



Government of **Western Australia**
WorkSafe Commissioner

Statement of regulatory intent: **Regulatory approach to falls from heights in high risk construction work**

Valid for the period: 1 October 2026 to 31 March 2027

1 Purpose

This Statement of Regulatory Intent outlines the regulatory approach that WorkSafe will employ in relation to the risk of falls from height in high risk construction work, with a particular focus on regulation 79 (specific requirements to minimise risk of fall) of the Work Health and Safety (General) Regulations 2022 (WHS General Regulations).

Regulation 79 has effect in high risk construction work in Western Australia from 1 October 2026.

2 Background

When the WHS General Regulations commenced on 31 March 2022, a range of new requirements were introduced compared with the former Occupational Safety and Health Regulations 1996 (OSH Regulations). Transitional regulations were included in the WHS General Regulations to provide more time for duty holders to comply with the new requirements.

A transition period for the commencement of regulation 79 in high risk construction work was introduced and later extended by amending regulation 722 of the WHS General Regulations.

In relation to falls from height in high risk construction work, WHS General Regulations transitional regulation 714 states that:

Until the day on which regulation 79 comes into operation, OSH Regulations regulation 3.55 continues to apply to a workplace as if section 279 of the Act had not come into operation.

Additionally, WHS General Regulations regulation 722 states that:

During the period of 4 years 6 months beginning on commencement day, regulation 79 does not apply to high risk construction work.

During the transitional period, OSH Regulations regulation 3.55 remained in force, instead of regulation 79.

3 Regulation, codes and guidance

Regulation 79 requires a person conducting a business or undertaking (PCBU) to minimise the risk of a fall by providing **adequate protection** against the risk of falling, if it is not reasonably practicable to eliminate the risk under regulation 78 of the WHS General Regulations.

Under regulation 79(3), the PCBU provides **adequate protection** against the risk if the PCBU provides and maintains a safe system of work, including by –

- (a) providing a **fall prevention device** if it is reasonably practicable to do so; or
- (b) if it is not reasonably practicable to provide a fall prevention device, providing a **work positioning system**; or
- (c) if it is not reasonably practicable to comply with either regulation 79(3)(a) or 79(3)(b), providing a fall arrest system, so far as is reasonably practicable.

WHS General Regulations regulation 5 defines a ‘fall arrest system’ and a ‘work positioning system’ as:

Fall arrest system means plant or material designed to arrest a fall (such as an industrial safety net, catch platform or safety harness system) other than a system that relies entirely on a restraint technique system.

Work positioning system means any plant or structure, other than a temporary work platform, that enables a person to be positioned and safely supported at a location for the duration of the relevant work being carried out.

Duty holders should refer to the [Managing the risk of falls in housing construction: Code of practice](#) which has been revised by the Work Health and Safety Commission and its sub-committee, the Construction Industry Safety Advisory Committee, to provide clarity on control measures that can be used in relation to falls from height in housing construction. This code is accompanied by an information sheet, [Managing the risks of falls from roofs in the housing construction industry](#).

Under the *Work Health and Safety Act 2020* and the WHS General Regulations, codes of practice are admissible in court proceedings. Courts may regard a code of practice as evidence of what is known about a hazard, risk, risk assessment or risk control in determining what is reasonably practicable in the circumstances to which the code of practice relates.

A combination of controls may be used to minimise risks if a single control is not sufficient.

An example of an additional control is to provide training in relation to the risks involved in the workplace.

WHS General Regulations regulation 39 requires PCBUs to ensure that information, training and instruction provided to a worker is suitable and adequate, having regard to –

- the nature of the work carried out by the worker; and
- the nature of the risks associated with the work at the time the information, training or instruction is provided; and
- the control measures implemented.

For further information, see the [How to determine what is reasonably practicable to meet a health and safety duty: Interpretive guideline](#).

4 General approach to compliance

Inspectors will utilise WorkSafe's [Compliance and enforcement policy](#) to encourage compliance with regulation 79. This may include providing information and education and/or taking enforcement action if the requirements have not been met.

Given the transition period that was in place for regulation 79, Inspectors will expect to find that a genuine effort has been made to manage the risk of falls from height, and that controls are equivalent to or better than those required under the OSH Regulations.

5 Review

WorkSafe will continue to monitor the implementation of regulation 79 through inspection outcomes and by liaising with industry, workers, worker representatives and peak bodies.