

This Guide provides information for people who import and supply plant. Plant includes machinery, equipment, appliances, containers, implements and tools and components or anything fitted or connected to those things. Some examples of plant include lifts, cranes, computers, machinery, scaffolding components, conveyors, forklifts, vehicles, power tools and amusement devices.

This Guide should be read with the *Code of Practice: Managing risks of plant in the workplace* which provides information on how to manage health and safety risks of plant from installation, commissioning and use through to its decommissioning and dismantling. It also includes information on plant hazards, risks and control measures.

This Guide is part of a series of guidance material for plant that includes information on the *safe design, manufacture, import and supply of plant*.

This Guide does not apply to structures unless the items of plant are designed as a structural component or are assembled to form a structure, for example scaffolding. A structure is anything constructed, whether fixed or moveable, temporary or permanent. Further information on the safe design of structures and safe design more generally is in the *Code of Practice: Safe design of structures*.



WHO IS A PLANT IMPORTER OR SUPPLIER?

A plant importer or supplier is the person conducting the business or undertaking that carries out that activity. For example, an importer is the person conducting a business or undertaking that imports plant into Australia.

Where the person with management or control of plant in the workplace gets plant directly from overseas, they also take on the duties of an importer and supplier. If they modify the plant they may take on the duties of a designer and manufacturer. For more information see the guides referred to above.



WHAT HEALTH AND SAFETY DUTIES DO PLANT IMPORTERS AND SUPPLIERS HAVE?

Importers and suppliers have a duty to ensure, so far as is reasonably practicable, the plant is imported or supplied without risks to the health and safety of people who:

- assemble the plant
- use the plant
- store the plant
- decommission, dismantle or dispose the plant, or
- are exposed to the plant in a workplace or affected by its use.

Importers and suppliers must, so far as is reasonably practicable, eliminate or minimise risks to health and safety regarding the plant being supplied, where the manufacturer has not already done so. This may be necessary where the importer has no direct connection to an overseas designer or manufacturer.

To help importers and suppliers comply with their obligations they should confirm they are being provided with safe plant. For example, they could inspect and test the supplied plant and inspect or get third party verification of the manufacturing process. The level of inspection and testing done by the importer and supplier should be based on what is necessary to be confident that the product is safe. When dealing with a new manufacturer or one whose products have been previously identified as non-compliant, the inspection and testing of the supplied plant may initially need to be more extensive.

Any imported plant must be inspected having regard to information provided by the manufacturer. If this information requires the plant to be tested then the importer must undertake this testing.

For example, an importer starts importing a new model of tractor into Australia. When checking the tractor against provisions of the WHS Regulations and relevant standards, the importer finds the tractor requires roll-over protection and this has not been installed. For those tractors already imported, the importer must install acceptable roll-over protection before selling the tractors. They should consult with the manufacturer or the designer about how best to do this. The importer should negotiate with the manufacturer to ensure tractors supplied in future have roll-over protection that meets Australian requirements.

These duties apply to importers and suppliers whether the plant is new, second-hand or hired out (see also the 'Second-hand plant' section later in this Guide).



Obtaining and providing information

Importers and suppliers have obligations to obtain and provide information about plant so other duty holders can fulfil their responsibility to manage health and safety risks. Information must be passed on from the designer through to the manufacturer, importer, supplier and the end user (see the *Guide for the safe design of plant*).

Importers of plant must take all reasonable steps to obtain information from the manufacturer and then pass this information on when supplying the plant. If this is not available importers must carry out, or arrange the carrying out of, any calculations, analysis, testing or examination that may be necessary to ensure, so far as is reasonably practicable, the plant is without risks to the health and safety of any person.

Information about using plant safely may be provided in user manuals and manufacturer's instructions. This information should, wherever possible, be in plain English and include pictures or drawings while maintaining the accuracy and quality of the technical information. Operating and safety instructions should be prominently displayed on plant including warnings on any pinch points.

It is also helpful for importers and suppliers to provide information about relevant technical standards used in the plant's design and manufacture so the plant can be installed and used in accordance with those standards.



Testing and examining plant

If manufacturer information is not available, the importer or supplier must carry out the necessary calculations, analysis, testing, examination and prepare operating instructions.

For example, an importer receives a consignment of lathes from overseas but finds the safety and operating instructions are not delivered. When the importer contacts the manufacturer to get the safety and operating information they are told the company has closed down. In this case the importer must carry out the testing and examination to compile safety and operating instructions to pass on when the importer supplies the goods.



Design registration

The WHS Regulations lists the plant that requires design registration. For information on plant registration requirements see Chapter 5 of the *Code of Practice: Managing risks of plant in the workplace*.

Plant design registration involves registering a design from which a number of individual items can be manufactured to that same design. An importer or supplier must not supply plant if the plant requires plant registration and it is not registered. Australian manufacturers, importers and suppliers must pass on the design registration number to the person being supplied with the plant.

If the plant to be imported requires design registration the importer must get design registration before supplying the plant to anyone within Australia. This may require the importer to carry out testing and develop the information required for design registration if it is not available. The design registration number must be provided to the people supplied with the plant.

If the importer or supplier makes modifications to the plant, for example to ensure compliance with Australian Standards, they should take reasonable steps to tell both the designer and manufacturer. When the importer or supplier modifies the design they also take on the work health and safety duties of a designer and the design registration needs to be for the modified design.

When importing second-hand registrable plant for re-sale or use, the importer must ensure the plant is design-registered or has been manufactured in accordance with any original registered design before supply or use. If the design is not the same as a registered design or if the plant has been modified, the original plant design registration number must not be used. The importer must engage a competent person to verify the new or modified design and if necessary register the new design. A competent person for design verification is a person who has the skills, qualifications, competence and experience to design the plant or verify the design (see also the *Guide for the safe design of plant*).



Hiring plant

If you supply hired or leased plant to someone, as the 'hirer' or 'lessor' you have the same obligations as a supplier of plant to ensure, so far as is reasonably practicable, the hired plant is safe and without risk to health and safety when used properly. Table 1 lists some of these obligations.

Table 1 Obligations when hiring plant

| Action | Examples |
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| Information about how to use the plant safely. | A supplier must ensure the hired plant is accompanied by information about how to use the plant safely. |
| Design and item registration. | If the plant requires design and/or item registration the supplier must ensure the plant is registered. They must provide the design registration number to the user and ensure the item registration number is marked on the plant. |
| The hirer of plant should ensure the plant is inspected between each hiring and maintenance and repairs are carried out to minimise risks to health and safety. | In the context of hired plant, 'between' means every time the plant is hired or leased, but does not include an extension to the hiring or leasing period for the same user, that is, hiree or lessee. |
| Where the plant is hired or leased for a long period of time. | The supplier should make arrangements with the hiree or lessee to have the plant inspected and maintained in accordance with the designer's or manufacturer's specifications. This does not preclude the arrangement being for the supplier to undertake the inspection and maintenance. A regular testing program should be implemented based on how often the plant is used and the operating and environmental conditions during the period of use. |
| Where a lease or hiring period is extended. | The supplier should put processes in place to ensure the plant continues to be inspected and maintained properly during the extended period. |

| Action | Examples |
|---|--|
| Where plant is to be transferred between hirees or lessees without being returned to the supplier's depot. | The supplier must ensure the plant is inspected and maintained before transfer. For example, this may be done 'on-site' without returning the plant to the depot. |
| For plant hired or leased with an operator. | The supplier may fulfil their duty by preparing a comprehensive set of checks and authorising the operator to carry out these checks between hiring and leasing. If this option is used the supplier should ensure the operator is competent to apply the checks and carry out, or arrange to carry out, the maintenance identified by the checks. |

Records of inspections and maintenance carried out on the plant must be kept by the supplier.

If agreement is reached that the hiree or lessee will carry out the necessary inspections and maintenance, the supplier should ensure that during the hire or lease of the plant or at the conclusion of the hire or lease, records associated with inspections and maintenance of the plant are obtained from the hiree or lessee.



Second-hand plant

There are specific requirements for the supply of second hand plant either for use or for scrap. Some examples of suppliers of second-hand plant include a person conducting a business or undertaking who:

- sells second-hand plant at a retail outlet or directly sells their own second-hand plant
- imports second hand plant for on-sale, and
- auctions second-hand plant—except certain clearing sales (see below).

The second-hand plant supplier must give information to the buyer about what the plant was designed or manufactured to do and its safe use. The supplier must also identify any faults in the plant.

Second-hand plant sold for scrap or spare parts and that is not intended to be used at a workplace does not need to be made safe or supplied with instructions for use. However, the supplier must tell prospective buyers in writing or by marking the plant that the plant is being supplied for scrap or spare parts only and that it cannot be used safely in its current form for any other purpose.

Suppliers' duties and agents or auctioneers selling used agricultural plant at clearing sales

Suppliers' duties apply to sellers' agents like auctioneers, unless the agent does not take control of the supply and has no authority to make decisions about the supply. For example, agents selling used agricultural plant at farm clearing sales do not take possession of the plant, have little or no control of the supply and are not considered to be suppliers. In these limited circumstances the suppliers' duties will only apply to the seller—not their agent.

Out-dated or non-existent safety features of second-hand plant

Second-hand plant is more likely to have out-dated or missing safety features, for example missing an emergency stop control. In these circumstances suppliers of second-hand plant for use at a workplace must do what is reasonably practicable to supply safe plant.

The degree of risk posed by the plant must be weighed up against the cost of implementing control measures to minimise the risk. Suppliers of second-hand plant should consider:

- if it is reasonably practicable to retrofit or modify the plant to improve its safety having regard to improvements to that type of plant since its manufacture e.g. retrofit a rollover protective structure to a tractor being sold, and
- if not reasonably practicable—whether information needs to be given to the buyer about any relevant matters including the purpose for which the plant was designed or manufactured and any conditions necessary to ensure the plant is without risks to health and safety when properly used e.g. inform the buyer that a rollover protective structure must be fitted before the tractor can be used for work.

Buyers also have a duty to ensure the plant is safe and has all the required safety features before bringing it into service.



For more information see the *Code of Practice: Managing the risks of plant in the workplace.*



Further information

Codes of practice, guidance material and other resources are available on the Safe Work Australia website (www.swa.gov.au).