

Cracking the compliance code: meet your obligations when selling used machinery





Meet your obligations when selling used machinery

Selling used machinery is an important responsibility that comes with legal and ethical obligations. Compliance with safety regulations ensures that buyers receive machinery that is safe to use and free from preventable hazards.

This guide provides you with the information needed to meet your obligations effectively, from understanding the machinery's history to performing comprehensive risk assessments and addressing hazards. By following these steps, you can protect both the buyer and your own reputation, ensuring a smooth and compliant transaction.



Why is used machinery safety so important?

You may think selling your used machinery is a quick way to make some cash or clear space for new gear. However, there are a few safety and compliance considerations that need to be made, which are crucial for protecting workers and preventing incidents.



Understand the history of the machine

Knowing the complete history of the machinery, including its usage, maintenance records and any modifications or repairs, is essential. This information helps provide accurate details to buyers and ensures they are aware of the machine's condition. A transparent understanding of its past can help to prevent incidents occurring.



Be aware of hazards or faults

Used machinery often carries risks due to wear and tear, outdated technology or improper maintenance. Identifying and documenting these faults allows you to inform potential buyers about the condition of the machinery and any potential safety issues that may arise.



Prevent incidents, injuries and fatalities

The risk of incidents is heightened when machinery hazards go unidentified or are not disclosed. These incidents can lead to serious injuries or even fatalities, resulting in legal repercussions and damage to your reputation. Comprehensive machinery risk assessments and communication are vital to ensuring the safety of those who will operate the machinery in the future.



What are the obligations when selling used

Sellers of used machinery have a duty to comply with the Model Work Health and Safety (WHS) Regulations established by Safe Work Australia. Specifically, chapter 5, division 199 outlines the requirements for identifying and disclosing hazards associated with machinery before it changes hands.

- (1) *A supplier of second-hand plant must ensure, so far as is reasonably practicable, that any faults in the plant are identified.*
- (2) *A supplier of second-hand plant must ensure that the person to whom the plant is supplied is, before the plant is supplied, given written notice: (a) of the condition of the plant; and (b) of any faults identified under subregulation (1); and (c) if appropriate, that the plant should not be used until the faults are rectified.*

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What does this mean?

As a seller, you are required to conduct a thorough risk assessment on the machine being sold to identify hazards and provide all relevant safety information to the buyer. This includes documenting risks and potential issues that could affect the safe use of the machine. This regulatory framework is designed to protect buyers, sellers and future operators by promoting transparency and accountability.



Completing a machinery risk assessment

Completing a machinery risk assessment is the most important step to take prior to selling used equipment. As explained previously, it provides buyers with essential information about potential hazards and ensures that you fulfil your legal obligations. A detailed and accurate machinery risk assessment protects everyone involved and builds trust in the sales process.

Follow these tips to accurately complete a machinery risk assessment prior to sale.

1 Ensure the assessment is for the correct purpose

The machinery risk assessment should focus on the specific risks related to selling and operating the machinery. Avoid using generic assessments, simple checklists or repurposing assessments meant for other purposes.

2 Take your time

Rushing through the machinery risk assessment increases the likelihood of missing critical details or potential hazards. Dedicate sufficient time to conduct thorough inspections and evaluate all potential risks.

3 Truthfully complete the risk assessment

Honesty is essential when filling out the assessment. Disclose all known hazards, even if they seem minor or could reduce the machine's perceived value.

4 Don't assume

Never make assumptions about the machine's condition or the risk posed by identified hazards. Always verify its functionality, safety features and any maintenance needs by completing a thorough inspection.

5 Err on the side of caution

If you're uncertain about a specific aspect of the machine or a possible hazard, treat it as a potential risk. It's better to over-report than to overlook something that could lead to harm.

6 Only answer not applicable if it is genuinely not applicable

Some machinery risk assessments will provide you with an option to mark hazards or components of the machinery inspection as "not applicable". This should be used sparingly and only in cases where a specific component does not apply to the machinery. Misusing this option could lead to incomplete or inaccurate assessments.

7 Don't overlook minor issues

Even small problems such as worn parts or outdated labels can escalate into significant risks if left unaddressed. Document everything to give buyers a clear understanding of the machine's condition.



Controlling hazards

While the Model Work Health and Safety Regulations do not require sellers to address hazards identified during the risk assessment, taking steps to control these hazards can have significant benefits.

Why control hazards?

Proactively addressing hazards demonstrates a commitment to safety and ensures the machinery is more likely to be used safely.

Buyers are more likely to trust a seller who goes beyond the minimum requirements to ensure the equipment's safety and reliability.

Is it an obligation?

Under the regulations, sellers are only required to disclose identified hazards to buyers.

However, controlling these hazards, whether by repairing faulty components, replacing worn parts or updating outdated safety features, can help you stand out as a responsible seller. It also minimises the risk of future incidents linked to the machine.



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