



New South Wales

Occupational Health and Safety Amendment (Clothing Factory Registration) Regulation 2008

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*.

ERIC ROOZENDAAL, M.L.C.,
Acting Minister Assisting the Minister for Finance

Explanatory note

The object of this Regulation is to include in the *Occupational Health and Safety Regulation 2001*, the provisions of the *Occupational Health and Safety (Clothing Factory Registration) Regulation 2001* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) the registration of premises, used in connection with certain aspects of the clothing industry, as registered clothing factories,
- (b) the display of certificates of registration,
- (c) the manner of giving notice to WorkCover,
- (d) the keeping of a public register by WorkCover of registered clothing factories,
- (e) savings and formal matters.

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

Clause 1 Occupational Health and Safety Amendment (Clothing Factory Registration)
Regulation 2008

Occupational Health and Safety Amendment (Clothing Factory Registration) Regulation 2008

under the

Occupational Health and Safety Act 2000

1 Name of Regulation

This Regulation is the *Occupational Health and Safety Amendment (Clothing Factory Registration) Regulation 2008*.

2 Commencement

This Regulation commences on 1 September 2008.

3 Amendment of Occupational Health and Safety Regulation 2001

The *Occupational Health and Safety Regulation 2001* is amended as set out in Schedule 1.

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Amendment

Schedule 1

Schedule 1 Amendment

(Clause 3)

Chapter 10A

Insert after Chapter 10:

Chapter 10A Registration of clothing factories

Part 10A.1 Preliminary

330A Definitions

In this Chapter:

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

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 *Button Makers (State) Award* (Award Code: 077),

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- (ii) the *Clothing Trades (State) Award* (Award Code: 139),
- (iii) the *Footwear Manufacturing Industry (State) Award* (Award Code: 168),
- (iv) the *Textile Industry (State) Award* (Award Code: 212).

occupier means, in relation to a clothing factory, the person, partnership, association, or corporation employing persons in the clothing factory, or occupying the clothing factory, and includes any agent, manager, foreman, or other person acting or apparently acting in the general management or control of the clothing factory.

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.

Part 10A.2 Registration

330B 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.

330C 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.
- (3) 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.

330D 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

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- (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 330C.

330E 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.

330F 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.

Part 10A.3 Miscellaneous

330G 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.

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330H 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 Chapter, 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,
 - (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 10A.4 Savings and transitional provisions

330I Savings and transitional provisions

- (1) Any act, matter or thing that, immediately before the repeal of the *Occupational Health and Safety (Clothing Factory Registration) Regulation 2001*, had effect under that Regulation, continues to have effect under this Regulation.
- (2) 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 Chapter, until otherwise provided by the award or instrument.