



## Statutory and Regulatory Requirements (Legal Requirements)

### 1. An Overview

Every organisation and businesses around us have Statutory and Regulatory requirements to be observed. As statutory and regulatory requirements are mandatory, an organisation must comply. The applicable mandatory requirements depend on the type of business an organisation operates. There are several [requirements](#) that an organisation needs to conform or comply with as part of their business process.

The compliance to the Statutory and Regulatory requirements is a MUST. It doesn't matter, even if the organisation has no certified management system.

It is surprising that many organisations may or may not be fully aware of their applicable statutory and regulatory requirements. [QPro Australia](#) gives an insight and clarifies this specific topic to give the reader and organisation an understanding and applicability of the legal requirements.

In this article, we use the **ISO 9001:2015** | **ISO 14001:2015** | **ISO 45001:2018** management system standards to clarify the details and give an insight to the Legal requirements. The terms '*Statutory and Regulatory requirements (ISO 9001)*' and '*Compliance Obligations (ISO14001)*' will be expressed as **LEGAL REQUIREMENTS** throughout this article. The OHSMS standard - ISO 45001 uses the term '*Legal requirements and other requirements*' to denote the same emphasis as in QMS & EMS standards.

## 2. Terms and Definitions:

Before, delving into the legal requirements, few key terms and definitions from the management system standards are used for clarification purposes.

<b>Terms and definitions</b> (extract from the standards)
<b>ISO 9000:2015 Quality management systems — Fundamentals and vocabulary</b>
<p><b>3.6.4 requirement</b> need or expectation that is stated, generally implied or obligatory</p>
<p><b>3.6.6 statutory requirement</b> obligatory <i>requirement</i> (3.6.4) specified <b>by a legislative body</b></p>
<p><b>3.6.7 regulatory requirement</b> obligatory requirement (3.6.4) specified by an <b>authority mandated by a legislative body</b></p>
NOTE 2 Statutory and regulatory requirements can be expressed as legal requirements.
<b>ISO 14001:2015 Environmental management systems — Requirements with guidance for use</b>
<p><b>3.2.8** Requirement</b> need or expectation that is stated, generally implied or obligatory</p> <p>Note 1 to entry: “Generally implied” means that it is custom or common practice for the <i>organization</i> (3.1.4) and <i>interested parties</i> (3.1.6) that the need or expectation under consideration is implied.</p> <p>Note 2 to entry: A specified requirement is one that is stated, for example in <i>documented information</i> (3.3.2).</p> <p>Note 3 to entry: Requirements other than legal requirements become obligatory when the organization decides to comply with them.</p>
<p><b>3.2.9 Compliance obligations</b> (preferred term) Legal requirements and other requirements (admitted term) Legal <i>requirements</i> (3.2.8) that an <i>organization</i> (3.1.4) has to comply with and other requirements that an organization has to or chooses to comply with</p> <p>Note 1 to entry: Compliance obligations are related to the <i>environmental management system</i> (3.1.2).</p> <p>Note 2 to entry: Compliance obligations can rise from mandatory requirements, such as applicable laws and regulations or voluntary commitments, such as organisational and industry standards, contractual relationships, codes of practice and agreements with community groups and non-governmental organizations.</p> <p><b>NOTE:</b> The term “<b>compliance obligations</b>” in ISO 14001:2015 replaces the ISO 14001:2004 phrase “<b>Legal requirements and other requirements at to which the organization subscribes</b>”. The intent of this new term does not differ from that of the 2004 edition.</p>
<b>ISO 45001:2018 Occupational health and safety management systems — Requirements with guidance for use</b>
<p><b>3.8 requirement</b> need or expectation that is stated, generally implied or obligatory</p> <p>Note 1 to entry: “Generally implied” means that it is custom or common practice for the <i>organization</i> (3.1) and <i>interested parties</i> (3.2) that the need or expectation under consideration is implied.</p> <p>Note 2 to entry: A specified requirement is one that is stated, for example in <i>documented information</i> (3.24),</p> <p>Note 3 to entry: This constitutes one of the common terms and core definitions for ISO management system standards given in Annex SL of the Consolidated ISO Supplement to the ISO/IEC Directives, Part 1.</p>
<p><b>3.9 legal requirements and other requirements</b> legal requirements that an organization (3.1) has to comply with and other requirements (3.8) that an organization has to or chooses to comply with</p> <p>Note 1 to entry: For the purposes of this document, legal requirements and other requirements are those relevant to the <i>OH&amp;S management system</i> (3.11).</p> <p>Note 2 to entry: “Legal requirements and other requirements” include the provisions in collective agreements.</p> <p>Note 3 to entry: Legal requirements and other requirements include those that determine the persons who are <i>workers</i>’ (3.3) representatives in accordance with laws, regulations, collective agreements and practices.</p>
<a href="#">Guidance on selected words used in the ISO 9000 family of standards</a>

### 3. Legal requirements in the management system standards

The requirements of the International Management System Standards are generic and are intended to be applicable to any organisation, regardless of its type, size or the products and services it provides.

The legal requirements are specified in the clauses of these three management system standards i.e.;

- 🔴 Clause 4.2 | 5.1.2 | 8.2.2 | 8.2.3.1 | 8.3.3 | 8.4.2 | 8.5.5 – **ISO 9001:2015** (QMS)
- 🟢 Clause 6.1.3 | 9.1.2 – **ISO 14001:2015** (EMS)
- 🟡 Clause 4.2 | 5.2c | 5.4d-4 | 6.1.1c | 6.1.5a-2 | 7.4.1d | 7.4.3 | 7.5.1b | 8.1.2 | 8.1.3b | 8.1.4.3 | 9.1.1a-1 | 9.1.2 | 9.3b-2 & d – **ISO 45001:2018** (OHS)

Note: The above listed clauses in the standards have a **SHALL** requirement. It means that the verbal form referenced in the standard e.g. “**SHALL**” indicates a requirement.

So, these legal requirements are applicable to any organisation depending on the scope included in their management system certification, the type of products and services it supplies to their customers, interested parties of the management system etc.

**NOTE:** Even, if an organisation operates a non-certified business or has no formal management systems, they still have to comply to the applicable legal requirements.

### 4. Management System Requirements

Most certified management system organisation have the following minimum requirements;

1. Management system standard requirements
2. Customer specific requirements
3. Product and service requirements
4. **Applicable legal requirements**
5. Industry specific requirements
6. Organisation specified requirements

From the above requirements, we focus on LEGAL REQUIREMENTS.

The organisation must understand the legal requirements referred in the MS standards. They have to identify, review, understand and manage the implementation including the compliance of the applicable legal requirements. The process details and information for the legal requirements in this article must at minimum consider the following;

- 🔴 Develop a process and identify a process owner (driver)
- 🔴 Maintain legal requirements process
- 🔴 Process owner to coordinate and maintain
- 🔴 Applicable legal requirements ownership (may be owned by *various task owners*)
- 🔴 Identify the applicable requirements per processes, products and services
- 🔴 Review the application and implement
- 🔴 Management to support the implementation
- 🔴 Assure, test and review compliance
- 🔴 Take corrective actions for any deviations

The applicable legal requirements are obligatory, non-negotiable and the organisation must always assure compliance. The applicable legal requirements are effective only when an organisation considers implementing a systematic process using a PDCA cycle/model or similar methodology to effectively manage the legal requirements process. Having such an approach helps organisation to demonstrate process conformance and legal compliance too.

## 5. Compliance to the Legal requirements

The organisation must demonstrate that applicable and obligatory requirements are always effective and complied to within the scope of the management system. The legal requirements of management system processes, products and services, are primarily to assure compliance of applicable local, state, national and/or international requirements including customer and industry (if any) specific requirements. Legal requirements take precedence over generic requirements.

If an organisation complies to legal requirements, it demonstrates high degree of maturity and confidence in their business. This helps organisation to portray confidence during external audits e.g. certification body assessment, regulatory audits, customer audits or government agencies.

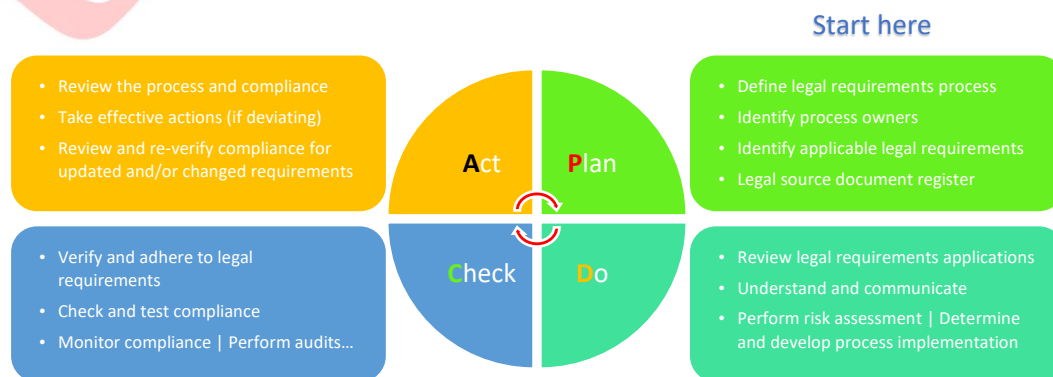
However, if an organisation has non-compliance issues, seek help and do timely reporting with appropriate authorities (*NOTE: There may be no obligation to disclose to an appropriate authority, unless there is a legal obligation with some legal requirements to do so*). Depending on the nature of non-compliance, severity, proactive and timely reporting helps organisation to save time, effort, image, reputation, avoid adverse consequences, helps to rectify, remediate or mitigate the findings. So, an organisation is required to act in good faith and exercise caution.

If in a certification audit, the assessor observes or becomes aware of any deliberate legal non-compliance that could affect the image and credibility of the management system before, during, or after the audit (including, for example, breach of antitrust law, labour law, health and safety or environmental regulations) then the certification body are likely to consider and further investigate, as appropriate.

Organisation status in aspects to the legal requirement non-compliance may further require the certification assessor to verify effectiveness of the management system in meeting customer requirements (stated or generally implied) and to report the status to the certification and registration body management to take appropriate actions.

## 6. Managing legal requirements

ISO 9001:2015 requires organisation to demonstrate the legal requirements process i.e. the management and the maintenance process cycle. The diagram below demonstrates the process (generic guidance)



As legal requirements are obligatory, they need to be complied. Legal requirements take precedence and needs top priorities. Depending on the applicability, the organisation needs to support this with appropriate resources. The legal requirements process must perform a risk assessment, determine and develop appropriate solutions and/or measures to implement, check, review and continually improve.

If any deviations are found at any stages, they need immediate action and appropriately reported (internally). Deviations from specifications and/or requirements must not be authorised by the organisation management. **Concession\* to that deviation can only be authorised, if permissible and approved by the appropriate regulatory body in writing.** Such concessions are temporary and have an expiry date and are possibly one-off waiver/short-term fix. *NOTE\*: In most cases, deviation is not permissible nor negotiable. It depends on the nature of non-compliance, significance and severity to the process, product and/or services.*

In the meantime, organisation must work on the corrective actions to overcome the issues and/or concerns and/or deviations to avoid future recurrences.

## 7. Unsure where to look for applicable Australian legal requirements

Many Australian SME's and organisation who are operating a new business or who have purchased an existing business may have come across situations e.g.;

- 🔴 Unsure, what are the applicable legal requirements?
- 🔴 Unsure, where to look for these legal requirements?
- 🔴 Confused – thinking from products and services prospective only
- 🔴 Business assuming the legal requirements
- 🔴 Relying on the support and guidance from business experts and/or consultants and/or guide...
- 🔴 and more

So, to avoid further confusion, the link below will give all Australian businesses and organisations information regarding your legal obligations

- 🔴 [ABLIS - Australian Business Licence and Information Service](#)

Use the ABLIS website to SEARCH for the information and details applicable to your activities, processes, products and services, licence requirements etc.

### Note:

1. The Australian Business Licence and Information Service (ABLIS) has an online tool that provides information to the organisation with a detailed search results that helps organisation to know and understand the applicable legal requirements including licencing details, code of practice, advisory material etc.
2. It also has a search function to look for specific licence, forms, or other resource (e.g. document or online resource). Depending on your inputs, it provides results from the local council, state and federal government.

## 8. Perform internal audits to check compliance

If the organisation is certified to any of the national or international management system standards, then internal audits form a part of the management system activity. So, organisations must ensure that all applicable legal requirements of a process, products, services are internally audited by qualified auditors.

In some organisations, an auditor may use a topic/subject (legal requirement) specialists to participate in an audit to verify effectivity and compliance. These specialist may not necessarily be an auditor but need to be independent with no conflict of interests in the areas/topics/subjects being audited. Their valued contribution adds value in an audit in specific to legal requirements.

## 9. Legal Requirements Summary

The LEGAL REQUIREMENTS are non-negotiable, obligatory and are the stringent requirements applicable for any organisation, their processes, products and services as required; and the purpose of the Management System Standard. In summary, applicable legal requirements are to;

- 🔴 Don't turn a blind eye
- 🔴 Ensure awareness, understanding and compliance with all applicable Legal requirements
- 🔴 Remember that applicable legal requirements are owned and maintained by the organisation
- 🔴 Maintaining compliance is organisation responsibility, even if the process is carried out by an external supplier, contractor or consultant

- 📌 Do not take any short-cuts
- 📌 Proactively seek help, guidance and report from/to appropriate authority
- 📌 Always cooperate and support external auditors and authorities
- 📌 Maintain records of the applicable legal requirements
- 📌 Remember noncompliance may incur severe penalties and even jail terms
- 📌 If in DOUBT, always ASK

## 10. Finding Legal Requirements (Australian, New Zealand and International)

Depending on the type of business, the organisation must identify the legal requirements applicable for their processes, products and services which are to be included in the scope of the management system. Organisations with no formal and certified management system must develop and comply to all applicable legal requirements for the processes, products and services they offer to their customers.

If organisations have used the [ABLIS](#) website to identify certain basic legal requirements and information materials, they may also have received information to the legal requirements through customer contracts/agreements and/or stated/specified in the product drawings, technical specifications, customer specific requirements, project documentation and service agreements. They must also comply to all applicable local, state, national and international legal requirements too. These legal requirements may be available as hardcopy, softcopy, electronically, on appropriate websites etc. It is the duty of the organisation to seek the true source information, verify applicability and to maintain the processes.

Some legal documentation may require the organisation to either subscribe, have membership or purchase as appropriate.

QPro Australia can assist organisation in the development of the legal requirements systems and processes. In addition, the project can assist to implement, to train and coach personnel, audit and verify effectivity per management systems requirements. The complete project could be tailored to your needs. **A list of generic and industry specific LEGAL REQUIREMENTS source links (5 page document), applicable to your organisation is available by contacting QPro Australia.** The Legal Requirements source list includes Australia (all states), New Zealand and International (limited).

## 11. Source References:

- 📌 ISO 9000:2015 Quality management systems — Fundamentals and vocabulary
- 📌 ISO 9001:2015 Quality management systems — Requirements
- 📌 ISO 14001:2015 Environmental management systems —Requirements with guidance for use
- 📌 ISO 45001:2018 Occupational health and safety management systems — Requirements with guidance for use
- 📌 <https://www.iso.org/files/live/sites/isoorg/files/standards/docs/en/terminology-ISO9000-family.pdf>



This information is intended to provide the reader and the organisation a brief awareness about the applicable legal requirements that needs compliance, depending on the type of business you and your organisation operate. The article is a guidance to assure that organisation with or without a management system certification have to proactively support and comply as part of their business practices. The details and references in this article about the legal requirements and information are current at the time of publication. The contents of this document should not constitute legal advice and legal advice should be sought as required.