a government official or check inspector.

SAFE WORK METHOD STATEMENTS

The minimum requirements for a safe work method statement, as prescribed by Section 64 of the MHSA, are:

- describe how work is to be carried out, and
- identify the work activities assessed as having safety and health risks, and
- identify those safety and health risks, and
- describe the control measures that will be applied to the work activities, and
- any other matter prescribed by the regulations

It is recommended that, in addition to any matters required to specifically address the identified risks or comply with legislation, operators and contractors ensure that the generic OHS matters required by section 8 of the OHSR are adequately addressed in their SWMS's. These include:

- Safe premises
- Safe means of access to or exit from the premises
- Safe plant and substance
- Safe systems of work
- Safe working environment
- Provision of necessary information, instruction, training and supervision
- Adequate welfare facilities.

It should also be noted that clause 224 of the OHSR requires safe work method statements for construction work to also include:

- A description of the equipment used in the work
- The standards or codes to be complied with
- The qualifications of the personnel doing the work and
- The training required to do the work.

Further guidance for preparing safe work method statements can be found at:

- http://www.workcover.nsw.gov.au/Publications/OHS/SafetyGuides/Pages/guidelines_writing_work_method_statements.aspx
- http://www.workcover.nsw.gov.au/Documents/Publications/AlertsGuidesHazard/General/writing_work_method_statement_plain_english_guidelines_0231.pdf



ADDITIONAL INFORMATION

Suggested publications for additional information and guidance:

- (1) NSW Minerals Council Ltd – *Information for Principals and Contractors in the Mining Industry – Establishing and Maintaining Effective Contractors OHS.*

<http://www.nswmin.com.au/>

- (2) WorkCover NSW – *Subby Pack – OHS Contractor Management Tool*

<http://www.workcover.nsw.gov.au>



EXTRACTS OF RELEVANT LEGISLATION

Mine Health and Safety Act 2004 No 74

Subdivision 4 Duties regarding contractors

37 Operator to prepare contractor management plan

As part of the mine safety management plan for a mine, the operator of a mine at which contractors are proposed to be used must prepare a contractor management plan stating how the risks arising from the use of contractors at the mine will be managed.

38 Content of contractor management plan

A contractor management plan for a mine must make provision for the matters prescribed by the regulations.

39 Operator to ensure contractor's familiarity with systems

The operator of a mine at which any contractor proposes to work must ensure, before that work commences, that consultation occurs with the contractor so that:

- (a) the contractor is familiar with the relevant parts of the mine safety management plan for that mine, and
- (b) the contractor's arrangements for safety management are consistent with the mine safety management plan for that mine.

40 Duties of operator regarding contractors

- (1) An operator of a mine must ensure:
 - (a) that every contractor who works at the mine is directed to comply with the requirements of this Act and the regulations and the Occupational Health and Safety Act 2000 and the regulations under that Act, and
 - (b) that the activities of the contractor are monitored to the extent necessary to determine whether or not the contractor is complying with the operator's mine safety management plan or with the contractor's safety management plan (if it has been accepted under section 63) and with the requirements of this Act and the regulations and the Occupational Health and Safety Act 2000 and the regulations under that Act, and
 - (c) that, if the contractor is not so complying, the contractor is directed to take action immediately to comply with the safety management plan or the requirements of this Act and the regulations and the Occupational Health and Safety Act 2000 and the regulations under that Act, and
 - (d) that if a risk to the health or safety of a person arises because of such non-compliance, the contractor is directed to stop work immediately and to not resume work until those requirements are complied with, unless an immediate cessation of work is likely to increase the risk to health and safety, in which event the contractor must be directed to stop work as soon as it is safe to do so, and
 - (e) that the contractor and the contractor's employees receive induction training with respect to occupational safety and health as specified in the mine safety management plan for the mine, and
 - (f) that the contractor is provided with details of any relevant changes made to the mine safety management plan for the mine.



- (2) A failure by an operator to give a direction, or to ensure that a direction is given, under this section does not affect any liability of the contractor under this Act or the regulations or under the Occupational Health and Safety Act 2000 or the regulations under that Act.

Division 6 Duties of and in relation to contractors

Note. A contractor who works at a mine will have obligations as an employer under section 8 of the Occupational Health and Safety Act 2000 or as a self-employed person under section 9 of that Act. This Division imposes extra duties on contractors in relation to mines.

62 Contractor must comply with operator's mine safety management plan

Except as provided by section 63, a contractor who works at a mine must comply with the mine safety management plan of the operator for the mine to the extent that it applies to work done by the contractor.

63 Contractor's safety management plan

- (1) A contractor who works at a mine may prepare a safety management plan that includes an assessment of risks associated with the work to be carried out by the contractor at the mine.
- (2) Any such safety management plan must address occupational health and safety issues and must include (but is not limited to) details of the following:
 - (a) the work process,
 - (b) the equipment to be used in the work process,
 - (c) the standards or codes to be complied with,
 - (d) the records to be kept of the process,
 - (e) the competencies of the personnel doing the work,
 - (f) safe work method statements for all work activities assessed as having risks,
 - (g) any other matter prescribed by the regulations.
- (3) A contractor may provide the safety management plan of the contractor to the operator of a mine at which the contractor proposes to work for the operator's acceptance.
- (4) The operator of a mine must not accept the safety management plan of a contractor, or any proposed amendment to the plan, unless:
 - (a) in the opinion of the operator, the plan is compatible with, and contains an equivalent standard of risk assessment and provides for an equivalent standard of safety to, the mine safety management plan for the mine, and
 - (b) the plan is otherwise acceptable to the operator.
- (5) If the safety management plan of a contractor is accepted by the operator of a mine, the contractor must maintain and keep the safety management plan up-to-date and must submit to the operator any proposed amendment to the plan for the operator's acceptance.
- (6) A contractor who has prepared and had accepted a safety management plan must make the plan available for inspection on request by any authorised representative or by any site check inspector.
- (7) A contractor, employee of a contractor or subcontractor of the contractor who works at a mine must comply with the contractor's safety management plan, if that plan has been accepted by the operator in accordance with this section.
- (8) Despite sections 50, 54, 58, 62 and 66, a contractor, employee of a contractor or subcontractor who works at a mine in compliance with the contractor's safety management plan accepted by the operator under this section only needs to comply with the mine safety management plan of the operator to the extent that they are required to do so by the contractor's safety management plan.



- (9) A contractor must ensure that a copy of the contractor's safety management plan is available for inspection during the course of work:
 - (a) by any person working at the place of work concerned and by any person about to commence work at that place, and
 - (b) by a representative of the operator, a government official, a site check inspector or an authorised representative.

64 Duties of contractors regarding safe work method statement

- (1) A contractor must not undertake work at a mine unless the contractor:
 - (a) has undertaken an assessment of the risks associated with the work to be carried out by the contractor, and
 - (b) has prepared a written safe work method statement that includes a copy of the assessment of those risks, and
 - (c) has provided a copy of that statement to a person designated by the operator of the mine.
- (2) A safe work method statement must:
 - (a) describe how work is to be carried out, and
 - (b) identify the work activities assessed as having safety and health risks, and
 - (c) identify those safety and health risks, and
 - (d) describe the control measures that will be applied to the work activities, and
 - (e) make provision for any matters that may be required by the regulations.
- (3) A contractor:
 - (a) must maintain and keep up-to-date the contractor's safe work method statement, and
 - (b) must provide a person designated by the operator with any changes made to the safe work method statement.

65 Contractor to ensure work carried out in accordance with safe work method statement

- (1) A contractor must ensure that all work carried out by the contractor, or by an employee of the contractor, at a mine is carried out in accordance with the safe work method statement prepared by the contractor in relation to that mine.
- (2) If a risk to the health or safety of a person arises because of non-compliance with the statement, the contractor must ensure that work is stopped immediately and does not resume until the statement is complied with.
- (3) However, if the immediate cessation of work is likely to increase the risk to health or safety, the contractor is not required to stop the work immediately but must stop the work as soon as it is safe to do so.
- (4) If there is a conflict between the mine safety management plan for a mine and the safe work method statement of a contractor, the mine safety management plan prevails.

66 Contractor's duties regarding subcontractors

- (1) A contractor who works at a mine must ensure that any subcontractor of the contractor provides the operator of the mine, or a person nominated by the operator, with a written safe work method statement, for the work to be carried out by the subcontractor, before the subcontractor commences work at the mine.
- (2) A contractor who works at a mine must ensure that any subcontractor of the contractor complies with the mine safety management plan of the operator of the mine.
- (3) A contractor must ensure that, if any change is made to the safe work method statement during the course of work, a copy of any part of the statement that has been changed and that is relevant to a subcontractor or employee of the contractor is



provided to the subcontractor or employee as soon as practicable after the change is made.

67 Penalty for offence against this Division

A person who contravenes, whether by act or omission, a provision of this Division is guilty of an offence against that provision.

Maximum penalty:

- (a) in the case of a corporation (being a previous offender)—7,500 penalty units, or
- (b) in the case of a corporation (not being a previous offender)—5,000 penalty units, or
- (c) in the case of an individual (being a previous offender)—750 penalty units or imprisonment for 2 years, or both, or
- (d) in the case of an individual (not being a previous offender)—500 penalty units.

Mine Health and Safety Regulation 2007

Division 3 Duties regarding contractors

29 Content of contractor management plan

The following are prescribed as matters for which a contractor management plan for a mine must make provision under section 38 of the Act:

- (a) assessment of contractor health and safety policies, procedures, competence of persons, occupational health and safety performance and the extent to which plant is fit-for-purpose prior to engagement,
- (b) site induction of contractors, contractor employees and sub-contractors,
- (c) monitoring of contractor compliance with site health and safety requirements, including requirements imposed by the Act or this Regulation,
- (d) communication arrangements between the operator and contractors and appropriate consultation with the contractor's employees.

30 Application of Subdivision 4 of Division 2 of Part 5 of Act to contractors

- (1) For the purposes of section 169 (1) (a) of the Act, contractors who are not engaged in mining work, construction work or work in connection with mining work or construction work are specified as contractors in relation to whom Subdivision 4 of Division 2 of Part 5 of the Act does not create any duties.
- (2) Without limiting the types of contractors referred to in subclause (1), those contractors include:
 - (a) office equipment service contractors,
 - (b) office cleaning contractors,
 - (c) catering contractors.

Note. The result of this specification is that no duties binding on an operator with respect to the specified contractors are created by Subdivision 4 of Division 2 of Part 5 of the Act. An operator may still have duties to these classes of contractors by virtue of their being non-employees at the operator's place of work under section 8 (2) of the *Occupational Health and Safety Act 2000*.

31 Application of Division 6 of Part 5 of Act to contractors

For the purposes of section 169 (1) (b) of the Act, all contractors who are referred to in clause 30 are specified as contractors in relation to whom all of Division 6 of Part 5 of the Act does not apply.



Note. The result of this specification is that Division 6 (Duties of and in relation to contractors) of Part 5 of the Act does not apply to the relevant class of contractors: see section 169 (1) (b) of the Act.

Occupational Health and Safety Act 2000 No 40

Part 2 Duties relating to health, safety and welfare at work

Division 1 General duties

8 Duties of employers

1) Employees

An employer must ensure the health, safety and welfare at work of all the employees of the employer.

That duty extends (without limitation) to the following:

- a) ensuring that any premises controlled by the employer where the employees work (and the means of access to or exit from the premises) are safe and without risks to health,
- b) ensuring that any plant or substance provided for use by the employees at work is safe and without risks to health when properly used,
- c) ensuring that systems of work and the working environment of the employees are safe and without risks to health,
- d) providing such information, instruction, training and supervision as may be necessary to ensure the employees' health and safety at work,
- e) providing adequate facilities for the welfare of the employees at work.



2) **Others at workplace**

An employer must ensure that people (other than the employees of the employer) are not exposed to risks to their health or safety arising from the conduct of the employer's undertaking while they are at the employer's place of work.

Note: See section 12 for the penalty for an offence against this section and other provisions of this Division. Division 4 makes ancillary provision with respect to those offences, including:

- a) section 26—liability of directors and managers of corporations,
- b) section 28—defence that compliance not reasonably practicable etc.

See also Division 2 for duty of employer to consult employees.



FEEDBACK SHEET

Your comments will be very helpful in reviewing and improving this Guidance Note. Please copy and complete the Feedback Sheet and return it to:

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NSW Department of Primary Industries
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Hunter Region Mail Centre NSW 2310*

*Fax: (02) 4931 6790
Phone: (02) 4931 6666*

What do you find most useful about this guidance note?

What do you find least useful?

Do you have any suggested changes to the guidance note (and/or nomination form)?

(Optional) Name: _____ **Phone:** _____

Thank you for completing and returning this feedback sheet

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