Western Australia

Work Health and Safety Act 2020

Work Health and Safety (General) Regulations 2022

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Defined terms

Work Health and Safety Act 2020

Work Health and Safety (General) Regulations 2022

Chapter 1 — Preliminary

Part 1.1 — Introductory matters

1. Citation

These regulations are the *Work Health and Safety (General) Regulations 2022*.

2. Commencement

These regulations come into operation as follows —

(a) the regulations (other than regulations 49(2), (3) and (4), 58, 460(1), 473(2A), 475(2A), 477(1A) and 489(2)) — on the day on which the *Work Health and Safety Act 2020* section 276 comes into operation;

(b) regulations 58, 460(1), 473(2A) and 475(2A) — on the day after the period of 2 years beginning on the day referred to in paragraph (a);

(c) regulations 49(2), (3) and (4), 477(1A) and 489(2) — on the day after the period of 12 months beginning on the day referred to in paragraph (a).

[Regulation 2 amended: SL 2023/22 r. 4.]

3. Not used

4. Not used

Notes for regulations 3 and 4:

1. These regulations are based on the *Model Work Health and Safety Regulations* (15 January 2019 version) published by the Parliamentary Counsel's Committee and contain modifications of those model regulations for this State.
2. The numbering of Chapters, Parts, Divisions and regulations in these regulations generally (but not always) corresponds to the numbering of Chapters, Parts, Divisions and regulations in the model regulations. To facilitate this correspondence —
   (a) some Chapter, Part, Division and regulation numbers are included in these regulations although they are not used for this State; and
   (b) alphanumeric numbers are used in these regulations for some provisions that are inserted for this State.
3. Alphanumeric numbering used in the model regulations is also used in these regulations.

5. Terms used

In these regulations —

abrasive blasting means propelling a stream of abrasive material at high speed against a surface using compressed air, liquid, steam, centrifugal wheels or paddles to clean, abrade, etch or otherwise change the original appearance or condition of the surface;

accredited assessor means —

(a) a person who is accredited under Part 4.5 to conduct assessments; or

(b) the regulator;

ADG Code means the Australian Code for the Transport of Dangerous Goods by Road and Rail, approved by the Transport and Infrastructure Council, as in force or remade from time to time;

Notes for this definition:

1. If the ADG Code is amended or remade, a reference in these regulations to a provision of that document extends to the corresponding provision (if any) of the amended or remade document.

2. The ADG Code is accessible at www.ntc.gov.au.

administrative control —

(a) means a method of work, a process or a procedure designed to minimise risk; but

(b) does not include —

(i) an engineering control; or

(ii) the use of personal protective equipment;

Agvet Code, in Part 7.1, means the Agvet Code of Western Australia as defined in the *Agricultural and Veterinary Chemicals (Western Australia) Act 1995* section 3;

airborne contaminant —

(a) means a contaminant in the form of a fume, mist, gas, vapour or dust; and

(b) includes micro-organisms;

amusement device —

(a) means plant operated for hire or reward that provides entertainment, sightseeing or amusement through movement of the equipment, or part of the equipment, or when passengers or other users travel or move on, around or along the equipment; but

(b) does not include any of the following —

(i) a miniature train and railway system owned and operated by a model railway society, club or association;

(ii) a ride or device that is used as a form of transport and that is, in relation to its use for that purpose, regulated under another Act or an Act of the Commonwealth;

(iii) a boat or flotation device that is solely propelled by a person who is in or on the boat or device; and that is not attached to any mechanical elements or equipment outside the boat or

device, and that does not rely on any artificial flow of water to move;

(iv) any plant specifically designed for a sporting, professional stunt, theatrical or acrobatic purpose or activity;

(v) a device operated (with or without an operator) by a coin or token that is located in a shopping centre or similar public location and that is intended to be ridden, at any 1 time, by not more than 4 children below 10 years of age;

article means a manufactured item, other than a fluid or particle, that —

(a) is formed into a particular shape or design during manufacture; and

(b) has hazard properties and a function that are wholly or partly dependent on the shape or design;

AS 2601 means AS 2601-2001 (The demolition of structures);

AS 3850, in Part 6.3 Division 4, has the meaning given in regulation 306A;

asbestos —

(a) means the asbestiform variety of any mineral silicate belonging to the serpentine or amphibole group of rock-forming minerals; and

(b) includes the asbestiform variety of the following —

(i) actinolite;

(ii) grunerite or amosite (known as brown asbestos);

(iii) anthophyllite;

(iv) chrysotile (known as white asbestos);

(v) crocidolite (known as blue asbestos);

(vi) tremolite;

asbestos containing material (ACM) means any material or thing that, as part of its design, contains asbestos;

asbestos-contaminated dust or debris (ACD) means dust or debris that has settled within a workplace and is, or is assumed to be, contaminated with asbestos;

asbestos management plan has the meaning given in regulation 429 or 432;

asbestos register has the meaning given in regulation 425;

asbestos-related work means work involving asbestos (other than asbestos removal work to which Part 8.7 applies) that is permitted under the exceptions set out in regulation 419(3), (4) and (5);

asbestos removal licence means a Class A asbestos removal licence or a Class B asbestos removal licence;

asbestos removal work means —

(a) work involving the removal of asbestos or ACM; or

(b) in Part 8.10, Class A asbestos removal work or Class B asbestos removal work;

asbestos removalist means a person conducting a business or undertaking who carries out asbestos removal work;

asbestos waste means asbestos or ACM removed and disposable items used during asbestos removal work including plastic sheeting and disposable tools;

biological monitoring means —

(a) the measurement and evaluation of a substance, or its metabolites, in the body tissue, fluids or exhaled air of a person exposed to the substance; or

(b) blood lead level monitoring;

blood lead level means the concentration of lead in whole blood expressed in micromoles per litre (µmol/L) or micrograms per decilitre (µg/dL);

blood lead level monitoring means the testing of the venous or capillary blood of a person by a laboratory accredited by NATA, under the supervision of a registered medical practitioner, to determine the blood lead level;

boiler —

(a) means —

(i) a vessel, or an arrangement of vessels and interconnecting parts, in which steam or vapour is generated or in which water or other liquid is heated at a pressure above that of the atmosphere by the application of fire, the products of combustion, electrical power or similar high temperature means; and

(ii) the superheaters, reheaters, economisers, boiler piping, supports, mountings, valves, gauges, fittings, controls, boiler setting and other equipment directly associated with those vessels;

but

(b) does not include —

(i) except in Schedules 3 and 4, a fully flooded or pressurised system where water or another liquid is heated to a temperature lower than the normal atmospheric boiling temperature of the liquid; or

(ii) for the purposes of Parts 5.2 and 5.3 and in Schedules 3 and 4, a boiler designed or manufactured to the codes specified in the Table;

Table

1.	AMBSC Part 1 — Australian Miniature Boiler Safety Committee Code for Copper Boilers
2.	AMBSC Part 2 — Australian Miniature Boiler Safety Committee Code for Steel Boilers
3.	AMBSC Part 3 — Australian Miniature Boiler Safety Committee Code for Sub-Miniature Boilers

4.	AMBSC Part 4 — Australian Miniature Boiler Safety Committee Code for Duplex Steel Boilers; or

or

(iii) in Schedules 3 and 4 — a heater or boiler specified in the Table;

Table

1.	direct fired process heater
2.	boiler with less than 500 kW output
3.	unattended boiler certified in compliance with AS 2593:2004 (Boilers — Safety management and supervision systems)

boom-type elevating work platform means a telescoping device, hinged device, or articulated device, or any combination of these, used to support a platform on which personnel, equipment and materials may be elevated;

bridge crane means a crane that —

(a) consists of a bridge beam or beams, that are mounted to end carriages at each end; and

(b) is capable of travelling along elevated runways; and

(c) has 1 or more hoisting mechanisms arranged to traverse across the bridge;

building maintenance equipment —

(a) means a suspended platform and associated equipment, including a building maintenance unit or a swing stage, that incorporates permanently installed overhead supports to provide access to the faces of a building for maintenance; but

(b) does not include a suspended scaffold;

building maintenance unit means a power operated suspended platform and associated equipment on a building specifically designed to provide permanent access to the faces of the building for maintenance;

capacity, of a container (in Chapter 7), means the internal volume of the container at a temperature of 15°C expressed in litres;

card holder means the person to whom a general construction induction training card is issued;

certificate of medical fitness means a certificate of medical fitness that complies with regulation 169;

certification, in relation to a specified VET course, means —

(a) in the case of high risk work —

(i) a notice of satisfactory assessment stating that the person to whom it is issued has successfully completed the specified VET course; or

(ii) an equivalent notice issued by a corresponding RTO;

and

(b) in every case —

(i) a statement of attainment issued by an RTO stating that the person to whom it is issued has successfully completed the specified VET course; or

(ii) an equivalent statement issued by a corresponding RTO;

certified safety management system, in Chapter 8, means a safety management system that complies with AS/NZS ISO 45001:2018 (Occupational health and safety management systems — Requirements with guidance for use), or an equivalent system determined by the regulator;

chemical identity means a name, in accordance with the nomenclature systems of the International Union of Pure and

Applied Chemistry or the Chemical Abstracts Service, or a technical name, that gives a chemical a unique identity;

class means —

(a) in relation to high risk work — a class of work specified in Schedule 3;

(b) in relation to demolition work — Class 1 demolition work or Class 2 demolition work;

(c) in relation to asbestos removal work — Class A asbestos removal work or Class B asbestos removal work;

Class 1 demolition licence means a licence that authorises the carrying out of Class 1 demolition work by or on behalf of the licence holder;

Class 1 demolition work has the meaning given in regulation 142B(1);

Class 2 demolition licence means a licence that authorises the carrying out of Class 2 demolition work by or on behalf of the licence holder;

Class 2 demolition work has the meaning given in regulation 142C(1);

Class A asbestos removal licence means a licence that authorises the carrying out of Class A asbestos removal work and Class B asbestos removal work by or on behalf of the licence holder;

Class A asbestos removal work means work that is required to be licensed under regulation 485;

Class B asbestos removal licence means a licence that authorises the carrying out of Class B asbestos removal work by or on behalf of the licence holder;

Class B asbestos removal work —

(a) means work that is required to be licensed under regulation 487; but

(b) does not include Class A asbestos removal work;

clearance certificate has the meaning given in regulation 474(2);

clearance inspection has the meaning given in regulation 473(1A);

combustible dust means finely divided solid particles (including dust, fibres or flyings) that are —

(a) suspended in air or settle out of the atmosphere under their own weight; and

(b) able to burn or glow in air; and

(c) able to form an explosive mixture with air at atmospheric pressure and normal temperature;

combustible substance means a substance that is combustible, and includes dust, fibres, fumes, mists or vapours produced by the substance;

Examples for this definition:

Wood, paper, oil, iron filings.

competency assessment, in Part 4.5, means an assessment in relation to the completion of a specified VET course to carry out a class of high risk work;

competent person —

(a) for inspection and testing of electrical equipment — means a person who has satisfactorily completed a competency-assessed training course on testing and tagging using the pass-fail type of electrical instrument known as a portable appliance tester;

(b) for demolition work — means a person who —

(i) has been trained by an RTO in safe methods of demolition work; and

(ii) in the case of supervision of the work — has appropriate experience in the conduct or supervision of demolition work authorised by the relevant demolition licence;

(c) for general diving work — has the meaning given in regulations 174 and 177;

(d) for a major inspection of a mobile crane or a tower crane under regulation 235 — has the meaning given in regulation 235(1B);

(e) for inspection of amusement devices and passenger ropeways under regulation 241 — has the meaning given in regulation 241(1A);

(f) for design verification under regulation 252 — has the meaning given in regulation 252(1A);

(g) for a clearance inspection under regulation 473 — a person who has acquired through training or experience the knowledge and skills of relevant asbestos removal industry practice and holds —

(i) a certification in relation to the specified VET course for asbestos assessor work; or

(ii) a tertiary qualification in occupational health and safety, occupational hygiene, science, building, construction or environmental health;

(h) for any other case — a person who has acquired through training, qualification or experience the knowledge and skills to carry out the task;

concrete panel, in Part 6.3 Division 4, has the meaning given in regulation 306A;

concrete placing boom means plant incorporating an articulating boom, capable of power operated slewing and luffing to place concrete by way of pumping through a pipeline attached to, or forming part of, the boom of the plant;

confined space —

(a) means an enclosed or partially enclosed space that —

(i) is not designed or intended primarily to be occupied by a person; and

(ii) is, or is designed or intended to be, at normal atmospheric pressure while any person is in the space; and

(iii) is or is likely to be a risk to health and safety from anything specified in the Table;

Table

1.	an atmosphere that does not have a safe oxygen level
2.	contaminants, including airborne gases, vapours and dusts, that may cause injury from fire or explosion
3.	harmful concentrations of any airborne contaminants
4.	engulfment

but

(b) does not include a space in which excavation work is carried out in an underground mine;

confined space entry permit means a confined space entry permit issued under regulation 67;

construction project has the meaning given in regulation 292;

construction site means a workplace where construction work is being carried out;

construction work has the meaning given in regulation 289;

consumer product means a thing that —

(a) is packed or repacked primarily for use by a household consumer or for use in an office; and

(b) if the thing is packed or repacked primarily for use by a household consumer — is packed in the way and quantity in which it is intended to be used by a household consumer; and

(c) if the thing is packed or repacked primarily for use in an office — is packed in the way and quantity in which it is intended to be used for office work;

container, in relation to a hazardous chemical, means anything —

(a) in or by which a hazardous chemical is, or has been, wholly or partly covered, enclosed or packed, including anything necessary for the container to perform its function as a container; and

(b) which is a receptacle with a capacity —

(i) if the receptacle holds a solid — of less than 500 kilograms; or

(ii) if the receptacle holds a liquid — of less than 500 litres;

contaminant means any substance that may be harmful to health or safety;

control measure, in relation to a risk to health and safety, means a measure to eliminate or minimise the risk;

conveyor —

(a) means equipment or apparatus operated by power other than manual power and by which loads are raised, lowered or transported or capable of being raised, lowered, transported, or continuously driven, by any of the following —

(i) an endless belt, rope or chain or other similar means;

(ii) buckets, trays or other containers or fittings moved by an endless belt, rope, chain or similar means;

(iii) a rotating screw;

(iv) a vibration or walking beam;

(v) a powered roller conveyor if the rollers are driven by an endless belt, rope or chain or other similar means;

and

(b) includes the superstructure, gear and auxiliary equipment used in connection with that equipment or apparatus;

correct classification means the set of hazard classes and hazard categories assigned to a hazardous chemical when it is correctly classified;

Note for this definition:

Schedule 9 Division 1 sets out when a hazardous chemical is correctly classified.

crane —

(a) means an appliance intended for raising or lowering a load and moving it horizontally; and

(b) includes the supporting structure of the crane and its foundations; but

(c) does not include any of the following —

(i) an industrial lift truck;

(ii) earthmoving machinery;

(iii) an amusement device;

(iv) a tractor;

(v) an industrial robot;

(vi) a conveyor;

(vii) building maintenance equipment;

(viii) a suspended scaffold;

(ix) a lift;

Note for this definition:

Regulation 81 applies to require high risk work licences when earthmoving machinery is used as a crane.

current certificate of medical fitness means a certificate of medical fitness that —

(a) was issued within the past 12 months; and

(b) has not expired or been revoked;

de-energised, in relation to a part of an electrical installation, has the meaning given in the *Electricity (Licensing) Regulations 1991* regulation 3(1);

demolition licence means a Class 1 demolition licence or a Class 2 demolition licence;

demolition work —

(a) means work to demolish or dismantle a structure, or part of a structure that is loadbearing or otherwise related to the physical integrity of the structure; but

(b) does not include —

(i) the dismantling of formwork, falsework, or other structures designed or used to provide support, access or containment during construction work; or

(ii) the removal of power, light or telecommunication poles;

derrick crane means a slewing strut-boom crane with its boom pivoted at the base of a mast that is —

(a) guyed (guy-derrick) or held by backstays (stiff-legged derrick); and

(b) capable of luffing under load;

designer, in relation to plant, a substance or a structure, has the same meaning as it has in section 22 of the Act;

direct fired process heater means an arrangement of 1 or more coils, located in the radiant zone or convection zone, or both, of a combustion chamber, the primary purpose of which is to raise the temperature of a process fluid circulated through the coils, to allow distillation, fractionalism, reaction or other petrochemical

processing of the process fluid, whether that fluid is liquid or gas, or a combination of liquid and gas;

dogging work means —

(a) the application of slinging techniques, including the selection and inspection of lifting gear, to safely sling a load; or

(b) the directing of a plant operator in the movement of a load when the load is out of the operator's view;

duty holder, in Part 3.1, means a person referred to in regulation 32;

EANx, in Part 4.8, means a mixture of oxygen and nitrogen in which the volume of oxygen is at least 22%;

earthmoving machinery —

(a) means operator controlled plant used to excavate, load, transport, compact or spread earth, overburden, rubble, spoil, aggregate or similar material; but

(b) does not include a tractor or industrial lift truck;

electrical equipment has the meaning given in regulation 144 (and regulation 148 for Part 4.7 Division 3);

electrical installation has the meaning given in regulation 145 (and regulation 148 for Part 4.7 Division 3);

electrical risk means risk to a person of death, shock or other injury caused directly or indirectly by electricity;

electrical work has the meaning given in regulation 146;

emergency service organisation means —

(a) a bush fire brigade established under the *Bush Fires Act 1954* section 41(1);

(b) a permanent or volunteer fire brigade formed under the *Fire Brigades Act 1942* section 26(a);

(c) an SES Unit approved under the *Fire and Emergency Services Act 1998* section 18C(1);

(d) a VMRS Group approved under the *Fire and Emergency Services Act 1998* section 18H(1);

(e) an FES Unit approved under the *Fire and Emergency Services Act 1998* section 18M(1);

emergency service worker means —

(a) an officer or member of an emergency service organisation; or

(b) a person employed or engaged as an operational staff member under the *Fire and Emergency Services Act 1998* section 20(1)(b);

enclosed workplace, in Part 3.2 Division 7A , has the meaning given in regulation 50B;

energised, in relation to a part of an electrical installation, has the meaning given in the *Electricity (Licensing) Regulations 1991* regulation 3(1);

engineering control means a control measure that is physical in nature, including a mechanical device or process;

entry, by a person into a confined space, means the person's head or upper body is in the confined space or within the boundary of the confined space;

essential services means the supply of —

(a) gas, water, sewerage, telecommunications, electricity and similar services; or

(b) chemicals, fuel and refrigerant in pipes or lines;

excavation —

(a) means a trench, tunnel or shaft; but

(b) does not include —

(i) a mine; or

(ii) a bore to which the *Water Services Act 2012* applies; or

(iii) a trench for use as a place of interment;

excavation work means work to —

(a) make an excavation; or

(b) fill or partly fill an excavation;

exposure standard, except in Part 4.1, means an exposure standard in the Workplace Exposure Standards for Airborne Contaminants;

exposure standard for noise has the meaning given in regulation 56;

external review means an external review under Part 11.1;

fall arrest system means plant or material designed to arrest a fall;

Examples for this definition:

An industrial safety net, a catch platform, a safety harness system (other than a system that relies entirely on a restraint technique system).

fault, in relation to plant, means a break or defect that may cause the plant to present a risk to health and safety;

female of reproductive capacity, in Part 7.2, means a female other than a female who provides information stating that she is not of reproductive capacity;

fitness criteria, in relation to diving work, means the fitness criteria specified in clause M4 of Appendix M to AS/NZS 2299.1:2015 (Occupational diving operations — Standard operational practice);

flammable gas has the same meaning as it has in the GHS;

forklift truck, in Schedules 3 and 4 —

(a) means a powered industrial truck equipped with lifting media made up of a mast and an elevating load carriage to which is attached a pair of fork arms or other arms that can be raised 900 mm or more above the ground; but

(b) does not include a pedestrian-operated truck or a pallet truck;

friable asbestos means material that —

(a) is in a powder form or that can be crumbled, pulverised or reduced to a powder by hand pressure when dry; and

(b) contains asbestos;

gantry crane means a crane that —

(a) consists of a bridge beam or beams supported at 1 or both ends by legs mounted to end carriages; and

(b) is capable of travelling on supporting surfaces or deck levels, whether fixed or not; and

(c) has a crab with 1 or more hoisting units arranged to travel across the bridge;

gas cylinder means a rigid vessel —

(a) that does not exceed 3 000 litres water capacity and is without openings or integral attachments on the shell other than at the ends; and

(b) that is designed for the storage and transport of gas under pressure; and

(c) that is covered by AS 2030.1:2009 (Gas cylinders — General requirements);

general construction induction training means training delivered in Australia by an RTO for the specified VET course for general construction induction training;

general construction induction training card means —

(a) in Part 6.5 Division 2 — a general construction induction training card issued under that Division;

(b) in any other case — a general construction induction training card issued —

(i) under Part 6.5 Division 2 or under a corresponding WHS law; or

(ii) by an RTO under an agreement between the regulator and an RTO or a corresponding regulator and an RTO;

general construction induction training certification means a certification for the completion of the specified VET course for general construction induction training;

general diving work —

(a) means work carried out in or under water while breathing compressed gas; and

(b) includes —

(i) incidental diving work; and

(ii) limited scientific diving work;

but

(c) does not include high risk diving work;

genuine research means systematic investigative or experimental activities that are carried out for either acquiring new knowledge (whether or not the knowledge will have a specific practical application) or creating new or improved materials, products, devices, processes or services;

GHS means the *Globally Harmonised System of Classification and Labelling of Chemicals*, Seventh revised edition, published by the United Nations as modified under Schedule 6;

Note for this definition:

The Schedule 6 Tables replace some tables in the GHS.

hazard category means a division of criteria within a hazard class in the GHS;

hazard class means the nature of a physical, health or environmental hazard under the GHS;

hazardous area means an area in which —

(a) an explosive gas is present in the atmosphere in a quantity that requires special precautions to be taken for the construction, installation and use of plant; or

(b) a combustible dust is present, or could reasonably be expected to be present, in the atmosphere in a quantity

that requires special precautions to be taken for the construction, installation and use of plant;

hazardous chemical means a substance, mixture or article that satisfies the criteria for any 1 or more hazard classes in the GHS (including a classification referred to in Schedule 6), unless the only hazard class or classes for which the substance, mixture or article satisfies the criteria are any 1 or more of the following —

(a) acute toxicity — oral — category 5;

(b) acute toxicity — dermal — category 5;

(c) acute toxicity — inhalation — category 5;

(d) skin corrosion/irritation — category 3;

(e) aspiration hazard — category 2;

(f) flammable gas — category 2;

(g) acute hazard to the aquatic environment — category 1, 2 or 3;

(h) chronic hazard to the aquatic environment — category 1, 2, 3 or 4;

(i) hazardous to the ozone layer;

Note for this definition:

The Schedule 6 Tables replace some tables in the GHS.

hazardous manual task means a task that requires a person to lift, lower, push, pull, carry or otherwise move, hold or restrain any person, animal or thing that involves 1 or more of the following —

(a) repetitive or sustained force;

(b) high or sudden force;

(c) repetitive movement;

(d) sustained or awkward posture;

(e) exposure to vibration;

Examples for this definition:

1. A task requiring a person to restrain live animals.

2. A task requiring a person to lift or move loads that are unstable or unbalanced or are difficult to grasp or hold.
3. A task requiring a person to sort objects on a conveyor belt.

hazard pictogram means a graphical composition, including a symbol plus other graphical elements, that is assigned in the GHS to a hazard class or hazard category;

hazard statement means a statement assigned in the GHS to a hazard class or hazard category describing the nature of the hazards of a hazardous chemical including, if appropriate, the degree of hazard;

head or upper body means the area of a person's body at or above the person's shoulders;

health monitoring, of a person, means monitoring the person to identify changes in the person's health status because of exposure to certain substances;

heritage boiler means a boiler that —

(a) was manufactured before 1952; and

(b) is used for a historical purpose or activity, including an activity that is ancillary to a historical activity;

Examples for this paragraph:

1. Historical activity: a historical display, parade, demonstration or re-enactment.
2. Activity ancillary to a historical activity: restoring, maintaining, modifying, servicing, repairing or housing a boiler used, or to be used, for a historical activity.

high risk construction work has the meaning given in regulation 291;

high risk diving work —

(a) means work —

(i) carried out in or under water or any other liquid while breathing compressed gas; and

(ii) involving 1 or more of the types of work specified in the Table;

Table

1.	construction work
2.	work of the kind described in regulation 289(3)(d)
3.	inspection work carried out in order to determine whether or not work described in item 1 or 2 is necessary
4.	the recovery or salvage of a large structure or large item of plant for commercial purposes

Notes for this Table:

1. Work referred to in item 2 includes some additional construction-related activities.
2. For construction work generally, see Chapter 6. For the meaning of ***construction work***, see regulation 289.

but

(b) does not include minor work carried out in the sea or the waters of a bay or inlet or a marina that involves cleaning, inspecting, maintaining or searching for a vessel or mooring;

high risk work means any work set out in Schedule 3 as being within the scope of a high risk work licence;

high risk work licence means any of the licences listed in Schedule 3;

hoist —

(a) means an appliance intended for raising or lowering a load or people; and

(b) includes an elevating work platform, a mast climbing work platform, personnel and materials hoist, scaffolding hoist and serial hoist; but

(c) does not include a lift or building maintenance equipment;

ignition source means a source of energy capable of igniting flammable or combustible substances;

importer, in relation to plant, a substance or a structure, has the same meaning as it has in section 24 of the Act;

incidental diving work means general diving work that —

(a) is incidental to the conduct of the business or undertaking in which the diving work is carried out; and

Example for this paragraph:

Acting underwater is incidental to the business or undertaking of filming.

(b) involves limited diving;

independent, in relation to clearance inspections and air monitoring under Chapter 8, means —

(a) not involved in the removal of the asbestos in relation to which the inspection or monitoring is conducted; and

(b) not involved in a business or undertaking involved in the removal of the asbestos in relation to which the inspection or monitoring is conducted;

industrial lift truck —

(a) means powered mobile plant, designed to move goods, materials or equipment that is equipped with an elevating load carriage and is in the normal course of use equipped with a load-holding attachment; but

(b) does not include a mobile crane or earthmoving machinery;

industrial robot means plant that is a multifunctional manipulator and its controllers, capable of handling materials, parts or tools, or specialised devices, through variable programmed motions for the performance of a variety of tasks;

inflatable device (continuously blown) means an amusement device that is an inflatable device that relies on a continuous supply of air pressure to maintain its shape;

in situ asbestos —

(a) means asbestos or ACM fixed or installed in a structure, equipment or plant; but

(b) does not include naturally occurring asbestos;

internal review means internal review under Part 11.1;

in transit, in relation to a thing, means that the thing —

(a) is supplied to, or stored at, a workplace in containers that are not opened at the workplace; and

(b) is not used at the workplace; and

(c) is kept at the workplace for not more than 5 consecutive days;

lead means lead metal, lead alloys, inorganic lead compounds and lead salts of organic acids;

lead process has the meaning given in regulation 392;

lead process area means a workplace or part of a workplace where a lead process is carried out;

lead risk work has the meaning given in regulation 394;

licence holder means —

(a) in the case of a high risk work licence — the person who is licensed to carry out the work; or

(b) in the case of demolition work — the person who is licensed to carry out the demolition work; or

(c) in the case of an asbestos assessor licence — the person who is licensed —

(i) to carry out air monitoring during Class A asbestos removal work; and

(ii) to carry out clearance inspections of Class A asbestos removal work; and

(iii) to issue clearance certificates in relation to Class A asbestos removal work;

or

(d) in the case of an asbestos removal licence — the person conducting the business or undertaking to whom the licence is granted;

licensed asbestos assessor means a person who holds an asbestos assessor licence;

licensed asbestos removalist means a person conducting a business or undertaking who is licensed under these regulations to carry out Class A asbestos removal work or Class B asbestos removal work;

licensed asbestos removal work means asbestos removal work for which a Class A asbestos removal licence or Class B asbestos removal licence is required;

lift —

(a) means plant that is, or is intended to be, permanently installed in or attached to a structure, in which people, goods or materials may be raised or lowered within a car or cage, or on a platform and the movement of which is restricted by a guide or guides; and

(b) includes —

(i) a chairlift and stairway lift; and

(ii) any supporting structure, machinery, equipment, gear, lift well, enclosures and entrances;

limited diving means diving that does not involve any of the following —

(a) diving to a depth below 30 metres;

(b) the need for a decompression stop;

(c) the use of mechanical lifting equipment or a buoyancy lifting device;

(d) diving beneath anything that would require the diver to move sideways before being able to ascend;

(e) the use of plant that is powered from the surface;

(f) diving for more than 28 days during a period of 6 months;

limited scientific diving work means general diving work that —

(a) is carried out for the purpose of professional scientific research, natural resource management or scientific research as an educational activity; and

(b) involves only limited diving;

lower explosive limit (LEL), in relation to a flammable gas, vapour or mist, means the concentration of the gas, vapour or mist in air below which the propagation of a flame does not occur on contact with an ignition source;

maintain, in relation to plant or a structure in Chapter 5, includes repair or servicing of plant or a structure;

manufacturer, in relation to plant, a substance or a structure, has meaning given in section 23(1) of the Act;

mast climbing work platform means a hoist with a working platform used for temporary purposes to raise personnel and materials to the working position by means of a drive system mounted on an extendable mast that may be tied to a structure;

materials hoist means a hoist that —

(a) consists of a car, bucket or platform cantilevered from, and travelling up and down outside, a face of the support of a structure; and

(b) is used for hoisting things and substances but not persons;

medical examination notice, in Part 3.2 Division 12, has the meaning given in regulation 55E;

membrane filter method means the membrane filter method described in the *Guidance Note on the Membrane Filter Method*

for Estimating Airborne Asbestos Fibres [NOHSC:3003 (2005)];

mixture, in Part 7.1, means a combination of, or a solution composed of, 2 or more substances that do not react with each other;

mobile crane means a crane capable of travelling over a supporting surface without the need for fixed runways and relying only on gravity for stability;

musculoskeletal disorder —

(a) means an injury to, or disease of, the musculoskeletal system, whether occurring suddenly or over time; but

(b) does not include an injury caused by crushing, entrapment or cutting resulting principally from the mechanical operation of plant;

NATA means the National Association of Testing Authorities, Australia;

NATA-accredited laboratory means a testing laboratory accredited by NATA, or recognised by NATA either solely or with someone else;

naturally occurring asbestos means the natural geological occurrence of asbestos minerals found in association with geological deposits including rock, sediment or soil;

network operator has the meaning given in the *Electricity Act 1945* section 5(1);

non-friable asbestos —

(a) means material containing asbestos that is not friable asbestos; and

(b) includes material containing asbestos fibres reinforced with a bonding compound;

Note for this definition:

Non-friable asbestos may become friable asbestos through deterioration (see the definition of ***friable asbestos***).

non-slewing mobile crane —

(a) means a mobile crane incorporating a boom or jib that cannot be slewed; and

(b) includes —

(i) an articulated mobile crane; or

(ii) a locomotive crane;

but

(c) does not include vehicle tow trucks;

notice of satisfactory assessment means a notice stating that the person to whom it is issued has successfully completed a specified VET course;

operator protective device includes a roll-over protective structure, falling object protective structure, operator restraining device and seat belt;

order-picking forklift truck, in Schedules 3 and 4, means a forklift truck where the operator's controls are incorporated with the lifting media and elevate with the lifting media;

passenger ropeway —

(a) means a powered ropeway used for transporting, in a horizontal or inclined plane, passengers moved by a carrier that is —

(i) attached to or supported by a moving rope; or

(ii) attached to a moving rope but supported by a standing rope or other overhead structure;

and

(b) includes, in relation to the powered ropeway, the prime mover, any associated transmission machinery and any supporting structure and equipment; but

(c) does not include any of the following —

(i) a cog railway;

(ii) a cable car running on rails;

(iii) a flying fox or similar device;

(iv) an elevating system for vehicles or boat style carriers associated with amusement devices;

Examples for this paragraph:

An elevating system for a log ride or boat flume ride.

personal protective equipment —

(a) means anything used or worn by a person to minimise risk to the person's health and safety; and

(b) includes air supplied respiratory equipment;

personnel and materials hoist means a hoist —

(a) that is a cantilever hoist, a tower hoist or several winches configured to operate as a hoist; and

(b) that is intended to carry goods, materials or people;

person with management or control of plant at a workplace means a person with management or control of fixtures, fittings or plant at a workplace as defined in section 21(1) of the Act;

person with management or control of a workplace has the meaning given in section 20(1) of the Act;

pipeline means pipe work that crosses a boundary of a workplace, beginning or ending at the nearest fluid or slurry control point (along the axis of the pipeline) to the boundary;

pipe work means a pipe or assembly of pipes, pipe fittings, valves and pipe accessories used to convey a hazardous chemical;

plant, in Parts 5.2 and 5.3, includes a structure;

platform height, in relation to an inflatable device (continuously blown), means the height of the highest part of the device designed to support persons using it (the ***platform***), as measured from the surface supporting the device to the top surface of the platform when the device is inflated but unloaded;

portal boom crane means a boom crane or a jib crane that is mounted on a portal frame that, in turn, is supported on runways along which the crane travels;

powered mobile plant means plant that is provided with some form of self-propulsion that is ordinarily under the direct control of an operator;

precautionary statement means a phrase prescribed by the GHS that describes measures that are recommended to be taken to prevent or minimise —

(a) the adverse effects of exposure to a hazardous chemical; or

(b) improper handling of a hazardous chemical;

presence-sensing safeguarding system includes —

(a) a sensing system that uses 1 or more forms of radiation either self-generated or otherwise generated by pressure; and

(b) the interface between the final switching devices of the sensing system and the machine primary control elements; and

(c) the machine stopping capabilities, by which the presence of a person or part of a person within the sensing field will cause the dangerous parts of a machine to be brought to a safe state;

pressure equipment means boilers, pressure vessels and pressure piping;

pressure piping —

(a) means an assembly of pipes, pipe fittings, valves and pipe accessories subject to internal or external pressure and used to contain or convey fluid or to transmit fluid pressure; and

(b) includes distribution headers, bolting, gaskets, pipe supports and pressure containing accessories; but

(c) does not include —

(i) a boiler or pressure vessel; or

(ii) piping to which another written law applies;

pressure vessel —

(a) means a vessel subject to internal or external pressure; and

(b) includes —

(i) interconnected parts and components, valves, gauges and other fittings up to the first point of connection to connecting piping; and

(ii) fired heaters; and

(iii) gas cylinders;

but

(c) does not include a boiler or pressure piping;

principal contractor, in relation to a construction project, has the meaning given in regulation 293;

product identifier means the name or number used to identify a product on a label or in a safety data sheet;

prohibited carcinogen means a substance —

(a) listed in Schedule 10 Table 10.1 column 2; and

(b) present in a concentration of —

(i) for a solid or liquid — 0.1% or more, determined as a weight/weight (w/w) concentration; and

(ii) for a gas — 0.1% or more, determined as a volume/volume (v/v) concentration;

psychosocial hazard has the meaning given in regulation 55A;

psychosocial risk has the meaning given in regulation 55B;

quantity, in Chapter 7, means —

(a) for a hazardous chemical that is not a liquid or a gas or a gas under pressure and is in a container or storage or handling system — the mass in kilograms of the

hazardous chemical in the container or storage or handling system; and

(b) for a hazardous chemical that is a liquid and is not a gas under pressure and is in a container or storage or handling system — the net capacity in litres of the container or storage or handling system; and

(c) for a hazardous chemical that is a gas or gas under pressure in a container or storage or handling system — the water capacity in litres of the container or storage or handling system; and

(d) for a hazardous chemical that is a thing and is not a gas — the net capacity of the part of the thing that comprises a hazardous chemical;

reach stacker means a powered reach stacker that incorporates an attachment for lifting and lowering a shipping container;

reciprocating steam engine —

(a) means equipment that is driven by steam acting on a piston causing the piston to move; and

(b) includes an expanding (steam) reciprocating engine;

registered medical practitioner means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

registered training organisation (RTO) means a training organisation listed as a registered training organisation on the National Register established under the *National Vocational Education and Training Regulator Act 2011* (Commonwealth);

relevant fee, in relation to a matter, means the fee specified in Schedule 2 for that matter;

research chemical means a substance or mixture that —

(a) is manufactured in a laboratory for genuine research; and

(b) is not for use or supply for a purpose other than analysis or genuine research;

respirable asbestos fibre means an asbestos fibre that —

(a) is less than 3 micrometres wide; and

(b) more than 5 micrometres long; and

(c) has a length to width ratio of more than 3:1;

restricted carcinogen means a substance —

(a) listed in Schedule 10 Table 10.2 column 2 for a use listed in column 3; and

(b) present in a concentration of —

(i) for a solid or liquid — 0.1% or more, determined as a weight/weight (w/w) concentration; and

(ii) for a gas — 0.1% or more, determined as a volume/volume (v/v) concentration;

retailer means a person whose principal business is supplying consumer products to members of the public who are not engaged in the further supply of those products;

rigging work means —

(a) the use of mechanical load shifting equipment and associated gear to move, place or secure a load using plant, equipment or members of a structure to ensure the stability of those members; or

(b) the setting up or dismantling of cranes or hoists;

roof, in Part 3.2 Division 7A, has the meaning given in regulation 50A;

safe oxygen level means a minimum oxygen content of air of 19.5% by volume under normal atmospheric pressure and a maximum oxygen content of air of 23.5% by volume under normal atmospheric pressure;

safety data sheet means a safety data sheet prepared under regulation 330 or 331;

Safe Work Australia means Safe Work Australia as established under the *Safe Work Australia Act 2008* (Commonwealth) section 5;

safe work method statement, in relation to high risk construction work, means a safe work method statement referred to in regulation 299 (as revised under regulation 302);

scaffold means a temporary structure specifically erected to support access or working platforms;

scaffolding work means erecting, altering or dismantling a temporary structure that is or has been erected to support a platform and from which a person or object could fall more than 4 metres from the platform or the structure;

self-erecting tower crane means a crane —

(a) that is not disassembled into a tower element and a boom or jib element in the normal course of use; and

(b) where the erection and dismantling processes are an inherent part of the crane's function;

shaft means a vertical or inclined way or opening, from the surface downwards or from any underground working, the dimensions of which (apart from the perimeter) are less than its depth;

signal word means the word "danger" or "warning" used on a label to indicate to a label reader the relative severity level of a hazard, and to alert the reader to a potential hazard, under the GHS;

slewing mobile crane —

(a) means a mobile crane incorporating a boom or jib that can be slewed; but

(b) does not include any of the following when configured for crane operation —

(i) a front-end loader;

(ii) a backhoe;

(iii) an excavator;

(iv) other earth moving equipment;

slinging techniques means the exercising of judgment in relation to the suitability and condition of lifting gear and the method of slinging, by consideration of the nature of the load, its mass and its centre of gravity;

smoke, in Part 3.2 Division 7A, has the meaning given in regulation 50A;

specified VET course means —

(a) in relation to general construction induction training — the VET course *Work Safely in the Construction Industry* or a corresponding subsequent VET accredited course; or

(b) in relation to Class A asbestos removal work — the VET course *Remove friable asbestos*; or

(c) in relation to Class B asbestos removal work — the VET course *Remove non-friable asbestos*; or

(d) in relation to the supervision of asbestos removal work — the VET course *Supervise asbestos removal*; or

(e) in relation to asbestos assessor work — the VET course *Conduct asbestos assessment associated with removal*; or

(f) in relation to high risk work — the relevant VET course specified in Schedule 4; or

(g) in relation to the supervision of tilt-up work in construction — the VET course *Supervise tilt-up work*; or

(h) in relation to tilt-up work in manufacturing and construction — the VET course *Identify requirements for safe precast and tilt-up work*;

steam turbine means equipment that is driven by steam acting on a turbine or rotor to cause a rotary motion;

structure, in Chapter 6, has the meaning given in regulation 290;

substance, in Part 7.1, means a chemical element or compound in its natural state or obtained or generated by a process —

(a) including any additive necessary to preserve the stability of the element or compound and any impurities deriving from the process; but

(b) excluding any solvent that may be separated without affecting the stability of the element or compound, or changing its composition;

supplier, in relation to plant, a substance or a structure, has the meaning given in section 25(1) of the Act;

suspended scaffold means a scaffold incorporating a suspended platform that is capable of being raised or lowered when in use;

technical name, in the definition of ***chemical identity***, means a name that is —

(a) ordinarily used in commerce, regulations and codes to identify a substance or mixture, other than an International Union of Pure and Applied Chemistry or Chemical Abstracts Service name; and

(b) recognised by the scientific community;

temporary work platform means —

(a) a fixed, mobile or suspended scaffold; or

(b) an elevating work platform; or

(c) a mast climbing work platform; or

(d) a work box supported by a crane, hoist, forklift truck or other form of mechanical plant; or

(e) building maintenance equipment, including a building maintenance unit; or

(f) a portable or mobile fabricated platform; or

(g) any other temporary platform that —

(i) provides a working area; and

(ii) is designed to prevent a fall;

theatrical performance means acting, singing, playing a musical instrument, dancing or otherwise performing literary or artistic works or expressions of traditional custom or folklore;

tilt-up work, in Part 6.3 Division 4, has the meaning given in regulation 306A;

tobacco product, in Part 3.2 Division 7A, has the meaning given in regulation 50A;

tower crane —

(a) means a crane that —

(i) has a boom or a jib mounted on a tower structure; and

(ii) if a jib crane, is of a horizontal or luffing jib type; and

(iii) has a tower structure that is demountable or permanent;

but

(b) does not include a self-erecting tower crane;

tractor —

(a) means a motor vehicle, whether wheeled or track mounted, designed to provide power and movement to any attached machine or implement by a transmission shaft, belt or linkage system; but

(b) does not include earthmoving machinery;

trench means a horizontal or inclined way or opening —

(a) the length of which is greater than its width and greater than or equal to its depth; and

(b) that commences at and extends below the surface of the ground; and

(c) that is open to the surface along its length;

tunnel means an underground passage or opening that —

(a) is approximately horizontal; and

(b) commences at the surface of the ground or at an excavation;

UN number has the same meaning as it has in Attachment 2 of the ADG Code;

vehicle hoist means a device to hoist vehicles designed to provide access for under-chassis examination or service;

vehicle loading crane means a crane mounted on a vehicle for the purpose of loading and unloading the vehicle;

VET course has the meaning given in the *National Vocational Education and Training Regulator Act 2011* (Commonwealth) section 3;

wall, in Part 3.2 Division 7A, has the meaning given in regulation 50A;

WHS management plan, in relation to a construction project, means a management plan prepared or revised under Part 6.4;

work box means a personnel carrying device, designed to be suspended from a crane, to provide a working area for a person elevated by and working from the device;

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.

[Regulation 5 amended: SL 2022/214 r. 4; SL 2023/134 r. 4.]

6. Determination of safety management system

(1) The regulator may make a determination for the purposes of the definition of ***certified safety management system*** in regulation 5.

(2) A person may apply for a determination under subregulation (1).

(3) The application must be made in the manner and form required by the regulator.

(4) The application must be accompanied by the relevant fee.

6A. Corresponding WHS laws prescribed

For the purposes of the definition of ***corresponding WHS law*** in section 4 of the Act, the following are prescribed —

(a) the *Work Health and Safety Act 2011* (Commonwealth);

(b) the *Work Health and Safety Act 2011* (New South Wales);

(c) the *Work Health and Safety Act 2011* (Queensland);

(d) the *Work Health and Safety Act 2012* (South Australia);

(e) the *Work Health and Safety (National Uniform Legislation) Act 2011* (Northern Territory);

(f) the *Work Health and Safety Act 2012* (Tasmania);

(g) the *Work Health and Safety Act 2011* (Australian Capital Territory);

(h) the *Occupational Health and Safety Act 2004* (Victoria);

(i) the *Occupational Health and Safety (Maritime Industry) Act 1993* (Commonwealth);

(j) the *Coal Mining Safety and Health Act 1999* (Queensland);

(k) the *Mining and Quarrying Safety and Health Act 1999* (Queensland);

(l) the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* (New South Wales).

7. Meaning of person conducting a business or undertaking: persons excluded

For the purposes of section 5(6) of the Act, an incorporated association may be taken not to be a ***person conducting a business or undertaking*** if the incorporated association consists

of a group of volunteers working together for 1 or more community purposes where —

(a) the incorporated association, either alone or jointly with any other similar incorporated association, does not employ any person to carry out work for the incorporated association; and

(b) none of the volunteers, whether alone or jointly with any other volunteers, employs any person to carry out work for the incorporated association.

8. Meaning of supply

For the purposes of section 6(3)(b) of the Act, a ***supply*** of a thing does not include the supply of a thing by a person who does not control the supply and has no authority to make decisions about the supply.

Examples for this regulation:

1. An auctioneer who auctions a thing without having possession of the thing.
2. A real estate agent acting in their capacity as a real estate agent.

9. Provisions linked to health and safety duties in Act

If a note at the foot of a provision of these regulations states "WHS Act" followed by a reference to a section number, the regulation provision sets out the way in which a person's duty or obligation under that section of the Act must be performed in relation to the matters and to the extent set out in the regulation provision.

Note for this regulation:

A failure to comply with a duty or obligation under a section of the Act referred to in a "WHS Act" note is an offence to which a Penalty applies.

Part 1.2 — Application

10. Non-application of regulations to mines and petroleum and geothermal energy operations

These regulations do not apply to, or in relation to, the following —

(a) except as provided in the *Work Health and Safety (Mines) Regulations 2022*, a workplace to which regulation 10 of those regulations applies;

(b) except as provided in the *Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations 2022*, a workplace to which regulation 3 of those regulations applies.

11. Application of regulations

A duty imposed on a person under a provision of these regulations in relation to health and safety does not limit or affect any duty the person has under the Act or, unless otherwise expressly provided, any other provision of these regulations.

12. Assessment of risk in relation to a class of hazards, tasks, circumstances or things

If these regulations require an assessment of risks to health and safety associated with a hazard, task, thing or circumstance, an assessment of risks associated with a class of hazards, tasks, things or circumstances may be conducted if —

(a) all hazards, tasks, things or circumstances in the class are the same; and

(b) the assessment of risks for the class does not result in any worker or other person being exposed to a greater, additional or different risk to health and safety than if the risk assessment were carried out in relation to each individual hazard, task, thing or circumstance.

Part 1.3 — Incorporated documents

13. Documents incorporated as in force when incorporated

A reference to any document applied, adopted or incorporated by, or referred to in, these regulations is to be read as a reference to that document as in force at the time the document is applied, adopted, incorporated or referred to unless express provision is made to the contrary.

14. Inconsistencies between provisions

If a provision of any document applied, adopted or incorporated by, or referred to in, these regulations is inconsistent with any provision in these regulations, the provision of these regulations prevails.

15. References to standards

(1) In these regulations, a reference consisting of the words “Australian Standard” or the letters “AS” followed in either case by a number or a number accompanied by a reference to a calendar year is a reference to the standard so numbered published by or on behalf of Standards Australia.

(2) In these regulations, a reference consisting of the expression “Australian/New Zealand Standard” or “AS/NZS” followed in either case by a number or a number accompanied by a reference to a calendar year is a reference to the standard so numbered published jointly by or on behalf of Standards Australia and the Standards Council of New Zealand.

Chapter 2 — Representation and participation

Part 2.1 — Representation

Division 1 — Work groups

16. Negotiations for and determination of work groups

Negotiations for and determination of work groups and variations of work groups must be directed at ensuring that the workers are grouped in a way that —

(a) most effectively and conveniently enables the interests of the workers, in relation to work health and safety, to be represented; and

(b) has regard to the need for a health and safety representative for the work group to be readily accessible to each worker in the work group.

Note for this regulation:

Under the Act, a work group may be determined for workers at more than 1 workplace (section 51(3)) or for workers carrying out work for 2 or more persons conducting businesses or undertakings at 1 or more workplaces (Part 5 Division 3 Subdivision 3 of the Act).

17. Matters to be taken into account in negotiations

For the purposes of sections 52(6) and 56(4) of the Act, negotiations for and determination of work groups and variation of agreements concerning work groups must take into account all relevant matters, including the following —

(a) the number of workers;

(b) the views of workers in relation to the determination and variation of work groups;

(c) the nature of each type of work carried out by the workers;

(d) the number and grouping of workers who carry out the same or similar types of work;

(e) the areas or places where each type of work is carried out;

(f) the extent to which any worker must move from place to place while at work;

(g) the diversity of workers and their work;

(h) the nature of any hazards at the workplace or workplaces;

(i) the nature of any risks to health and safety at the workplace or workplaces;

(j) the nature of the engagement of each worker, for example as an employee or as a contractor;

(k) the pattern of work carried out by workers, for example whether the work is full-time, part-time, casual or short-term;

(l) the times at which work is carried out;

(m) any arrangements at the workplace or workplaces relating to overtime or shift work.

Division 2 — Health and safety representatives

18. Procedures for election of health and safety representatives

(1) This regulation sets out minimum procedural requirements for the election of a health and safety representative for a work group for the purposes of section 61(2) of the Act.

(2) The person conducting the election must take all reasonable steps to ensure that the following procedures are complied with —

(a) each person conducting a business or undertaking in which a worker in the work group works is informed of the date on which the election is to be held as soon as practicable after the date is determined;

(b) all workers in the work group are given an opportunity to —

(i) nominate for the position of health and safety representative; and

(ii) vote in the election;

(c) all workers in the work group and all relevant persons conducting a business or undertaking are informed of the outcome of the election.

19. Person conducting business or undertaking must not delay election

A person conducting a business or undertaking at a workplace must not unreasonably delay the election of a health and safety representative.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

20. Removal of health and safety representatives

(1) For the purposes of section 64(2)(d) of the Act, the majority of the members of a work group may remove a health and safety representative for the work group if the members sign a written declaration that the health and safety representative should no longer represent the work group.

(2) A member of the work group nominated by the members who signed the declaration must, as soon as practicable —

(a) inform the following persons of the removal of the health and safety representative —

(i) the health and safety representative who has been removed;

(ii) each person conducting a business or undertaking in which a worker in the work group works;

and

(b) take all reasonable steps to inform all members of the work group of the removal.

(3) The removal of the health and safety representative takes effect when the persons referred to in subregulation (2)(a) and the majority of members of the work group have been informed of the removal.

20A. Notice of entry for person assisting health and safety representative

(1) A notice under section 68(3A) of the Act must —

(a) be written; and

(b) include the following —

(i) the full name of the health and safety representative giving the notice;

(ii) the full name of the assistant whose entry is proposed;

(iii) the name and address of the workplace proposed to be entered;

(iv) the date of proposed entry;

(v) a statement of the reasons why the health and safety representative considers it is necessary for the assistant to enter the workplace to assist.

(2) If the assistant is or has been the holder of an IR entry authority or a WHS entry permit under a corresponding WHS law, the notice must also include the following —

(a) the name of the union the assistant represents or represented;

(b) a declaration by the assistant stating that —

(i) an IR entry authority or WHS entry permit held by the assistant has not been revoked; and

(ii) in relation to a current IR entry authority or WHS entry permit, the authority or permit is not suspended; and

(iii) the assistant is not disqualified from holding an IR entry authority or WHS entry permit.

21. Training for health and safety representatives

(1) For the purposes of section 72(1) of the Act, a health and safety representative is required to attend the following courses of training in work health and safety —

(a) an initial course of training of up to 5 days;

(b) up to 1 day's refresher training each year, with the requirement to attend the first refresher training commencing 1 year after the initial training.

(2) In approving a course of training in work health and safety for the purposes of section 72(1) of the Act, the Work Health and Safety Commission may have regard to any relevant matters, including —

(a) the content and quality of the curriculum, including its relevance to the powers and functions of a health and safety representative; and

(b) the qualifications, knowledge and experience of the person who is to provide the course.

Notes for this regulation:

1. This regulation prescribes courses of training which a health and safety representative is required to attend. In addition to these courses, the health and safety representative and the person conducting the business or undertaking may agree that the representative will attend or receive further training.

2. Under the *Interpretation Act 1984* section 50(2)(c), the power to approve a course of training includes a power to withdraw the approval.

Part 2.2 — Issue resolution

22. Agreed procedure: minimum requirements

(1) This regulation sets out minimum requirements for an agreed procedure for issue resolution at a workplace.

(2) The agreed procedure for issue resolution at a workplace must include the steps set out in regulation 23.

(3) A person conducting a business or undertaking at a workplace must ensure that the agreed procedure for issue resolution at the workplace —

(a) complies with subregulation (2); and

(b) is set out in writing; and

(c) is communicated to all workers to whom the agreed procedure applies.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

23. Default procedure

(1) This regulation sets out the default procedure for issue resolution for the purposes of section 81(2) of the Act.

(2) Any party to the issue may commence the procedure by informing each other party —

(a) that there is an issue to be resolved; and

(b) of the nature and scope of the issue.

(3) As soon as parties are informed of the issue, all parties must meet or communicate with each other to attempt to resolve the issue.

(4) The parties must have regard to all relevant matters, including the following —

(a) the degree and immediacy of risk to workers or other persons affected by the issue;

(b) the number and location of workers and other persons affected by the issue;

(c) the measures (both temporary and permanent) that must be implemented to resolve the issue;

(d) who will be responsible for implementing the resolution measures.

(5) A party may, in resolving the issue, be assisted or represented by a person nominated by the party.

(6) If the issue is resolved, details of the issue and its resolution must be set out in a written agreement if any party to the issue requests this.

Note for this subregulation:

Under the Act, parties to an issue include not only a person conducting a business or undertaking and a worker, but also representatives of these persons (see section 80 of the Act).

(7) If a written agreement is prepared all parties to the issue must be satisfied that the agreement reflects the resolution of the issue.

(8) A copy of the written agreement must be given to —

(a) all parties to the issue; and

(b) if requested, the health and safety committee for the workplace.

(9) To avoid doubt, nothing in this procedure prevents a worker from bringing a work health and safety issue to the attention of the worker's health and safety representative.

Part 2.3 — Cessation of unsafe work

24. Continuity of engagement of worker

For the purposes of section 88 of the Act, the prescribed purposes are the assessment of eligibility for, or the calculation of benefits for, any benefit or entitlement associated with the worker's engagement, including 1 or more of the following —

(a) remuneration and promotion, as affected by seniority;

(b) superannuation benefits;

(c) leave entitlements;

(d) any entitlement to notice of termination of the engagement.

Part 2.4 — Not used

25. Not used

26. Not used

27. Not used

28. Not used

29. Not used

30. Not used

31. Not used

Chapter 3 — General risk and workplace management

Part 3.1 — Managing risks to health and safety

32. Application of Part

This Part applies to a person conducting a business or undertaking who has a duty under these regulations to manage risks to health and safety.

33. Specific requirements must be complied with

Any specific requirements under these regulations for the management of risk must be complied with when implementing the requirements of this Part.

Examples for this regulation:

1. A requirement not to exceed an exposure standard.
2. A duty to implement a specific control measure.
3. A duty to assess risk.

34. Duty to identify hazards

A duty holder, in managing risks to health and safety, must identify reasonably foreseeable hazards that could give rise to risks to health and safety.

35. Managing risks to health and safety

A duty holder, in managing risks to health and safety, must —

(a) eliminate risks to health and safety so far as is reasonably practicable; and

(b) if it is not reasonably practicable to eliminate risks to health and safety — minimise those risks so far as is reasonably practicable.

36. Hierarchy of control measures

(1) This regulation applies if it is not reasonably practicable for a duty holder to eliminate risks to health and safety.

(2) A duty holder, in minimising risks to health and safety, must implement risk control measures in accordance with this regulation.

(3) The duty holder must minimise risks, so far as is reasonably practicable, by doing 1 or more of the following —

(a) substituting (wholly or partly) the hazard giving rise to the risk with something that gives rise to a lesser risk;

(b) isolating the hazard from any person exposed to it;

(c) implementing engineering controls.

(4) If a risk then remains, the duty holder must minimise the remaining risk, so far as is reasonably practicable, by implementing administrative controls.

(5) If a risk then remains, the duty holder must minimise the remaining risk, so far as is reasonably practicable, by ensuring the provision and use of suitable personal protective equipment.

Note for this regulation:

A combination of the controls set out in this regulation may be used to minimise risks, so far as is reasonably practicable, if a single control is not sufficient for the purpose.

37. Maintenance of control measures

A duty holder who implements a control measure to eliminate or minimise risks to health and safety must ensure that the control measure is, and is maintained so that it remains, effective, including by ensuring that the control measure is and remains —

(a) fit for purpose; and

(b) suitable for the nature and duration of the work; and

(c) installed, set up and used correctly.

38. Review of control measures

(1) A duty holder must review and as necessary revise control measures implemented under these regulations so as to maintain, so far as is reasonably practicable, a work environment that is without risks to health or safety.

(2) Without limiting subregulation (1), the duty holder must review and as necessary revise a control measure in the following circumstances —

(a) the control measure does not control the risk it was implemented to control so far as is reasonably practicable;

Examples for this paragraph:

1. The results of monitoring show that the control measure does not control the risk.
2. A notifiable incident occurs because of the risk.

(b) before a change at the workplace that is likely to give rise to a new or different risk to health or safety that the measure may not effectively control;

(c) a new relevant hazard or risk is identified;

(d) the results of consultation by the duty holder under the Act or these regulations indicate that a review is necessary;

(e) a health and safety representative requests a review under subregulation (4).

(3) Without limiting subregulation (2)(b), a change at the workplace includes —

(a) a change to the workplace itself or any aspect of the work environment; or

(b) a change to a system of work, a process or a procedure.

(4) A health and safety representative for workers at a workplace may request a review of a control measure if the representative reasonably believes that —

(a) a circumstance referred to in subregulation (2)(a), (b), (c) or (d) affects or may affect the health and safety of a member of the work group represented by the health and safety representative; and

(b) the duty holder has not adequately reviewed the control measure in response to the circumstance.

Part 3.2 — General workplace management

Division 1 — Information, training and instruction

39. Provision of information, training and instruction

(1) This regulation applies for the purposes of section 19 of the Act to a person conducting a business or undertaking.

(2) The person must ensure that information, training and instruction provided to a worker is suitable and adequate having regard to —

(a) the nature of the work carried out by the worker; and

(b) the nature of the risks associated with the work at the time the information, training or instruction is provided; and

(c) the control measures implemented.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The person must ensure, so far as is reasonably practicable, that the information, training and instruction provided under this

regulation is provided in a way that is readily understandable by any person to whom it is provided.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) A person conducting a business or undertaking must ensure that records are kept for a period of 7 years of all information, training and instruction provided to a worker in relation to a hazardous chemical to which the worker is likely to be exposed.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Division 2 — General working environment

40. Duty in relation to general workplace facilities

A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, the following —

(a) the layout of the workplace allows, and the workplace is maintained so as to allow, for persons to enter and exit and to move about without risk to health and safety, both under normal working conditions and in an emergency;

(b) work areas have space for work to be carried out without risk to health and safety;

(c) floors and other surfaces are designed, installed and maintained to allow work to be carried out without risk to health and safety;

(d) lighting enables —

(i) each worker to carry out work without risk to health and safety; and

(ii) persons to move within the workplace without risk to health and safety; and

(iii) safe evacuation in an emergency;

(e) ventilation enables workers to carry out work without risk to health and safety;

(f) workers carrying out work in extremes of heat or cold are able to carry out work without risk to health and safety;

(g) work in relation to or near essential services does not give rise to a risk to the health and safety of persons at the workplace.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

41. Duty to provide and maintain adequate and accessible facilities

(1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, the provision of adequate facilities for workers, including toilets, drinking water, washing facilities and eating facilities.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that the facilities provided under subregulation (1) are maintained so as to be —

(a) in good working order; and

(b) clean, safe and accessible.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) For the purposes of this regulation, a person conducting a business or undertaking must have regard to all relevant matters, including the following —

(a) the nature of the work being carried out at the workplace;

(b) the nature of the hazards at the workplace;

(c) the size, location and nature of the workplace;

(d) the number and composition of the workers at the workplace.

41A. Duty to protect from extremes of heat and cold

A person conducting a business or undertaking must ensure —

(a) that work practices are arranged so that workers are protected from extremes of heat and cold; and

(b) if the workplace is in a structure that, so far as is reasonably practicable, heating and cooling are provided to enable workers to work in a comfortable environment.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

41B. Duty to provide adequate seating

(1) If a worker's work is done from a sitting position or is of a kind that can be satisfactorily done from a sitting position then the person conducting the business or undertaking must provide and maintain seating —

(a) that is designed having regard to the nature of the work to be performed and the characteristics of the work station; and

(b) that is strongly constructed, stable, comfortable and of suitable size and height for the worker; and

(c) that, if practicable, has a backrest or is otherwise designed to provide back support.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) If a worker's work is done from a standing position and the worker's work allows the worker to sit from time to time then, so far as is reasonably practicable, the person conducting the business or undertaking must provide and maintain seating so that the worker may sit for the periods when the worker is not working.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Division 3 — First aid

42. Duty to provide first aid

(1) A person conducting a business or undertaking at a workplace must ensure —

(a) the provision of first aid equipment for the workplace; and

(b) that each worker at the workplace has access to the equipment; and

(c) access to facilities for the administration of first aid.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A person conducting a business or undertaking at a workplace must ensure that —

(a) an adequate number of workers are trained to administer first aid at the workplace; or

(b) workers have access to an adequate number of other persons who have been trained to administer first aid.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) For the purposes of this regulation, the person conducting the business or undertaking must have regard to all relevant matters, including the following —

(a) the nature of the work being carried out at the workplace;

(b) the nature of the hazards at the workplace;

(c) the size and location of the workplace;

(d) the number and composition of the workers and other persons at the workplace.

Division 4 — Emergency plans

43. Duty to prepare, maintain and implement emergency plan

(1) A person conducting a business or undertaking at a workplace must ensure that an emergency plan is prepared for the workplace, that provides for the following —

(a) emergency procedures, including —

(i) an effective response to an emergency; and

(ii) evacuation procedures; and

(iii) notifying emergency service organisations at the earliest opportunity; and

(iv) medical treatment and assistance; and

(v) effective communication between the person authorised by the person conducting the business or undertaking to coordinate the emergency response and all persons at the workplace;

(b) testing of the emergency procedures, including the frequency of testing;

(c) information, training and instruction to relevant workers in relation to implementing the emergency procedures.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A person conducting a business or undertaking at a workplace must maintain the emergency plan for the workplace so that it remains effective.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) For the purposes of subregulations (1) and (2), the person conducting the business or undertaking must have regard to all relevant matters, including the following —

(a) the nature of the work being carried out at the workplace;

(b) the nature of the hazards at the workplace;

(c) the size and location of the workplace;

(d) the number and composition of the workers and other persons at the workplace.

(4) A person conducting a business or undertaking at a workplace must implement the emergency plan for the workplace in the event of an emergency.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Division 5 — Personal protective equipment

44. Provision to workers and use of personal protective equipment

(1) This regulation applies if personal protective equipment must be used to minimise a risk to health and safety in relation to work at a workplace in accordance with regulation 36.

(2) The person conducting a business or undertaking who directs the carrying out of work must provide the personal protective equipment to workers at the workplace, unless the personal protective equipment has been provided by another person conducting a business or undertaking.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Example for this subregulation:

Equipment that has been provided by a labour hire company.

(3) The person conducting the business or undertaking who directs the carrying out of work must ensure that personal protective equipment provided under subregulation (2) is —

(a) selected to minimise risk to health and safety, including by ensuring that the equipment is —

(i) suitable having regard to the nature of the work and any hazard associated with the work; and

(ii) a suitable size and fit and reasonably comfortable for the worker who must use or wear it;

and

(b) maintained, repaired or replaced so that it continues to minimise risk to the worker who uses it, including by ensuring that the equipment is —

(i) clean and hygienic; and

(ii) in good working order;

and

(c) used or worn by the worker, so far as is reasonably practicable.

(4) The person conducting a business or undertaking who directs the carrying out of work must provide the worker with information, training and instruction in —

(a) the proper use and wearing of personal protective equipment; and

(b) the storage and maintenance of personal protective equipment.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Note for this regulation:

A person conducting a business or undertaking must not charge or impose a levy on a worker for the provision of personal protective equipment (see section 273 of the Act).

45. Personal protective equipment used by other persons

The person conducting a business or undertaking who directs the carrying out of work must ensure, so far as is reasonably practicable, that —

(a) personal protective equipment to be used or worn by any person other than a worker at the workplace is capable of minimising risk to the person's health and safety; and

(b) the person uses or wears the equipment.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

46. Duties of worker

(1) This regulation applies if a person conducting a business or undertaking provides a worker with personal protective equipment.

(2) The worker must, so far as the worker is reasonably able, use or wear the equipment in accordance with any information, training or reasonable instruction by the person conducting the business or undertaking.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(3) The worker must not intentionally misuse or damage the equipment.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(4) The worker must inform the person conducting the business or undertaking of any damage to, defect in or need to clean or decontaminate any of the equipment of which the worker becomes aware.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

47. Duty of person other than worker

A person other than a worker must wear personal protective equipment at a workplace in accordance with any information, training or reasonable instruction provided by the person conducting the business or undertaking at the workplace.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

Division 6 — Remote or isolated work

48. Remote or isolated work

(1A) In this regulation —

assistance includes rescue, medical assistance and the attendance of emergency service workers;

remote or isolated work, in relation to a worker, means work that is isolated from the assistance of other persons because of location, time or the nature of the work.

(1) A person conducting a business or undertaking must manage risks to the health and safety of a worker associated with remote or isolated work, in accordance with Part 3.1.

Note for this subregulation:

WHS Act — section 19 (see regulation 9).

(2) In minimising risks to the health and safety of a worker associated with remote or isolated work, a person conducting a business or undertaking must provide a system of work that includes effective communication with the worker.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) *[not used]*

Division 7 — Managing risks from airborne contaminants

49. Ensuring exposure standards for substances and mixtures not exceeded

(1) A person conducting a business or undertaking at a workplace must ensure that no person at the workplace is exposed to a substance or mixture in an airborne concentration that exceeds the exposure standard for the substance or mixture.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) If there is no exposure standard for a particular substance or mixture, a person conducting a business or undertaking at a workplace must ensure that no person at the workplace is exposed to 8-hour time-weighted average atmospheric concentrations of airborne dust comprising that substance or mixture that exceed —

(a) for respirable dust — 3.0 mg per cubic metre of air;

(b) for inhalable dust — 10.0 mg per cubic metre of air.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The Workplace Exposure Standards for Airborne Contaminants apply in relation to a concentration referred to in subregulation (2)(a) or (b) as if that concentration were an exposure standard referred to in those Standards.

(4) In subregulation (2) —

8-hour time-weighted average has the same meaning as in the Workplace Exposure Standards for Airborne Contaminants;

inhalable has the same meaning as in the Workplace Exposure Standards for Airborne Contaminants;

respirable has the same meaning as in the Workplace Exposure Standards for Airborne Contaminants.

50. Monitoring airborne contaminant levels

(1) A person conducting a business or undertaking at a workplace must ensure that air monitoring is carried out to determine the airborne concentration of a substance or mixture at the workplace to which an exposure standard applies if —

(a) the person is not certain on reasonable grounds whether or not the airborne concentration of the substance or mixture at the workplace exceeds the relevant exposure standard; or

(b) monitoring is necessary to determine whether there is a risk to health.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A person conducting a business or undertaking at a workplace must ensure that the results of air monitoring carried out under subregulation (1) are recorded, and kept for 30 years after the date the record is made.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(3) A person conducting a business or undertaking at a workplace must ensure that the results of air monitoring carried out under subregulation (1) are readily accessible to persons at the workplace who may be exposed to the substance or mixture.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

Division 7A — Protection from tobacco smoke

50A. Terms used

In this Division —

enclosed workplace has the meaning given in regulation 50B;

roof includes a ceiling, and any material —

(a) through which air cannot flow; and

(b) that is used for the same purpose as a ceiling or roof;

smoke has the meaning given in the *Tobacco Products Control Act 2006* Glossary;

tobacco product has the meaning given to that term in the *Tobacco Products Control Act 2006* glossary;

wall means a wall or any other vertical structure, covering or device, whether fixed or moveable, but does not include a balustrade —

(a) that is 1 metre or less in height; and

(b) of which more than 50% of its total vertical surface is open.

50B. Meaning of enclosed workplace

(1) A workplace or a part of a workplace that has the features mentioned in subregulations (2) and (3) is an ***enclosed workplace*** for the purposes of this Division.

(2) An ***enclosed workplace*** is covered by a roof or a part of a roof.

(3) An ***enclosed workplace*** is configured so that the total vertical surface area of the solid material in the walls is more than 50% of the notional vertical surface area of the place as assessed in accordance with regulation 50C.

(4) The total vertical surface area of the solid material in the walls must be assessed by —

(a) multiplying the following —

(i) the length of each wall under the roof or the part of a roof plus the length of each wall and each section of a wall that is 1 metre or less beyond the perimeter of the roof or the part of a roof when measured horizontally from the perimeter of the roof or the part of the roof;

(ii) the actual height of the walls and wall sections mentioned in subparagraph (i);

and

(b) deducting the total vertical surface area of the open parts of the walls or wall sections mentioned in paragraph (a)(i).

(5) The total vertical surface area of solid material in a wall must be assessed as if each window, door or vertical retractable covering in or adjacent to the wall —

(a) is closed; and

(b) forms part of the wall.

(6) A place is not an ***enclosed workplace*** for the purposes of this Division if it is covered by a roof or a part of a roof and is bounded by only —

(a) 1 straight wall; or

(b) 2 straight walls that are set in an angle of 90 degrees or more.

(7) A part of a workplace may be an enclosed workplace even though —

(a) it is part of a workplace that is not an enclosed workplace; or

(b) it is part of another part of a workplace that is not an enclosed workplace.

50C. Assessment of notional vertical surface area

(1) The notional vertical surface area of a workplace must be assessed by multiplying the following —

(a) the length of the perimeter of the roof, or the part of a roof, covering the workplace;

(b) the average height of the roof, or the part of a roof, covering the workplace.

(2) The notional vertical surface area of a part of a workplace must be assessed by multiplying the following —

(a) the length of the perimeter of the roof, or the part of a roof, covering the part of the workplace;

(b) the average height of the roof, or the part of a roof, covering the part of the workplace.

50D. Persons not to smoke in enclosed workplace

(1) An individual must not smoke in an enclosed workplace.

Penalty for this subregulation: a fine of $7 000.

(2) A person conducting a business or undertaking at an enclosed workplace or a worker at the workplace must not allow an individual to smoke in the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

50E. Defence to r. 50D: smoking in private vehicle or residence

It is a defence to a charge of an offence under regulation 50D for the person charged to prove that —

(a) the enclosed workplace is —

(i) a vehicle supplied by the person; or

(ii) the person's residence (not including, in the case of a worker, accommodation provided to the

worker by the person conducting a business or undertaking);

and

(b) no other person is present —

(i) who, in the case of a person conducting a business or undertaking, is that person's employee; or

(ii) who, in the case of a worker, is also a worker at the workplace.

50F. Defence to r. 50D: smoking by actor in a performance

It is a defence to a charge of an offence under regulation 50D for the person charged to prove that the person smoking is an actor, artist or other performer who smokes for the purposes of a performance.

50G. Certain persons to give notice of smoking restrictions

A person conducting a business or undertaking at, or a person with management or control of, an enclosed workplace, must ensure that notice is given or displayed to workers at the workplace to the effect that smoking is prohibited in the workplace.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

50H. Inspectors may require certain persons to extinguish tobacco products

(1) If an inspector has reasonable cause to believe that an individual is smoking in contravention of regulation 50D(1) the inspector may require the person to extinguish the tobacco product that the individual is smoking.

(2) A person must comply with an inspector's requirement under subregulation (1).

Penalty for this subregulation: a fine of $7 000.

50I. Exposure to secondhand smoke

A person conducting a business or undertaking at, or a person with management or control of, an enclosed workplace, must ensure, so far as is reasonably practicable, that persons at the workplace are not exposed to secondhand smoke or any other tobacco or nicotine by-product.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Division 8 — Hazardous atmospheres

51. Managing risks to health and safety

(1A) An atmosphere is a ***hazardous atmosphere*** if —

(a) the atmosphere does not have a safe oxygen level; or

(b) the concentration of oxygen in the atmosphere increases the fire risk; or

(c) the concentration of flammable gas, vapour, mist or fumes exceeds 5% of the LEL for the gas, vapour, mist or fumes; or

(d) combustible dust is present in a quantity and form that would result in a hazardous area.

(1) A person conducting a business or undertaking at a workplace must manage risks to health and safety associated with a hazardous atmosphere at the workplace, in accordance with Part 3.1.

Note for this subregulation:

WHS Act — section 19 (see regulation 9).

(2) *[not used]*

52. Ignition sources

(1) A person conducting a business or undertaking at a workplace must manage risks to health and safety associated with an ignition source in a hazardous atmosphere (as defined in regulation 51(1A)) at the workplace, in accordance with Part 3.1.

Note for this subregulation:

WHS Act — section 19 (see regulation 9).

(2) This regulation does not apply if the ignition source is part of a deliberate process or activity at the workplace.

Division 9 — Storage of flammable or combustible substances

53. Flammable and combustible material not to be accumulated

(1A) In this regulation —

flammable or combustible substances includes —

(a) flammable and combustible liquids, including waste liquids, in containers, whether empty or full; and

(b) gas cylinders, whether empty or full.

(1) A person conducting a business or undertaking at a workplace must ensure that, if flammable or combustible substances are kept at the workplace, the substances are kept at the lowest practicable quantity for the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) *[not used]*

Division 10 — Falling objects

54. Management of risk of falling objects

A person conducting a business or undertaking at a workplace must manage, in accordance with Part 3.1, risks to health and safety associated with an object falling on a person if the falling object is reasonably likely to injure the person.

Note for this regulation:

WHS Act — section 19 (see regulation 9).

55. Minimising risk associated with falling objects

(1) This regulation applies if it is not reasonably practicable to eliminate the risk referred to in regulation 54.

(2) The person conducting the business or undertaking at a workplace must minimise the risk of an object falling on a person by providing adequate protection against the risk in accordance with this regulation.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The person provides adequate protection against the risk if the person provides and maintains a safe system of work, including —

(a) preventing an object from falling freely, so far as is reasonably practicable; or

(b) if it is not reasonably practicable to prevent an object from falling freely — providing, so far as is reasonably practicable, a system to arrest the fall of a falling object.

Examples for this regulation:

1. Providing a secure barrier.
2. Providing a safe means of raising and lowering objects.
3. Providing an exclusion zone persons are prohibited from entering.

Division 11 — Psychosocial risks

[Heading inserted: SL 2022/214 r. 5.]

55A. Meaning of psychosocial hazard

A ***psychosocial hazard*** is a hazard that —

(a) arises from, or relates to —

(i) the design or management of work; or

(ii) a work environment; or

(iii) plant at a workplace; or

(iv) workplace interactions or behaviours;

and

(b) may cause psychological harm (whether or not it may also cause physical harm).

[Regulation 55A inserted: SL 2022/214 r. 5.]

55B. Meaning of psychosocial risk

A ***psychosocial risk*** is a risk to the health or safety of a worker or other person arising from a psychosocial hazard.

[Regulation 55B inserted: SL 2022/214 r. 5.]

55C. Managing psychosocial risks

A person conducting a business or undertaking must manage psychosocial risks in accordance with Part 3.1 other than regulation 36.

[Regulation 55C inserted: SL 2022/214 r. 5.]

55D. Control measures

(1A) In this regulation —

workers' accommodation means premises to which section 19(4) of the Act applies.

(1) A person conducting a business or undertaking must implement control measures —

(a) to eliminate psychosocial risks so far as is reasonably practicable; and

(b) if it is not reasonably practicable to eliminate psychosocial risks — to minimise the risks so far as is reasonably practicable.

(2) In determining the control measures to implement, the person must have regard to all relevant matters, including —

(a) the duration, frequency and severity of the exposure of workers and other persons to the psychosocial hazards; and

(b) how the psychosocial hazards may interact or combine; and

(c) the design of work, including job demands and tasks; and

(d) the systems of work, including how work is managed, organised and supported; and

(e) the design and layout, and environmental conditions, of the workplace, including the provision of —

(i) safe means of entering and exiting the workplace; and

(ii) facilities for the welfare of workers;

and

(f) the design and layout, and environmental conditions, of workers' accommodation; and

(g) the plant, substances and structures at the workplace; and

(h) workplace interactions or behaviours; and

(i) the information, training, instruction and supervision provided to workers.

(3) *[not used]*

Note for this regulation:

WHS Act — section 19 (see regulation 9).

[Regulation 55D inserted: SL 2022/214 r. 5.]

Division 12 — Directed medical examinations

[Heading inserted: SL 2022/214 r. 5.]

55E. Meaning of medical examination notice

In this Division —

medical examination notice has the meaning given in regulation 55F(1).

[Regulation 55E inserted: SL 2022/214 r. 5.]

55F. Regulator may direct medical examination of workers

(1) The regulator may, by written notice (a ***medical examination notice***), direct a person conducting a business or undertaking to arrange, at the expense of the person and within the time specified in the notice, a medical examination of a worker whose name is specified in the notice.

(2) The medical examination notice must specify the purpose of the proposed medical examination.

Note for this regulation:

A decision to issue a medical examination notice is a reviewable decision (see regulation 676).

[Regulation 55F inserted: SL 2022/214 r. 5.]

55G. Worker to choose registered medical practitioner

(1) The regulator must ensure that, before the medical examination is conducted, the worker is advised of the nature of, and the reasons for, the medical examination so that the worker is

sufficiently informed for the purposes of making a choice in the selection of a registered medical practitioner.

(2) For the purposes of selecting a registered medical practitioner to conduct the medical examination, the person conducting the business or undertaking must consult with the worker and give the worker a reasonable choice in the selection of the registered medical practitioner.

[Regulation 55G inserted: SL 2022/214 r. 5.]

55H. Person conducting business or undertaking must comply with medical examination notice

(1) A person conducting a business or undertaking must comply with a medical examination notice.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) It is a defence to a charge of an offence under subregulation (1) to prove that the worker who is the subject of the medical examination notice does not —

(a) agree to the selection of the registered medical practitioner; or

(b) consent to undergoing the examination.

[Regulation 55H inserted: SL 2022/214 r. 5.]

55I. Duties of registered medical practitioner conducting examination

(1) A registered medical practitioner who conducts a medical examination for the purposes of a medical examination notice must explain any test results to the worker and give a copy of the test results to the worker.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) A registered medical practitioner who conducts a medical examination for the purposes of a medical examination notice must give a copy of any medical report based on the test results or medical examination to the worker.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(3) A registered medical practitioner who conducts a medical examination for the purposes of a medical examination notice must give a copy of the test results to the regulator.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(4) A registered medical practitioner who conducts a medical examination for the purposes of a medical examination notice must, on the written request of the examined worker, give the registered medical practitioner's findings on the examination to another registered medical practitioner who has been nominated by the examined worker.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

[Regulation 55I inserted: SL 2022/214 r. 5.]

55J. Regulator must inform person conducting business or undertaking

The regulator must inform the person conducting a business or undertaking who arranged a medical examination for the purposes of a medical examination notice of —

(a) the outcome of the medical examination; and

(b) any need for remedial action.

[Regulation 55J inserted: SL 2022/214 r. 5.]

55K. Person conducting business or undertaking must ensure confidentiality of medical examination results

A person conducting a business or undertaking must ensure that the results of a medical examination conducted for the purposes of a medical examination notice are treated as confidential records.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

[Regulation 55K inserted: SL 2022/214 r. 5.]

Chapter 4 — Hazardous work

Part 4.1 — Noise

56. Meaning of exposure standard for noise

(1) In this Part —

exposure standard for noise, in relation to a person, means —

(a) $L_{Aeq,8h}$ of 85 dB(A); or

(b) $L_{C,peak}$ of 140 dB(C).

(2) In subregulation (1) —

$\boldsymbol{L_{Aeq,8h}}$ means the eight-hour equivalent continuous A-weighted sound pressure level in decibels (dB(A)) referenced to 20 micropascals, determined in accordance with AS/NZS 1269.1:2005 (Occupational noise management — Measurement and assessment of noise immission and exposure);

$\boldsymbol{L_{C,peak}}$ means the C-weighted peak sound pressure level in decibels (dB(C)) referenced to 20 micropascals, determined in accordance with AS/NZS 1269.1:2005 (Occupational noise management — Measurement and assessment of noise immission and exposure).

57. Managing risk of hearing loss from noise

(1) A person conducting a business or undertaking at a workplace must manage, in accordance with Part 3.1, risks to health and safety relating to hearing loss associated with noise.

Note for this subregulation:

WHS Act — section 19 (see regulation 9).

(2) A person conducting a business or undertaking at a workplace must, so far as is reasonably practicable, ensure that the noise

that a worker is exposed to at the workplace does not exceed the exposure standard for noise.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

58. Audiometric testing

(1A) In this regulation —

audiometric testing means the testing and measurement of the hearing threshold levels of each ear of a person by means of —

(a) pure tone air conduction threshold tests; or

(b) evoked otoacoustic emission testing; or

(c) any other testing or measurement of a person's hearing that has been recommended by an audiologist and that provides an equivalent or better measurement of hearing thresholds than those specified in paragraph (a) or (b).

(1) This regulation applies in relation to a worker who is frequently required by the person conducting the business or undertaking to use personal protective equipment to protect the worker from the risk of hearing loss associated with noise that exceeds the exposure standard for noise.

(2) The person conducting the business or undertaking who provides the personal protective equipment as a control measure must provide audiometric testing for the worker —

(a) within 3 months of the worker commencing the work; and

(b) in any event, at least every 2 years.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) *[not used]*

59. Duties of designers, manufacturers, importers and suppliers of plant

(1) A designer of plant must ensure that the plant is designed so that its noise emission is as low as is reasonably practicable.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A designer of plant must give to each person who is provided with the design for the purpose of giving effect to it adequate information about —

(a) the noise emission values of the plant; and

(b) the operating conditions of the plant when noise emission is to be measured; and

(c) the methods the designer has used to measure the noise emission of the plant.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) A manufacturer of plant must ensure that the plant is manufactured so that its noise emission is as low as is reasonably practicable.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) A manufacturer of plant must give to each person to whom the manufacturer provides the plant adequate information about —

(a) the noise emission values of the plant; and

(b) the operating conditions of the plant when noise emission is to be measured; and

(c) the methods the manufacturer has used to measure the noise emission of the plant.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(5) An importer of plant must take all reasonable steps to —

(a) obtain information about —

(i) the noise emission values of the plant; and

(ii) the operating conditions of the plant when noise emission is to be measured; and

(iii) the methods the designer or manufacturer has used to measure the noise emission of the plant;

and

(b) give that information to any person to whom the importer supplies the plant.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(6) A supplier of plant must take all reasonable steps to —

(a) obtain the information the designer, manufacturer or importer is required to give a supplier under subregulation (2), (4) or (5); and

(b) give that information to any person to whom the supplier supplies the plant.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Part 4.2 — Hazardous manual tasks

60. Managing risks to health and safety

(1) A person conducting a business or undertaking must manage risks to health and safety relating to a musculoskeletal disorder associated with a hazardous manual task, in accordance with Part 3.1.

Note for this subregulation:

WHS Act — section 19 (see regulation 9).

(2) In determining the control measures to implement under subregulation (1), the person conducting the business or undertaking must have regard to all relevant matters that may contribute to a musculoskeletal disorder, including —

(a) postures, movements, forces and vibration relating to the hazardous manual task; and

(b) the duration and frequency of the hazardous manual task; and

(c) workplace environmental conditions that may affect the hazardous manual task or the worker performing it; and

(d) the design of the work area; and

(e) the layout of the workplace; and

(f) the systems of work used; and

(g) the nature, size, weight or number of persons, animals or things involved in carrying out the hazardous manual task.

61. Duties of designers, manufacturers, importers and suppliers of plant or structures

(1) A designer of plant or a structure must ensure that the plant or structure is designed so as to eliminate the need for any

hazardous manual task to be carried out in connection with the plant or structure.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) If it is not reasonably practicable to comply with subregulation (1), the designer must ensure that the plant or structure is designed so that the need for any hazardous manual task to be carried out in connection with the plant or structure is minimised so far as is reasonably practicable.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The designer must give to each person who is provided with the design for the purpose of giving effect to it adequate information about the features of the plant or structure that eliminate or minimise the need for any hazardous manual task to be carried out in connection with the plant or structure.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) A manufacturer of plant or a structure must ensure that the plant or structure is manufactured so as to eliminate the need for any hazardous manual task to be carried out in connection with the plant or structure.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(5) If it is not reasonably practicable to comply with subregulation (4), the manufacturer must ensure that the plant or structure is manufactured so that the need for any hazardous manual task to be carried out in connection with the plant or structure is minimised so far as is reasonably practicable.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(6) The manufacturer must give to each person to whom the manufacturer provides the plant or structure adequate information about the features of the plant or structure that eliminate or minimise the need for any hazardous manual task to be carried out in connection with the plant or structure.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(7) An importer of plant or a structure must take all reasonable steps to —

(a) obtain the information the designer or manufacturer is required to give under subregulation (3) or (6); and

(b) give that information to any person to whom the importer supplies the plant.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(8) A supplier of plant or a structure must take all reasonable steps to —

(a) obtain the information the designer, manufacturer or importer is required to give a supplier under subregulation (3), (6) or (7); and

(b) give that information to any person to whom the supplier supplies the plant.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Part 4.3 — Confined spaces

Division 1 — Preliminary

62. Confined spaces to which Part applies

(1) This Part applies to confined spaces that —

(a) are entered by any person; or

(b) are intended or likely to be entered by any person; or

(c) could be entered inadvertently by any person.

(2) In this Part, a reference to a confined space in relation to a person conducting a business or undertaking is a reference to a confined space that is under the person's management or control.

63. Application to emergency service workers

Regulations 67 and 68 do not apply to the entry into a confined space by an emergency service worker if, at the direction of the emergency service organisation, the worker is —

(a) rescuing a person from the space; or

(b) providing first aid to a person in the space.

Division 2 — Duties of designer, manufacturer, importer, supplier, installer and constructor of plant or structure

64. Duty to eliminate or minimise risk

(1) This regulation applies in relation to plant or a structure that includes a space that is, or is intended to be, a confined space.

(2) A designer, manufacturer, importer or supplier of the plant or structure, and a person who installs or constructs the plant or structure, must ensure that —

(a) the need for any person to enter the space and the risk of a person inadvertently entering the space are eliminated, so far as is reasonably practicable; or

(b) if it is not reasonably practicable to eliminate the need to enter the space or the risk of a person inadvertently entering the space —

(i) the need or risk is minimised so far as is reasonably practicable; and

(ii) the space is designed with a safe means of entry and exit; and

(iii) the risk to the health and safety of any person who enters the space is eliminated so far as is reasonably practicable or, if it is not reasonably practicable to eliminate the risk, the risk is minimised so far as is reasonably practicable.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Division 3 — Duties of person conducting business or undertaking

65. Entry into confined space must comply with Division

A person conducting a business or undertaking must ensure, so far as is reasonably practicable, that a worker does not enter a confined space before this Division has been complied with in relation to that space.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

66. Managing risks to health and safety

(1) A person conducting a business or undertaking must manage, in accordance with Part 3.1, risks to health and safety associated with a confined space at a workplace including risks associated with entering, working in, on or in the vicinity of the confined space (including a risk of a person inadvertently entering the confined space).

Note for this subregulation:

WHS Act — section 19 (see regulation 9).

(2) A person conducting a business or undertaking must ensure that a risk assessment is conducted by a competent person for the purposes of subregulation (1).

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(3) The person conducting the business or undertaking must ensure that a risk assessment conducted under subregulation (2) is recorded in writing.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(4) For the purposes of subregulations (1) and (2), the person conducting a business or undertaking must have regard to all relevant matters, including the following —

(a) whether the work can be carried out without the need to enter the confined space;

(b) the nature of the confined space;

(c) if the hazard is associated with the concentration of oxygen or the concentration of airborne contaminants in the confined space — any change that may occur in that concentration;

(d) the work required to be carried out in the confined space, the range of methods by which the work can be carried out and the proposed method of working;

(e) the type of emergency procedures, including rescue procedures, required.

(5) The person conducting a business or undertaking must ensure that a risk assessment under this regulation is reviewed and as necessary revised by a competent person to reflect any review and revision of control measures under Part 3.1.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

67. Confined space entry permit

(1) A person conducting a business or undertaking at a workplace must not direct a worker to enter a confined space to carry out work unless the person has issued a confined space entry permit for the work.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A confined space entry permit must —

(a) be completed by a competent person; and

(b) be in writing; and

(c) specify the following —

(i) the confined space to which the permit relates;

(ii) the names of persons permitted to enter the space;

(iii) the period of time during which the work in the space will be carried out;

(iv) measures to control risk associated with the proposed work in the space;

and

(d) contain space for an acknowledgement that work in the confined space has been completed and that all persons have left the confined space.

(3) The control measures specified in a confined space permit must —

(a) be based on a risk assessment conducted under regulation 66; and

(b) include —

(i) control measures to be implemented for safe entry; and

(ii) details of the system of work provided under regulation 69.

(4) The person conducting a business or undertaking must ensure that, when the work for which the entry permit was issued is completed —

(a) all workers leave the confined space; and

(b) the acknowledgement referred to in subregulation (2)(d) is completed by the competent person.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

68. Signage

(1) A person conducting a business or undertaking must ensure that signs that comply with subregulation (2) are erected —

(a) immediately before work in a confined space commences and while the work is being carried out; and

(b) while work is being carried out in preparation for, and in the completion of, work in a confined space.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) The signs must —

(a) identify the confined space; and

(b) inform workers that they must not enter the space unless they have a confined space entry permit; and

(c) be clear and prominently located next to each entry to the space.

69. Communication and safety monitoring

A person conducting a business or undertaking must ensure that a worker does not enter a confined space to carry out work unless the person provides a system of work that includes —

(a) continuous communication with the worker from outside the space; and

(b) monitoring of conditions within the space by a standby person who is in the vicinity of the space and, if practicable, observing the work being carried out.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

70. Specific control: connected plant and services

(1) A person conducting a business or undertaking must, so far as is reasonably practicable, eliminate any risk associated with work in a confined space in either of the following circumstances —

(a) the introduction of any substance or condition into the space from or by any plant or services connected to the space;

(b) the activation or energising in any way of any plant or services connected to the space.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) If it is not reasonably practicable for the person to eliminate risk under subregulation (1), the person must minimise that risk so far as is reasonably practicable.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

71. Specific control: atmosphere

(1A) In this regulation —

purging means the method used to displace any contaminant from a confined space.

(1) A person conducting a business or undertaking must ensure, in relation to work in a confined space, that —

(a) purging or ventilation of any contaminant in the atmosphere of the space is carried out, so far as is reasonably practicable; and

(b) pure oxygen or gas mixtures with oxygen in a concentration exceeding 21% by volume are not used for purging or ventilation of any airborne contaminant in the space.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The person must ensure that, while work is being carried out in a confined space —

(a) the atmosphere of the space has a safe oxygen level; or

(b) if it is not reasonably practicable to comply with paragraph (a) and the atmosphere in the space has an oxygen level less than 19.5% by volume — any worker carrying out work in the space is provided with air supplied respiratory equipment.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Notes for this regulation:

1. Regulation 44 applies to the use of personal protective equipment, including the equipment provided under subregulation (2).
2. Regulation 50 applies to airborne contaminants.

(3) *[not used]*

72. Specific control: flammable gases and vapours

(1) A person conducting a business or undertaking must ensure, so far as is reasonably practicable, that while work is being carried out in a confined space, the concentration of any flammable gas, vapour or mist in the atmosphere of the space is less than 5% of its LEL.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) If it is not reasonably practicable to limit the atmospheric concentration of a flammable gas, vapour or mist in a confined space to less than 5% of its LEL and the atmospheric concentration of the flammable gas, vapour or mist in the space is —

(a) equal to or greater than 5% but less than 10% of its LEL — the person must ensure that any worker is immediately removed from the space unless a suitably calibrated, continuous-monitoring flammable gas detector is used in the space; or

(b) equal to or greater than 10% of its LEL — the person must ensure that any worker is immediately removed from the space.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

73. Specific control: fire and explosion

A person conducting a business or undertaking must ensure that an ignition source is not introduced into a confined space (from outside or within the space) if there is a possibility of the ignition source causing a fire or explosion in the space.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

74. Emergency procedures

(1) A person conducting a business or undertaking must —

(a) establish first aid procedures and rescue procedures to be followed in the event of an emergency in a confined space; and

(b) ensure that the procedures are practised as necessary to ensure that they are efficient and effective.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The person must ensure that first aid and rescue procedures are initiated from outside the confined space as soon as practicable in an emergency.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The person must ensure, in relation to any confined space, that —

(a) the entry and exit openings of the confined space are large enough to allow emergency access; and

(b) the entry and exit openings of the space are not obstructed; and

(c) plant, equipment and personal protective equipment provided for first aid or emergency rescue are maintained in good working order.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Note for this regulation:

See Part 3.2 for general provisions relating to first aid, personal protective equipment and emergency plans.

75. Personal protective equipment in emergencies

(1) This regulation applies in relation to a worker who is to enter a confined space in order to carry out first aid or rescue procedures in an emergency.

(2) The person conducting the business or undertaking for which the worker is carrying out work must ensure that air supplied respiratory equipment is available for use by, and is provided to, the worker in an emergency in which —

(a) the atmosphere in the confined space does not have a safe oxygen level; or

(b) the atmosphere in the space has a harmful concentration of an airborne contaminant; or

(c) there is a serious risk of the atmosphere in the space becoming affected in the way referred to in paragraph (a) or (b) while the worker is in the space.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The person conducting the business or undertaking for which the worker is carrying out work must ensure that suitable personal protective equipment is available for use by, and is provided to, the worker in an emergency in which —

(a) an engulfment has occurred inside the confined space; or

(b) there is a serious risk of an engulfment occurring while the worker is in the space.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Note for this subregulation:

Regulation 44 applies to the use of personal protective equipment, including the equipment provided under this regulation.

76. Information, training and instruction for workers

(1A) In this regulation —

relevant worker means —

(a) a worker who, in carrying out work for the business or undertaking, could —

(i) enter or work in a confined space; or

(ii) carry out any function in relation to work in a confined space or the emergency procedures established under regulation 74, but who is not required to enter the space;

or

(b) any person supervising a worker referred to in paragraph (a).

(1) A person conducting a business or undertaking must ensure that relevant workers are provided with suitable and adequate information, training and instruction in relation to the following —

(a) the nature of all hazards relating to a confined space;

(b) the need for, and the appropriate use of, control measures to control risks to health and safety associated with those hazards;

(c) the selection, fit, use, wearing, testing, storage and maintenance of any personal protective equipment;

(d) the contents of any confined space entry permit that may be issued in relation to work carried out by the worker in a confined space;

(e) emergency procedures.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The person must ensure that a record of all training provided to a relevant worker under this regulation is kept for 2 years.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(3) *[not used]*

77. Confined space entry permit and risk assessment must be kept

(1) This regulation applies if a person conducting a business or undertaking —

(a) prepares a risk assessment under regulation 66; or

(b) issues a confined space entry permit under regulation 67.

(2) Subject to subregulation (3), the person must keep —

(a) a copy of the risk assessment until at least 28 days after the work to which it relates is completed; and

(b) a copy of the confined space entry permit at least until the work to which it relates is completed.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(3) If a notifiable incident occurs in connection with the work to which the assessment or permit relates, the person must keep the copy of the assessment or permit (as applicable) for at least 2 years after the incident occurs.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(4) The person must ensure that, for the period for which the assessment or permit must be kept under this regulation, a copy is available for inspection under the Act.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(5) The person must ensure that, for the period for which the assessment or permit must be kept under this regulation, a copy is available to any relevant worker on request.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

Part 4.4 — Falls

78. Management of risk of fall

(1A) In this regulation —

solid construction means an area that has —

(a) a surface that is structurally capable of supporting all persons and things that may be located or placed on it; and

(b) barriers around its perimeter and any openings to prevent a fall; and

(c) an even and readily negotiable surface and gradient; and

(d) a safe means of entry and exit.

(1) A person conducting a business or undertaking at a workplace must manage, in accordance with Part 3.1, risks to health and safety associated with a fall by a person from one level to another that is reasonably likely to cause injury to the person or any other person.

Note for this subregulation:

WHS Act — section 19 (see regulation 9).

(2) Subregulation (1) includes the risk of a fall —

(a) in or on an elevated workplace from which a person could fall; or

(b) in the vicinity of an opening through which a person could fall; or

(c) in the vicinity of an edge over which a person could fall; or

(d) on a surface through which a person could fall; or

(e) in any other place from which a person could fall.

(3) A person conducting a business or undertaking must ensure, so far as is reasonably practicable, that any work that involves the risk of a fall to which subregulation (1) applies is carried out on the ground or on a solid construction.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) A person conducting a business or undertaking must provide safe means of access to and exit from —

(a) the workplace; and

(b) any area within the workplace referred to in subregulation (2).

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(5) *[not used]*

79. Specific requirements to minimise risk of fall

(1A) In this regulation —

fall prevention device includes —

(a) a secure fence; and

(b) edge protection; and

(c) working platforms; and

(d) covers.

(1) This regulation applies if it is not reasonably practicable for the person conducting a business or undertaking at a workplace to eliminate the risk of a fall to which regulation 78 applies.

(2) The person must minimise the risk of a fall by providing adequate protection against the risk in accordance with this regulation.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The person provides adequate protection against the risk if the person 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 paragraph (a) or (b), providing a fall arrest system, so far as is reasonably practicable.

Notes for this subregulation:

1. See regulation 5 for definitions of ***fall arrest system*** and ***work positioning system***.
2. A combination of the controls set out in this subregulation may be used to minimise risks, so far as is practicable, if a single control is not sufficient for the purpose.

Examples for this subregulation:

1. Providing temporary work platforms.
2. Providing training in relation to the risks involved in working at the workplace.
3. Providing safe work procedures, safe sequencing of work, safe use of ladders, permit systems and appropriate signs.

(4) This regulation does not apply in relation to the following work —

(a) the performance of stunt work;

(b) the performance of acrobatics;

(c) a theatrical performance;

(d) a sporting or athletic activity;

(e) horse riding.

Note for this subregulation:

Regulation 36 applies to the management of risk in relation to this work.

79A. Duties of certain persons as to holes or openings in floors

(1) A person conducting a business or undertaking or a principal contractor at, or a person with management or control of, a workplace must ensure that any hole or opening (other than a lift well, stairwell or vehicle inspection pit) with dimensions of more than 200 mm x 200 mm but less than 2 metres x 2 metres or with a diameter greater than 200 mm but less than 2 metres —

(a) in a floor, other than a concrete floor, of a structure at the workplace is covered with a material that is securely fixed to the floor and is strong enough to prevent persons or things entering or falling through or into the hole or opening; or

(b) in a concrete floor of a structure at the workplace —

(i) has, if reasonably practicable, wire mesh that meets the requirements of subregulation (2); and

(ii) is covered with a material that is securely fixed to the floor and is strong enough to prevent persons or things entering or falling through or into the hole or opening.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The wire in the wire mesh referred to in subregulation (1)(b)(i) must —

(a) be at least 4 mm in diameter; and

(b) have maximum apertures of 75 mm x 75 mm; and

(c) be embedded, at least 200 mm in the edges of the surrounding concrete; and

(d) be embedded either —

(i) in the upper half of the slab with a minimum concrete cover of 20 mm; or

(ii) in the lower half of the slab with a minimum cover of 30 mm.

(3) A person to whom subregulation (1) applies must ensure that —

(a) wire mesh referred to in subregulation (1)(b)(i) —

(i) is not used as a working platform; and

(ii) is only removed for the purposes of installing services in circumstances where the removal takes place immediately before the installation of a service and the only portion removed is the minimum portion required to be removed for the installation;

and

(b) any cover referred to in subregulation (1)(a) or (b)(ii) —

(i) is marked in clearly legible lettering with the words “DANGER — HOLE BENEATH”; and

(ii) is only removed for the purposes of installing services in circumstances where the removal takes place immediately before the installation of a service.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

80. Emergency and rescue procedures

(1A) In this regulation —

relevant worker means —

(a) a worker who, in carrying out work in the business or undertaking, uses or is to use a fall arrest system; and

(b) a worker who may be involved in initiating or implementing the emergency procedures.

(1) This regulation applies if a person conducting a business or undertaking provides a fall arrest system as a control measure.

(2) Without limiting regulation 79, the person must establish emergency procedures, including rescue procedures, in relation to the use of the fall arrest system.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The person must ensure that the emergency procedures are tested so that they are effective.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) The person must provide relevant workers with suitable and adequate information, training and instruction in relation to the emergency procedures.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(5) *[not used]*

Part 4.5 — High risk work

Division 1 — Licensing of high risk work

Subdivision 1 — Requirement to be licensed

81. Licence required to carry out high risk work

A person must not carry out a class of high risk work unless the person holds a high risk work licence for that class of high risk work, except as provided in regulation 82.

Notes for this regulation:

1. See section 43 of the Act.
2. Schedule 3 sets out the high risk work licences and classes of high risk work that are within the scope of each licence. Schedule 4 sets out the qualifications required for a high risk work licence.

82. Exceptions

(1) A person who carries out high risk work is not required to be licensed to carry out the work if the work is carried out —

(a) in the course of training towards a certification in order to be licensed to carry out the high risk work; and

(b) under the supervision of a person who is licensed to carry out the high risk work.

(1A) A person who holds a certification in relation to a specified VET course for high risk work is not required to be licensed to carry out the work —

(a) for 60 days after the certification is issued; and

(b) if the person applies for the relevant high risk work licence within that 60 day period, until —

(i) the person is granted the licence; or

(ii) the expiry of 28 days after the person is given written notice under regulation 91(2) of a decision to refuse to grant the licence.

(1B) A person who carries out high risk work is not required to be licensed to carry out the work if the work is carried out while an accredited assessor is conducting an assessment of the person's competency in relation to the work.

(2) A person who carries out high risk work involving plant is not required to be licensed if —

(a) the work is carried out at a workplace solely for the purpose of the manufacture, testing, trialling, installation, commissioning, maintenance, servicing, repair, alteration, demolition or disposal of the plant at that workplace or moving the plant within the workplace; and

(b) the plant is operated or used without a load except when standard weight loads with predetermined fixing points are used for calibration of the plant.

(3) For the purposes of subregulation (2)(a), ***moving*** includes operating the plant in order to load the plant onto, or unload it from, a vehicle or equipment used to move it.

(4) A person who carries out high risk work with a crane or hoist is not required to be licensed as a crane operator if —

(a) the work is limited to setting up or dismantling the crane or hoist; and

(b) the person carrying out the work holds a licence in relation to rigging, which qualifies the person to carry out the work.

Note for this subregulation:

See Schedule 3 for the classes of crane operator licence.

(5) A person who carries out high risk work with a heritage boiler is not required to be licensed as a boiler operator.

83. Recognition of high risk work licences in other jurisdictions

(1) In this Subdivision, a reference to a high risk work licence includes a reference to an equivalent licence —

(a) granted under a corresponding WHS law; and

(b) that is being used in accordance with the terms and conditions under which it was granted.

(2) Subregulation (1) does not apply to a licence that is suspended or cancelled or has expired in the corresponding jurisdiction.

84. Duty of person conducting business or undertaking to ensure direct supervision

(1A) In this regulation —

direct supervision, of a person, means the oversight by the supervising person of the work of that person for the purposes of —

(a) directing, demonstrating, monitoring and checking the person's work in a way that is appropriate to the person's level of competency; and

(b) ensuring a capacity to respond in an emergency situation.

(1) A person conducting a business or undertaking must ensure that a person supervising the work of a person carrying out high risk work as required by regulation 82(1) provides direct supervision of the person except in the circumstances set out in subregulation (2).

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) Direct supervision of a person is not required if —

(a) the nature or circumstances of a particular task make direct supervision impracticable or unnecessary; and

(b) the reduced level of supervision will not place the health or safety of the supervised person or any other person at risk.

(3) *[not used]*

85. Evidence of licence: duty of person conducting business or undertaking

(1) A person conducting a business or undertaking at a workplace must not direct or allow a worker to carry out high risk work for which a high risk work licence is required unless the person sees written evidence provided by the worker that the worker has the relevant high risk work licence for that work.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) A person conducting a business or undertaking at a workplace must not direct or allow a worker to carry out high risk work in the circumstances referred to in regulation 82(1) unless the person sees written evidence provided by the worker that the worker is undertaking the course of training referred to in regulation 82(1)(a).

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2A) A person conducting a business or undertaking at a workplace must not direct or allow a worker to carry out high risk work in the circumstances referred to in regulation 82(1A) unless the person sees written evidence provided by the worker that the worker —

(a) in the circumstances referred to in regulation 82(1A)(a) — holds a certification referred to in regulation 82(1A); and

(b) in the circumstances referred to in regulation 82(1A)(b) —

(i) holds a certification referred to in regulation 82(1A); and

(ii) has applied for the relevant licence within the period referred to in regulation 82(1A)(b).

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(3) A person conducting a business or undertaking at a workplace must not direct or allow a worker to supervise high risk work as referred to in regulations 82(1) and 84 unless the person sees written evidence that the worker holds the relevant high risk work licence for that high risk work.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(4) A person conducting a business or undertaking at a workplace must keep a record of the written evidence provided —

(a) under subregulation (1) or (2) — for at least 1 year after the high risk work is carried out;

(b) under subregulation (3) — for at least 1 year after the last occasion on which the worker performs the supervision work.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

Subdivision 2 — Licensing process

86. Who may apply for a licence

Only a person who holds a qualification set out in Schedule 4 may apply for a high risk work licence.

87. Application for high risk work licence

(1) An application for a high risk work licence must be made in the manner and form required by the regulator.

(2) The application must include the following information —

(a) the applicant's name and residential address;

(b) a photograph of the applicant in the form required by the regulator;

(c) evidence of the applicant's age;

(d) any other evidence of the applicant's identity required by the regulator;

(e) the class of high risk work licence to which the application relates;

(f) a copy of a certification —

(i) that is held by the applicant in relation to the specified VET course, or each of the specified VET courses, for the high risk work licence applied for; and

(ii) that was issued not more than 60 days before the application is made;

(g) a declaration that the applicant does not hold an equivalent licence under a corresponding WHS law;

(h) a declaration as to whether or not the applicant has ever been convicted or found guilty of any offence under the Act or these regulations or under any corresponding WHS law;

(i) details of any conviction or finding of guilt declared under paragraph (h);

(j) a declaration as to whether or not the applicant has ever entered into an enforceable undertaking under the Act or under any corresponding WHS law;

(k) details of any enforceable undertaking declared under paragraph (j);

(l) if the applicant has previously been refused an equivalent licence under a corresponding WHS law, a declaration giving details of that refusal;

(m) if the applicant has previously held an equivalent licence under a corresponding WHS law, a declaration —

(i) describing any condition imposed on that licence; and

(ii) stating whether or not that licence had been suspended or cancelled and, if so, whether or not the applicant had been disqualified from applying for any licence; and

(iii) giving details of any suspension, cancellation or disqualification.

Note for this subregulation:

See section 268 of the Act for offences relating to the giving of false or misleading information under the Act, including these regulations.

(3) The application must be accompanied by the relevant fee.

88. Additional information

(1) If an application for a high risk work licence does not contain sufficient information to enable the regulator to make a decision whether or not to grant the licence, the regulator may ask the applicant to provide additional information.

(2) A request for additional information must —

(a) specify the date (not being less than 28 days after the request) by which the additional information must be given; and

(b) be confirmed in writing.

(3) If an applicant does not provide the additional information by the date specified, the application is taken to have been withdrawn.

(4) The regulator may make more than 1 request for additional information under this regulation.

89. Decision on application

(1) Subject to subregulation (3), the regulator must grant a high risk work licence if satisfied about the matters referred to in subregulation (2).

(2) The regulator must be satisfied about the following —

(a) the application has been made in accordance with these regulations;

(b) the applicant does not hold an equivalent licence under a corresponding WHS law unless that licence is due for renewal;

(c) the applicant is at least 18 years of age;

(d) the applicant has provided the certification required under regulation 87(2)(f);

(e) the applicant is able to carry out the work to which the licence relates safely and competently.

(3) The regulator must refuse to grant a high risk work licence if satisfied that —

(a) the applicant is disqualified under a corresponding WHS law from holding an equivalent licence; or

(b) the applicant, in making the application, has —

(i) given information that is false or misleading in a material particular; or

(ii) failed to give any material information that should have been given;

or

(c) the notice of satisfactory assessment issued in respect of the certification required under regulation 87(2)(f) is based on an assessment conducted outside of the State.

(4) If the regulator decides to grant the licence, it must notify the applicant within 14 days after making the decision.

(5) If the regulator does not make a decision within 120 days after receiving the application or the additional information requested under regulation 88, the regulator is taken to have refused to grant the licence applied for.

Note for this regulation:

A refusal to grant a high risk work licence (including under subregulation (5)) is a reviewable decision (see regulation 676).

90. Matters to be taken into account

For the purposes of regulation 89(2)(e), the regulator must have regard to all relevant matters, including the following —

(a) any offence under the Act or these regulations or under a corresponding WHS law of which the applicant has been convicted or found guilty;

(b) in relation to any equivalent licence applied for or held by the applicant under the Act or these regulations or under a corresponding WHS law —

(i) any refusal to grant the licence; and

(ii) any condition imposed on the licence, if granted; and

(iii) any suspension or cancellation of the licence, if granted, including any disqualification from applying for any licence;

(c) any enforceable undertaking the applicant has entered into under the Act or a corresponding WHS law;

(d) the applicant's record in relation to any matters arising under the Act or these regulations or under a corresponding WHS law.

91. Refusal to grant high risk work licence: process

(1) If the regulator proposes to refuse to grant a licence, the regulator must give a written notice to the applicant —

(a) informing the applicant of the reasons for the proposed refusal; and

(b) advising the applicant that the applicant may, by a specified date (being not less than 28 days after giving the notice), make a submission to the regulator in relation to the proposed refusal.

(2) After the date specified in a notice under subregulation (1), the regulator must —

(a) if the applicant has made a submission in relation to the proposed refusal to grant the licence — consider that submission; and

(b) whether or not the applicant has made a submission — decide whether to grant or refuse to grant the licence; and

(c) within 14 days after making that decision, give the applicant written notice of the decision, including the reasons for the decision.

Note for this subregulation:

A decision to refuse to grant a licence is a reviewable decision (see regulation 676).

91A. Conditions of licence

(1) The regulator may impose any conditions it considers appropriate on a high risk work licence.

(2) Without limiting subregulation (1), the regulator may impose conditions in relation to 1 or more of the following —

(a) control measures that must be implemented in relation to the carrying out of work or activities under the licence;

(b) the circumstances in which work or activities authorised by the licence may be carried out.

(3) The regulator must give the licence holder written notice of any conditions imposed on the licence.

Notes for this subregulation:

1. A person must comply with the conditions of a licence (see section 45 of the Act).
2. A decision to impose a condition on a licence is a reviewable decision (see regulation 676).

92. Duration of licence

Subject to this Division, a high risk work licence takes effect on the day it is granted and, unless cancelled earlier, expires 5 years after that day.

93. Licence document

(1) If the regulator grants a high risk work licence, the regulator must issue to the applicant a licence document in the form determined by the regulator.

(2) The licence document must include the following —

(a) the name of the licence holder;

(b) a photograph of the licence holder;

(c) the date of birth of the licence holder;

(d) a copy of the signature of the licence holder or provision for the inclusion of a copy signature;

(e) the class of high risk work licence and a description of the work within the scope of the licence;

(f) the date on which the licence was granted;

(g) the expiry date of the licence.

(3) For the purposes of subregulation (2)(e), if the regulator grants more than 1 class of high risk work licence to a person, the licence document must contain a description of each class of licence and the work that is within the scope of each licence.

(4) If a licence holder holds more than 1 high risk work licence, the regulator may issue to the licence holder 1 licence document in relation to some or all those licences.

(5) Despite regulation 92, if a licence document is issued under subregulation (4), the licences to which that licence document related expire on the date that the 1st of those licences expires.

94. Licence document to be available

(1) A licence holder must keep the licence document available for inspection under the Act.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) Subregulation (1) does not apply if the licence document is not in the licence holder's possession because —

(a) it has been returned to the regulator under regulation 97; or

(b) the licence holder has applied for, but has not received, a replacement licence document under regulation 98.

95. Reassessment of competency of licence holder

The regulator may direct a licence holder to obtain a reassessment of the competency of the licence holder to carry out the high risk work covered by the licence if the regulator reasonably believes that the licence holder may not be competent to carry out that work.

Examples for this regulation:

1. The training or competency assessment of the licence holder did not meet the standard required to hold the licence.
2. The regulator receives information that the licence holder has carried out high risk work incompetently.

Subdivision 3 — Amendment of licence document

96. Notice of change of address

The licence holder of a high risk work licence must notify the regulator of a change of residential address, within 14 days of the change occurring.

Penalty:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

97. Licence holder to return licence

If a high risk work licence is amended, the licence holder must return the licence document to the regulator for amendment at the written request of the regulator and within the time specified in the request.

Penalty:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

98. Replacement licence document

(1) A licence holder must notify the regulator as soon as practicable if the licence document is lost, stolen or destroyed.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) If a licence document is lost, stolen or destroyed, the licence holder may apply to the regulator for a replacement document.

Note for this subregulation:

A licence holder is required to keep the licence document available for inspection (see regulation 94).

(3) An application for a replacement licence document must be made in the manner and form required by the regulator.

(4) The application must —

(a) include a declaration describing the circumstances in which the original document was lost, stolen or destroyed; and

Note for this paragraph:

See section 268 of the Act for offences relating to the giving of false or misleading information under the Act, including these regulations.

(b) be accompanied by the relevant fee.

(5) The regulator must issue a replacement licence document if satisfied that the original document was lost, stolen or destroyed.

(6) If the regulator refuses to issue a replacement licence document, it must give the licence holder written notice of this decision, including the reasons for the decision, within 14 days after making the decision.

Note for this subregulation:

A decision to refuse to replace a licence document is a reviewable decision (see regulation 676).

99. Voluntary surrender of licence

(1) A licence holder may voluntarily surrender the licence document to the regulator.

(2) The licence expires on the surrender of the licence document.

Subdivision 4 — Renewal of high risk work licence

100. Regulator may renew licence

The regulator may renew a high risk work licence on application by the licence holder.

101. Application for renewal

(1) An application for renewal of a high risk work licence must be made in the manner and form required by the regulator.

(2) The application must include the following information —

(a) the name and residential address of the applicant;

(b) if required by the regulator, a photograph of the applicant in the form required by the regulator;

(c) any other evidence of the applicant's identity required by the regulator;

(d) a declaration by the applicant that the applicant has maintained their competency to carry out the high risk work, including by obtaining any reassessment directed under regulation 95.

Note for this subregulation:

See section 268 of the Act for offences relating to the giving of false or misleading information under the Act, including these regulations.

(3) The application must be accompanied by the relevant fee.

(4) The application must be made before the expiry of the licence.

102. Licence continues in force until application is decided

If a licence holder applies under regulation 101 for the renewal of a high risk work licence, the licence is taken to continue in force from the day it would, apart from this regulation, have expired until the licence holder is given notice of the decision on the application.

103. Renewal of expired licence

A person whose high risk work licence has expired may apply for a renewal of that licence —

(a) within 12 months after the expiry of the licence; or

(b) if the person satisfies the regulator that exceptional circumstances exist — within any longer period that the regulator allows.

Notes for this regulation:

1. As the licence has expired, the applicant cannot carry out the work covered by the licence until the licence is renewed. An application made after a period referred to in paragraph (a) or (b) would be an application for a new licence under regulation 87.
2. See section 268 of the Act for offences relating to the giving of false or misleading information under the Act, including these regulations.

104. Provisions relating to renewal of licence

(1) For the purposes of this Subdivision —

(a) regulation 88 applies as if a reference in that regulation to an application for a licence were a reference to an application to renew a licence; and

(b) regulations 89 (except subregulations (2)(d), (3)(c) and (5)), 90, 91A and 92 apply as if a reference in those regulations to the grant of a licence were a reference to the renewal of a licence; and

(c) regulation 91 applies as if a reference in that regulation to a refusal to grant a licence were a reference to a refusal to renew a licence.

(2) The regulator may renew a high risk work licence granted to a person under a corresponding WHS law unless that licence is renewed under that law.

Note for this subregulation:

A refusal to renew a licence is a reviewable decision (see regulation 676).

105. Status of licence during review

(1) This regulation applies if the regulator gives a licence holder written notice of its decision to refuse to renew the licence.

(2) If the licence holder does not apply for internal review of the decision, the licence continues to have effect until the last of the following events —

(a) the expiry of the licence;

(b) the end of the period for applying for an internal review.

(3) If the licence holder applies for an internal review of the decision, the licence continues to have effect until the earlier of the following events —

(a) the licence holder withdraws the application for review;

(b) the regulator makes a decision on the review.

(4) If the licence holder does not apply for an external review, the licence continues to have effect until the end of the time for applying for an external review.

(5) If the licence holder applies for an external review, the licence continues to have effect until the earlier of the following events —

(a) the licence holder withdraws the application for review;

(b) the Tribunal makes a decision on the review.

(6) The licence continues to have effect under this regulation even if its expiry date passes.

Subdivision 5 — Suspension and cancellation of high risk work licence

106. Suspension or cancellation of licence

(1) The regulator may suspend or cancel a high risk work licence if satisfied about 1 or more of the following —

(a) the licence holder has failed to take reasonable care to carry out the high risk work safely and competently;

(b) the licence holder has failed to comply with a condition of the licence;

(c) the licence holder has failed to obtain a reassessment of competency directed under regulation 95;

(d) the licence holder, in the application for the grant or renewal of the licence or on request by the regulator for additional information —

(i) gave information that was false or misleading in a material particular; or

(ii) failed to give any material information that should have been given in that application or on that request;

(e) the licence was granted or renewed on the basis of a certification that was obtained on the basis of the giving of false or misleading information by any person or body or that was obtained improperly through a breach of a condition of accreditation by the accredited assessor who conducted the competency assessment.

(2) If the regulator suspends or cancels a licence, the regulator may disqualify the licence holder from applying for —

(a) a further high risk work licence of the same class; or

(b) another licence under these regulations to carry out work which requires skills that are the same as or similar to those required for the work authorised by the licence that has been suspended or cancelled.

(3) If the regulator suspends a licence, the regulator may vary the conditions of the licence, including by imposing different or additional conditions.

(4) A variation of conditions under subregulation (3) takes effect when the suspension of the licence ends.

Notes for this regulation:

1. A decision to suspend a licence, to cancel a licence or to disqualify the licence holder from applying for a further licence is a reviewable decision (see regulation 676).
2. A variation of licence conditions is a reviewable decision (see regulation 676).

107. Matters taken into account

(1) In making a decision under regulation 106, the regulator must have regard to —

(a) any submissions made by the licence holder under regulation 108; and

(b) any advice received from a corresponding regulator.

(2) For the purposes of regulation 106(1)(a), the regulator must have regard to all relevant matters, including the following —

(a) any offence under the Act or these regulations or under a corresponding WHS law, of which the licence holder has been convicted or found guilty;

(b) in relation to any equivalent licence applied for or held by the licence holder under the Act or these regulations or under a corresponding WHS law —

(i) any refusal to grant the licence; and

(ii) any condition imposed on the licence, if granted; and

(iii) any suspension or cancellation of the licence, if granted, including any disqualification from applying for any licence;

(c) any enforceable undertaking the licence holder has entered into under the Act or a corresponding WHS law;

(d) the licence holder's record in relation to any matters arising under the Act or these regulations or under a corresponding WHS law.

108. Notice to and submissions by licence holder

(1) Before suspending or cancelling a high risk work licence, the regulator must give the licence holder a written notice of —

(a) the proposed suspension or cancellation; and

(b) any proposed disqualification; and

(c) any proposed variation of licence conditions.

(2) A notice under subregulation (1) must —

(a) outline all relevant allegations, facts and circumstances known to the regulator; and

(b) advise the licence holder that the licence holder may, by a specified date (being not less than 28 days after giving the notice), make a submission in relation to the proposed suspension or cancellation, any proposed disqualification and any proposed variation of licence conditions.

109. Notice of decision

(1) The regulator must give the licence holder written notice of a decision under regulation 106 to suspend or cancel a high risk work licence within 14 days after making the decision.

(2) The notice must —

(a) state that the licence is to be suspended or cancelled; and

(b) if the licence is to be suspended, state —

(i) when the suspension begins and ends; and

(ii) the reasons for the suspension; and

(iii) whether the licence holder is required to undergo retraining or reassessment or take any other action before the suspension ends; and

(iv) whether or not the licence holder is disqualified from applying for a further licence during the suspension; and

(v) if licence conditions are to be varied — the variation; and

(vi) if licence conditions are to be varied — that the variation will take effect when the suspension ends;

and

(c) if the licence is to be cancelled, state —

(i) when the cancellation takes effect; and

(ii) the reasons for the cancellation; and

(iii) whether or not the licence holder is disqualified from applying for a further licence;

and

(d) if the licence holder is to be disqualified from applying for a further licence, state —

(i) when the disqualification begins and ends; and

(ii) the reasons for the disqualification; and

(iii) whether or not the licence holder is required to undergo retraining or reassessment or take any other action before the disqualification ends; and

(iv) any other class of high risk work licence or other licence under these regulations the licence holder is disqualified from applying for during the period of suspension or disqualification;

and

(e) state when the licence document must be returned to the regulator.

110. Immediate suspension

(1) The regulator may suspend a high risk work licence on a ground referred to in regulation 106 without giving notice under regulation 108 if satisfied that —

(a) work carried out under the high risk work licence should cease because the work may involve an imminent serious risk to the health or safety of any person; or

(b) a corresponding regulator has suspended an equivalent licence held by the licence holder under this regulation as applying in the corresponding jurisdiction.

(2) If the regulator decides to suspend a licence under this regulation —

(a) the regulator must give the licence holder written notice of the suspension and the reasons for the suspension; and

(b) the suspension of the licence takes effect on the giving of the notice.

(3) The regulator must then —

(a) give notice under regulation 108 within 14 days after giving the notice under subregulation (2); and

(b) make its decision under regulation 106.

(4) If the regulator does not give notice under subregulation (3), the suspension ends at the end of the 14 day period.

(5) If the regulator gives notice under subregulation (3), the licence remains suspended until the decision is made under regulation 106.

111. Licence holder to return licence document

A licence holder, on receiving a notice under regulation 109, must return the licence document to the regulator in accordance with the notice.

Penalty:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

112. Regulator to return licence document after suspension

When the period of suspension of a licence ends, the regulator must return the licence document to the licence holder within 14 days after the licence suspension ends.

Division 2 — Accreditation of assessors

Subdivision 1 — Requirement to be accredited

113. Accreditation required to assess competency for high risk work licence

A person who is not an accredited assessor must not —

(a) conduct a competency assessment; or

(b) issue a notice of satisfactory assessment; or

(c) in any other way purport to be an accredited assessor.

Note for this regulation:

See section 43 of the Act.

114. Accredited assessor must act in accordance with accreditation

(1) An accredited assessor must not conduct a competency assessment unless —

(a) the competency assessment relates to a class of high risk work for which the assessor is accredited; and

(b) the accredited assessor conducts the competency assessment for or on behalf of an RTO.

(2) An accredited assessor must not issue a notice of satisfactory assessment unless —

(a) the competency assessment relates to a class of high risk work for which the assessor is accredited; and

(b) the assessor is satisfied that the person being assessed has sufficient knowledge of the English language, both written and oral, to safely do work of that class.

(3) An accredited assessor who conducts a competency assessment must do so in accordance with the conditions of accreditation imposed under regulation 121.

(4) An accredited assessor who issues a notice of satisfactory assessment must do so in accordance with any conditions of accreditation imposed under regulation 121.

(5) Subregulations (1) to (4) do not apply if the regulator is the accredited assessor.

Note for this regulation:

See section 43 of the Act.

Subdivision 2 — Accreditation process

115. Regulator may accredit assessors

The regulator may, under this Division, accredit persons to conduct assessments.

116. Application for accreditation

(1) An application for accreditation must be made in the manner and form required by the regulator.

(2) The application must include the following information —

(a) the name and residential address of the applicant;

(b) any other evidence of the applicant's identity required by the regulator;

(c) details of the class of high risk work to which the application relates;

(d) evidence that the applicant is qualified to conduct the type of competency assessment in relation to the class of high risk work to which the application relates;

(e) details of any current equivalent accreditation under a corresponding WHS law;

(f) a declaration as to whether or not the applicant has ever been convicted or found guilty of any offence under the Act or these regulations or under any corresponding WHS law;

(g) details of any conviction or finding of guilt declared under paragraph (f);

(h) a declaration as to whether or not the applicant has ever entered into an enforceable undertaking under the Act or under any corresponding WHS law;

(i) details of any enforceable undertaking declared under paragraph (h);

(j) if the applicant has previously been refused an equivalent accreditation under a corresponding WHS law, a declaration giving details of that refusal;

(k) if the applicant has previously held an equivalent accreditation under a corresponding WHS law, a declaration —

(i) describing any condition imposed on that accreditation; and

(ii) stating whether or not that accreditation had been suspended or cancelled and, if so, whether or not the applicant had been disqualified from applying for any accreditation; and

(iii) giving details of any suspension, cancellation or disqualification.

Note for this subregulation:

See section 268 of the Act for offences relating to the giving of false or misleading information under the Act, including these regulations.

(3) The application must be accompanied by the relevant fee.

117. Additional information

(1) If an application for accreditation does not contain sufficient information to enable the regulator to make a decision whether or not to grant the accreditation, the regulator may ask the applicant to provide additional information.

(2) A request for additional information must —

(a) specify the date (being not less than 28 days after the request) by which the additional information must be given; and

(b) be confirmed in writing.

(3) If an applicant does not provide the additional information by the date specified, the application is taken to have been withdrawn.

(4) The regulator may make more than 1 request for additional information under this regulation.

118. Decision on application

(1) Subject to subregulation (3), the regulator must grant an accreditation if satisfied about the matters referred to in subregulation (2).

(2) The regulator must be satisfied that —

(a) the applicant —

(i) is qualified to conduct the competency assessment to which the application relates; and

(ii) is able to conduct the competency assessment to which the application relates competently; and

(iii) is able to ensure compliance with any conditions that will apply to the accreditation;

or

(b) the applicant holds a current equivalent accreditation under a corresponding WHS law.

(2A) For the purposes of subregulation (2)(a)(i), an applicant is ***qualified*** to provide the competency assessment if —

(a) the applicant's competencies, skills and knowledge are in accordance with the *Standards for Registered Training Organisations (RTOs) 2015* (Commonwealth); and

(b) the applicant holds a current high risk work licence for the class of high risk work to which the competency assessment relates; and

(c) the applicant has acquired, through training and work experience, the skills necessary to assess a person's competency to carry out high risk work of that class.

(3) The regulator must refuse to grant an accreditation if satisfied that —

(a) the applicant is disqualified under a corresponding WHS law from holding an equivalent accreditation; or

(b) the applicant, in making the application, has —

(i) given information that is false or misleading in a material particular; or

(ii) failed to give any material information that should have been given.

(4) If the regulator decides to grant the accreditation, it must notify the applicant within 14 days after making the decision.

(5) If the regulator does not make a decision within 120 days after receiving the application or the additional information requested under regulation 117, the regulator is taken to have refused to grant the accreditation applied for.

(6) *[not used]*

Note for this regulation:

A refusal to grant accreditation (including a refusal under subregulation (5)) is a reviewable decision (see regulation 676).

119. Matters to be taken into account

For the purposes of regulation 118(2)(a)(ii) and (iii), the regulator must have regard to all relevant matters, including the following —

(a) any offence under the Act or these regulations or under a corresponding WHS law of which the applicant has been convicted or found guilty;

(b) any enforceable undertaking the applicant has entered into under the Act or a corresponding WHS law;

(c) in relation to any equivalent accreditation applied for or held by the applicant under the Act or these regulations or under a corresponding WHS law —

(i) any refusal to grant the accreditation; and

(ii) any condition imposed on the accreditation, if granted; and

(iii) any suspension or cancellation of the accreditation, if granted, including any disqualification from applying for any accreditation;

(d) the applicant's record in relation to any matters arising under the Act or these regulations or under a corresponding WHS law.

120. Refusal to grant accreditation: process

(1) If the regulator proposes to refuse to grant an accreditation, the regulator must give the applicant a written notice —

(a) informing the applicant of the reasons for the proposed refusal; and

(b) advising the applicant that the applicant may, by a specified date (being not less than 28 days after the notice is given), make a submission to the regulator in relation to the proposed refusal.

(2) After the date specified in a notice under subregulation (1), the regulator must —

(a) if the applicant has made a submission in relation to the proposed refusal to grant the accreditation — consider that submission; and

(b) whether or not the applicant has made a submission — decide whether to grant or refuse to grant the accreditation; and

(c) within 14 days after making that decision, give the applicant written notice of the decision, including the reasons for the decision.

Note for this regulation:

A refusal to grant an accreditation is a reviewable decision (see regulation 676).

121. Conditions of accreditation

(1) The regulator may impose any conditions it considers appropriate on an accreditation.

(2) Without limiting subregulation (1), the regulator may impose conditions —

(a) relating to the competency assessments and assessment activities that may be carried out; and

(b) relating to the circumstances in which competency assessments or assessment activities may be carried out; and

(c) requiring the accredited assessor to keep specified information; and

(d) requiring the accredited assessor to give specified information to the regulator.

Notes for this regulation:

1. A person must comply with the conditions of accreditation (see section 45 of the Act).
2. A decision to impose a condition on an accreditation is a reviewable decision (see regulation 676).

122. Duration of accreditation

An accreditation takes effect on the day it is granted and, unless cancelled earlier, expires 3 years after that day.

123. Accreditation document

(1) If the regulator grants an accreditation, it must issue to the applicant an accreditation document in the form determined by the regulator.

(2) An accreditation document must include the following —

(a) the name of the accredited assessor;

(b) the class of high risk work to which the accreditation relates;

(c) any conditions imposed on the accreditation by the regulator;

(d) the date on which the accreditation was granted;

(e) the expiry date of the accreditation.

(3) If an assessor is accredited to conduct a competency assessment in relation to more than 1 class of high risk work, the regulator may issue to the accredited assessor 1 accreditation document in relation to some or all of those classes of high risk work.

(4) If 2 or more of the classes of high risk work referred to in subregulation (3) represent levels of the same type of work, it is sufficient if the accreditation document contains a description of the class of work that represents the highest level.

124. Accreditation document to be available

(1) An accredited assessor must keep the accreditation document available for inspection under the Act.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) An accredited assessor must make the accreditation document available for inspection by any person in relation to whom the assessor is conducting, or is to conduct, a competency assessment.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(3) Subregulations (1) and (2) do not apply if the accreditation document is not in the accredited assessor's possession because —

(a) it has been returned to the regulator under regulation 126; or

(b) the accreditation assessor has applied for, but has not received, a replacement accreditation document under regulation 127.

Subdivision 3 — Amendment of accreditation document

125. Changes to information

(1) An accredited assessor must give the regulator written notice of any change to any material particular in any information given at any time by the assessor to the regulator in relation to the

accreditation within 14 days after the assessor becomes aware of the change.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) Subregulation (1) applies whether the information was given in the application for grant or renewal of the accreditation or in any other circumstance.

126. Accredited assessor to return accreditation document

If an accreditation is amended, the accredited assessor must return the accreditation document to the regulator for amendment at the written request of the regulator and within the time specified in the request.

Penalty:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

127. Replacement accreditation document

(1) An accredited assessor must notify the regulator as soon as practicable if the accreditation document is lost, stolen or destroyed.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) If an accreditation document is lost, stolen or destroyed an accredited assessor may apply to the regulator for a replacement accreditation document.

Note for this subregulation:

An accreditation holder is required to keep the accreditation document available for inspection (see regulation 124).

(3) An application for a replacement accreditation document must be made in the manner and form required by the regulator.

(4) The application must —

(a) include a declaration describing the circumstances in which the original document was lost, stolen or destroyed; and

Note for this paragraph:

See section 268 of the Act for offences relating to the giving of false or misleading information under the Act, including these regulations.

(b) be accompanied by the relevant fee.

(5) The regulator must issue a replacement accreditation document if satisfied that the original document was lost, stolen or destroyed.

(6) If the regulator refuses to issue a replacement accreditation document, it must give the accredited assessor written notice of this decision, including the reasons for the decision, within 14 days after making the decision.

Note for this subregulation:

A refusal to issue a replacement accreditation document is a reviewable decision (see regulation 676).

128. Voluntary surrender of accreditation

(1) An accredited assessor may voluntarily surrender the accreditation document to the regulator.

(2) The accreditation expires on the surrender of the accreditation document.

Subdivision 4 — Renewal of accreditation

129. Regulator may renew accreditation

The regulator may renew an accreditation on the application of the accredited assessor.

130. Application for renewal

(1) An application for renewal of accreditation must be made in the manner and form required by the regulator.

(2) An application must —

(a) include the information referred to in regulation 116(2); and

Note for this paragraph:

See section 268 of the Act for offences relating to the giving of false or misleading information under the Act, including these regulations.

(b) be accompanied by the relevant fee.

(3) The application must be made before the expiry of the accreditation.

131. Accreditation continues in force until application is decided

If an accredited assessor applies under regulation 130 for the renewal of accreditation, the accreditation is taken to continue in force from the day it would, apart from this regulation, have expired until the accredited assessor is given notice of the decision on the application.

132. Provisions relating to application

For the purposes of this Division —

(a) regulation 117 applies as if a reference in that regulation to an application for accreditation were a reference to an application to renew an accreditation; and

(b) regulations 118 (except subregulation (5)), 119, 121 and 122 apply as if a reference in those regulations to the grant of an accreditation were a reference to the renewal of an accreditation; and

(c) regulation 120 applies as if a reference in that regulation to a refusal to grant an accreditation were a reference to a refusal to renew an accreditation.

Note for this paragraph:

A refusal to renew an accreditation is a reviewable decision (see regulation 676).

Subdivision 5 — Suspension and cancellation

133. Regulator may suspend or cancel accreditation

(1) The regulator may, under this Division —

(a) suspend or cancel an accreditation; and

(b) if suspending an accreditation, vary the conditions of the accreditation, including by imposing different or additional conditions.

(2) If the regulator cancels an accreditation, the regulator may disqualify the accredited assessor from applying for a further accreditation for a specified period.

Note for this regulation:

A decision to suspend or cancel an accreditation, to vary the conditions of an accreditation or to disqualify an accredited assessor from applying for a further accreditation is a reviewable decision (see regulation 676).

134. Suspension or cancellation of accreditation

(1A) In this regulation —

qualified has the same meaning in relation to an accredited assessor as it has in regulation 118 in relation to an applicant for accreditation.

(1) The regulator may suspend or cancel an accreditation if satisfied about 1 or more of the following —

(a) the accredited assessor is no longer qualified to conduct the competency assessment specified in the assessor's accreditation document;

(b) the accredited assessor is not able to conduct the competency assessment to which the accreditation relates competently;

(c) the accredited assessor has failed to comply with a condition imposed on the accreditation under regulation 121;

(d) the accredited assessor, in the application for the grant or renewal of accreditation or on request by the regulator for additional information —

(i) gave information that was false or misleading in a material particular; or

(ii) failed to give any material information that should have been given in that application or on that request.

(2) *[not used]*

135. Matters to be taken into account

(1) In making a decision under regulation 133, the regulator must have regard to —

(a) any submissions made by the accredited assessor under regulation 136; and

(b) any advice received from a corresponding regulator.

(2) For the purposes of regulation 134(1)(b) and (c), the regulator must have regard to all relevant matters, including the following —

(a) any offence under the Act or these regulations or under a corresponding WHS law, of which the accredited assessor has been convicted or found guilty;

(b) any enforceable undertaking the accredited assessor has entered into under the Act or a corresponding WHS law;

(c) in relation to any equivalent accreditation applied for or held by the accredited assessor under the Act or these regulations or under a corresponding WHS law —

(i) any refusal to grant the accreditation; and

(ii) any condition imposed on the accreditation, if granted; and

(iii) any suspension or cancellation of the accreditation, if granted, including any disqualification from applying for any accreditation;

(d) any suspension of a high risk work licence held by the accredited assessor under the Act or these regulations or under a corresponding WHS law;

(e) the accredited assessor's record in relation to any matters arising under the Act or these regulations or under a corresponding WHS law.

136. Notice to and submissions by accredited assessor

Before suspending or cancelling an accreditation, the regulator must give the accreditation holder a written notice of the proposed suspension or cancellation and any proposed disqualification —

(a) outlining all relevant allegations, facts and circumstances known to the regulator; and

(b) advising the accreditation holder that the accreditation holder may, by a specified date (being not less than 28 days after giving the notice), make a submission in relation to the proposed suspension or cancellation and any proposed disqualification.

137. Notice of decision

(1) The regulator must give the accredited assessor written notice of a decision under regulation 134 to suspend or cancel the accreditation within 14 days after making the decision.

(2) The notice must —

(a) state that the accreditation is to be suspended or cancelled; and

(b) if the accreditation is to be suspended, state —

(i) when the suspension begins and ends; and

(ii) the reasons for the suspension; and

(iii) whether or not the accredited assessor is required to undergo retraining or reassessment or take any other action before the suspension ends; and

(iv) whether any variation is to be made to the conditions of accreditation; and

(v) whether or not the accredited assessor is disqualified from obtaining a further accreditation during the suspension;

and

(c) if the accreditation is to be cancelled, state —

(i) when the cancellation takes effect; and

(ii) the reasons for the cancellation; and

(iii) whether or not the accredited assessor is disqualified from applying for a further accreditation;

and

(d) if the accredited assessor is to be disqualified from obtaining a further accreditation, state —

(i) when the disqualification begins and ends; and

(ii) the reasons for the disqualification; and

(iii) whether or not the accredited assessor is required to undergo retraining or reassessment or take any other action before the disqualification ends;

and

(e) state when the accreditation document must be returned to the regulator.

138. Immediate suspension

(1) The regulator may suspend an accreditation on a ground referred to in regulation 134 without giving notice under regulation 136 if satisfied that a person may be exposed to an imminent serious risk to the person's health or safety if the accreditation were not suspended.

(2) If the regulator decides to suspend an accreditation under this regulation —

(a) the regulator must give the accredited assessor written notice of the suspension and the reasons for the suspension; and

(b) the suspension takes effect on the giving of the notice.

(3) The regulator must then —

(a) give notice under regulation 136 within 14 days after giving the notice under subregulation (2); and

(b) make its decision under regulation 134.

(4) If the regulator does not give notice under subregulation (3), the suspension ends at the end of the 14 day period.

(5) If the regulator gives notice under subregulation (3), the accreditation remains suspended until the decision is made under regulation 134.

139. Accredited assessor to return accreditation document

An accredited assessor, on receiving a notice under regulation 137, must return the accreditation document to the regulator in accordance with that notice.

Penalty:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

140. Regulator to return accreditation document after suspension

The regulator must return the accreditation document to the accredited assessor within 14 days after the suspension ends.

Subdivision 6 — Agreements with RTOs

141. Regulator may enter into agreement with RTO

The regulator may enter into an agreement with an RTO to share information to assist the regulator in relation to the accreditation of assessors.

141A. RTO to retain records

(1) If an RTO provides training in high risk work to a person and the person's competency to do that work is subsequently assessed by an accredited assessor employed or otherwise engaged by the RTO to make that assessment, the RTO must keep all records relating to the training and assessment of the person for 5 years after the assessment is made.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) At the request of an inspector, an RTO must produce records held under subregulation (1).

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

Part 4.6 — Demolition work

Division 1 — Not used

142. Not used

Division 2 — Conduct of demolition work

142A. Application of Division

(1) This Division does not apply to demolition work on a structure by a person in the metal fabrication or engineering industry in the course of maintaining, refurbishing, upgrading, modifying or decommissioning plant.

(2) This Division does not apply to demolition work on —

(a) a fence or wall less than 1.8 metres in height; or

(b) a structure less than 2 metres in height.

142B. Requirement to hold Class 1 demolition licence

(1) A person carries out ***Class 1 demolition work*** if the person carries out any of the following kinds of demolition work —

(a) work comprising the total demolition or dismantling of a structure that is 10 metres or more in height when measured from the lowest ground level of the structure to the highest part of the structure;

(b) work —

(i) comprising the partial demolition or dismantling of a structure that is 10 metres or more in height when measured from the lowest ground level of the structure to the highest part of the structure; and

(ii) affecting the structural integrity of the structure;

(c) work —

(i) comprising demolition work on a structure; and

(ii) involving the use of load shifting equipment on a suspended floor;

(d) work comprising demolition work on pre-tensioned or post-tensioned structural components of a structure;

(e) work comprising demolition work on a structure containing precast concrete elements erected by the tilt-up method of construction;

(f) work involving the removal of key structural members of a structure so that the whole or a part of the structure collapses;

(g) work done to a structure involving explosives;

(h) work comprising demolition work on a structure that involves the use of a tower crane or any crane with a safe working load greater than 100 tonnes;

(i) work involving the removal of an area of brittle or fragile roofing material in excess of 200 m^2 from a structure if any part of the area to be removed is 10 metres or more above the lowest ground level of the structure.

(2) A person must not carry out Class 1 demolition work unless the person, or the person on whose behalf the work is carried out, holds a Class 1 demolition licence.

Note for this subregulation:

See section 43(1) of the Act.

(3) A person who conducts a business or undertaking must not direct or allow a worker to carry out Class 1 demolition work unless the person holds a Class 1 demolition licence.

Note for this subregulation:

See section 43(2) of the Act.

142C. Requirement to hold demolition licence to carry out Class 2 demolition work

(1) A person carries out ***Class 2 demolition work*** if the person carries out demolition work comprising demolition work involving a structure that is less than 10 metres in height when

measured from the lowest ground level of the structure to the highest part of the structure, excluding —

(a) demolition work involving a single storey dwelling; or

(b) work of a kind referred to in regulation 142B(1)(c), (d), (e), (f), (g) or (h).

(2) A person must not carry out Class 2 demolition work unless the person, or the person on whose behalf the work is carried out, holds a demolition licence.

Note for this subregulation:

See section 43(1) of the Act.

(3) A person who conducts a business or undertaking must not direct or allow a worker to carry out Class 2 demolition work unless the person holds a demolition licence.

Note for this subregulation:

See section 43(2) of the Act.

[Regulation 142C amended: SL 2023/134 r. 5.]

142D. Demolition work must be conducted by competent persons

A person who holds a demolition licence must ensure that every person carrying out demolition work authorised by the licence is a competent person.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

142E. Demolition work must be supervised by nominated supervisor

(1) A person who holds a demolition licence must ensure that demolition work authorised by the licence is supervised by a supervisor who —

(a) is a competent person; and

(b) is nominated to the regulator by the person who holds the demolition licence; and

(c) is approved by the regulator.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The regulator may approve a nominated supervisor only if the person is a competent person.

(3) The person who holds the demolition licence may be the supervisor if the person is an individual.

142F. Regulator to be notified of proposed Class 1 or 2 demolition work in accordance with standard

(1) A person who proposes to carry out Class 1 demolition work or Class 2 demolition work in a manner that would be in accordance with AS 2601 must notify the regulator at least 5 working days before the work is intended to begin.

(2) The notification must be made in the manner and form approved by the regulator and must be accompanied —

(a) by written confirmation of the nominated supervisor that another person will not be allowed to carry out the demolition work unless that person is a competent person; and

(b) by written confirmation of the person who holds a demolition licence —

(i) that the demolition work will be directly supervised by a competent person at all times when the demolition work is being carried out; and

(ii) of the name and qualifications or experience of the person who will conduct the supervision.

(3) Subregulation (4) applies to an emergency service organisation in relation to demolition work carried out or proposed to be carried out by an emergency service worker at the direction of the emergency service organisation in responding to an emergency.

(4) An emergency service organisation must give notice under subregulation (1) as soon as practicable (whether before or after the work is carried out).

142G. Application for approval of regulator for proposed Class 1 or 2 demolition work not in accordance with standard

(1) A person who proposes to carry out Class 1 demolition work or Class 2 demolition work but to carry out the work in a manner that would not be in accordance with AS 2601 must, at least 10 working days before the work is intended to begin, apply to the regulator for approval to carry out the work.

(2) The application must be made in the manner and form approved by the regulator and must be accompanied by —

(a) the work plan referred to in AS 2601 in respect of the demolition work; and

(b) such other information as the regulator requires to consider the application.

142H. Regulator's functions as to application under r. 142G

(1) The regulator must acknowledge the receipt of an application under regulation 142G within 10 days of receiving the application.

(2) The acknowledgment must be given to the applicant in writing and must include 1 of the following —

(a) advice to the effect that the demolition work has not been approved by the regulator;

(b) advice to the effect that the demolition work has been approved by the regulator without conditions;

(c) advice to the effect that the demolition work has been approved by the regulator on conditions imposed or to be imposed by the regulator.

(3) The regulator may impose any condition that the regulator thinks is necessary in relation to any work health and safety matter in respect of demolition work that is the subject of an application under regulation 142G.

(4) However, if the regulator imposes a condition then it must be communicated to the applicant within 50 days from the day of the acknowledgment.

(5) If the regulator does not make a decision in relation to the application within 120 days after receiving the application, the regulator is taken to have refused to approve the demolition work.

Notes for this regulation:

1. A decision to approve demolition work subject to conditions (see subregulation (2)(c)) is a reviewable decision (see regulation 676).
2. A refusal to approve demolition work (including under subregulation (5)) is a reviewable decision (see regulation 676).

142I. Class 1 or 2 demolition work not to be done without notification or approval or until conditions set

A person must not carry out Class 1 demolition work or Class 2 demolition work unless —

(a) in the case of work to be carried out in accordance with AS 2601, the regulator has been notified in accordance with regulation 142F; or

(b) in the case of work that is not to be carried out in accordance with AS 2601, the regulator has approved the work under regulation 142H and conditions imposed or to be imposed by the regulator have been

communicated to the person who applied for the approval.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

142J. Demolition work other than Class 1 or 2 demolition work to be in accordance with standard

(1) A person who, at a workplace where demolition work other than Class 1 demolition work or Class 2 demolition work is being carried out, is a person conducting a business or undertaking or a principal contractor must ensure, subject to subregulation (2), that the work is carried out in accordance with AS 2601.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) For the purposes of subregulation (1) it is not necessary for a person referred to in that subregulation to ensure that the work plan required to be prepared under AS 2601 is submitted to the regulator for approval.

142K. Class 1 or 2 demolition work to be in accordance with standard or approval

(1) A person who holds a demolition licence must ensure, subject to subregulation (2), that any Class 1 demolition work or Class 2 demolition work that is to be carried out in accordance with AS 2601 and which is carried out by the person is done in accordance with AS 2601.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) For the purposes of subregulation (1) it is not necessary for a person referred to in that subregulation to ensure that the work plan required to be prepared under AS 2601 is submitted to the regulator for approval.

(3) A person who holds a demolition licence must ensure, in relation to any Class 1 demolition work or Class 2 demolition work that is not to be carried out in accordance with AS 2601 and which is carried out by the person, that —

(a) the work is carried out in accordance with the regulator's approval to carry out the work under regulation 142H; and

(b) there is compliance with each condition (if any) imposed by the regulator in relation to the approval to carry out the work.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

142L. Documents to be kept at demolition workplace

(1) A person who holds a demolition licence must ensure that at all times when Class 1 demolition work or Class 2 demolition work is being carried out under the demolition licence at a workplace, there is kept at the workplace —

(a) a copy of the notification or approval, as the case requires, and each condition (if any) imposed by the regulator, in relation to the work; and

(b) a copy of AS 2601; and

(c) a copy of the work plan referred to in AS 2601.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) A person who, at a workplace where demolition work other than Class 1 demolition work or Class 2 demolition work is being carried out, is a person conducting a business or undertaking or a principal contractor must ensure that at all times when the work is being carried out, there is kept at the workplace —

(a) a copy of AS 2601; and

(b) a copy of the work plan referred to in AS 2601.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

142M. Requirements for scaffold used in demolition work

(1) A person conducting a business or undertaking or a principal contractor at, or a person with management or control of, a workplace must ensure that any scaffold involved in demolition work, other than Class 1 demolition work or Class 2 demolition work, at the workplace —

(a) is a heavy duty scaffold that meets the requirements of AS/NZS 1576.1:2019 (Scaffolding — General Requirements); and

(b) is erected to the full height of the structure; and

(c) has a closely boarded platform with a minimum width of 1 metre that abuts on the face of the structure at the working level; and

(d) has a fender board not less than 900 mm high fitted on the outer edge and on the ends of the working platform; and

(e) has the external face and ends sheathed with a fire retardant material and wire mesh that has wires that are at least 3 mm in diameter and with apertures not greater than 50 mm x 50 mm; and

(f) is maintained in position and in an effective state up to the working level of the scaffold for the whole of the

period during which the demolition work is being carried out; and

(g) is progressively dismantled so that the unsupported part of the scaffold does not exceed by more than 4 metres the height of the last row of ties that secure the scaffold to the structure.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A licence holder must ensure that any scaffold involved in Class 1 demolition work or Class 2 demolition work that the person is carrying out at a workplace complies with subregulation (1)(a) to (g).

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) A person does not commit an offence under subregulation (1) or (2) if, proof of which is on the person, the scaffold is otherwise in accordance with any approval of, or a condition imposed by, the regulator in relation to the demolition work.

Part 4.6A — Licensing of demolition work

Division 1 — Licensing process

142N. Application for demolition licence

(1) An application for a demolition licence must be made in the manner and form required by the regulator.

(2) The application must include the following information —

(a) the name and address of the applicant;

(b) if required by the regulator of an applicant who is an individual — a photograph of the applicant in the form required by the regulator;

(c) any other evidence of the applicant's identity required by the regulator;

(d) the class of licence to which the application relates;

(e) if the applicant conducts the business or undertaking under a business name — that business name and a certificate or other written evidence of the registration of the business name;

(f) if the applicant is an individual —

(i) a declaration as to whether or not the applicant has ever been convicted or found guilty of any offence under the Act or these regulations or under any corresponding WHS law; and

(ii) a declaration as to whether or not the applicant has ever entered into an enforceable undertaking under the Act or under any corresponding WHS law; and

(iii) details of any enforceable undertaking declared under subparagraph (ii);

(g) if the applicant is an individual who has previously been refused an equivalent licence under a corresponding WHS law, a declaration giving details of that refusal;

(h) if the applicant is an individual who has previously held an equivalent licence under a corresponding WHS law, a declaration —

(i) describing any condition imposed on that licence; and

(ii) stating whether or not that licence had been suspended or cancelled and, if so, whether or not the applicant had been disqualified from applying for any licence; and

(iii) giving details of any suspension, cancellation or disqualification;

(i) if the applicant is a body corporate, the information referred to in paragraphs (f) to (h) in relation to —

(i) the body corporate; and

(ii) each officer of the body corporate;

(j) a safety management plan provided in the manner and form approved by the regulator.

Note for this subregulation:

See section 268 of the Act for offences relating to the giving of false or misleading information under the Act, including these regulations.

(3) The applicant may be required to verify, in accordance with regulation 142P, information provided in support of the application under subregulation (1).

(4) The application must be accompanied by the relevant fee.

142O. Nomination of supervisor

(1) An application for a demolition licence under regulation 142N must be accompanied by a nomination of a supervisor under regulation 142E(1)(b).

(2) The nomination must include the following —

(a) the name and address of the nominated supervisor;

(b) evidence to demonstrate the nominated supervisor's relevant and recent experience in demolition work applicable to the class of demolition licence sought, including investigation, planning and supervising safe methods of the demolition work;

(c) 2 written references to verify the demolition work experience of the nominated supervisor, provided in the manner and form approved by the regulator;

(d) evidence the nominated supervisor has been trained in safe methods of demolition work by an RTO.

142P. Regulator may request examination

(1) For the purposes of regulation 142N(3), the regulator may require the nominated supervisor to complete an examination to verify information provided in support of the application under regulation 142N(1).

(2) The examination must be conducted in a manner and form approved by the regulator.

142Q. Additional information

(1) If an application for a demolition licence does not contain sufficient information to enable the regulator to make a decision whether or not to grant the licence, the regulator may ask the applicant to provide additional information.

(2) A request for additional information must —

(a) specify the date (not being less than 28 days after the request) by which the additional information must be given; and

(b) be confirmed in writing.

(3) If an applicant does not provide the additional information by the date specified, the application is taken to have been withdrawn.

(4) The regulator may make more than 1 request for additional information.

142R. Decision on application

(1) Subject to subregulation (2), the regulator must grant a demolition licence if satisfied about the following —

(a) the application has been made in accordance with these regulations;

(b) if the applicant is an individual, the applicant —

(i) resides in the State; or

(ii) resides outside the State and circumstances exist that justify the grant of the licence;

(c) if the applicant is a body corporate, the applicant's registered office —

(i) is located in the State; or

(ii) is located outside the State and circumstances exist that justify the grant of the licence;

(d) the applicant is able to ensure that the work or other activities to which the licence relates are carried out safely and competently;

(e) the applicant is able to ensure compliance with any conditions that will apply to the licence.

(2) The regulator must refuse to grant a licence if satisfied that —

(a) the applicant is disqualified under a corresponding WHS law from holding an equivalent licence; or

(b) the applicant, in making the application, has —

(i) given information that is false or misleading in a material particular; or

(ii) failed to give any material information that should have been given.

(3) If the regulator decides to grant the licence, it must notify the applicant within 14 days after making the decision.

(4) If the regulator does not make a decision within 120 days after receiving the application or the additional information requested under regulation 142Q, the regulator is taken to have refused to grant the licence applied for.

Note for this regulation:

A refusal to grant a licence (including under subregulation (4)) is a reviewable decision (see regulation 676).

142S. Matters to be taken into account

(1) For the purposes of regulation 142R(1)(d) and (e), the regulator must have regard to all relevant matters, including the following —

(a) any offence under the Act or these regulations or under a corresponding WHS law of which the applicant has been convicted or found guilty;

(b) any enforceable undertaking the applicant has entered into under the Act or a corresponding WHS law;

(c) the record of the applicant in relation to any matters arising under the Act or these regulations or under a corresponding WHS law.

(2) For the purposes of regulation 142R(1)(d) and (e), if the applicant is a body corporate, the regulator must have regard to all relevant matters, including the matters referred to in subregulation (1), in relation to —

(a) the body corporate; and

(b) each officer of the body corporate.

142T. Refusal to grant licence: process

(1) If the regulator proposes to refuse to grant a licence, the regulator must give the applicant a written notice —

(a) informing the applicant of the reasons for the proposed refusal; and

(b) advising the applicant that the applicant may, by a specified date (being not less than 28 days after giving the notice), make a submission to the regulator in relation to the proposed refusal.

(2) After the date specified in a notice under subregulation (1), the regulator must —

(a) if the applicant has made a submission in relation to the proposed refusal to grant the licence — consider that submission; and

(b) whether or not the applicant has made a submission — decide whether to grant or refuse to grant the licence; and

(c) within 14 days after making the decision, give the applicant written notice of the decision, including the reasons for the decision.

Note for this regulation:

A refusal to grant a licence is a reviewable decision (see regulation 676).

142U. Conditions of licence

(1) The regulator may impose any conditions it considers appropriate on a demolition licence.

(2) Without limiting subregulation (1), the regulator may impose conditions in relation to 1 or more of the following —

(a) control measures which must be implemented in relation to the carrying out of work or activities under the licence;

(b) the recording or keeping of information;

(c) requiring the licence holder, or a nominated supervisor of the licence holder, to undergo retraining or reassessment during the term of the licence;

(d) the provision of information to the regulator;

(e) the nature of work or activities authorised by the licence;

(f) the circumstances in which work or activities authorised by the licence may be carried out.

(3) For the purposes of subregulation (2)(e), the regulator may impose restrictions on a demolition licence that narrow the scope of the types of work or activities ordinarily authorised by a demolition licence.

Notes for this regulation:

1. A person must comply with the conditions of a licence (see section 45 of the Act).
2. A decision to impose a condition on a licence is a reviewable decision (see regulation 676).

142V. Duration of licence

Subject to this Part, a demolition licence takes effect on the day it is granted and, unless cancelled earlier, expires 3 years after that day.

142W. Licence document

(1) If the regulator grants a demolition licence, the regulator must issue to the applicant a licence document in the form determined by the regulator.

(2) The licence document must include the following —

(a) the name of the licence holder;

(b) if the licence holder conducts the business or undertaking under a business name — that business name;

(c) any conditions imposed on the licence by the regulator;

(d) the date on which the licence was granted;

(e) the expiry date of the licence.

142X. Licence document to be available

(1) A licence holder must keep the licence document available for inspection under the Act.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) Subregulation (1) does not apply if the licence document is not in the licence holder's possession because —

(a) it has been returned to the regulator under regulation 143F; and

(b) the licence holder has applied for, but has not received, a replacement licence document under regulation 143G.

Division 2 — Amendment of licence and licence document

143. Changes to information

(1) The licence holder of a demolition licence must give the regulator written notice of any change to any material particular in any information given at any time by the licence holder to the regulator in relation to the licence within 14 days after the licence holder becomes aware of the change.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) Subregulation (1) applies whether the information was given in the application for grant or renewal of the licence or in any other circumstance.

143A. Change to nominated supervisor

(1) If there is a change in relation to a supervisor nominated to the regulator by the holder of a demolition licence (other than a licence holder who is an individual) and approved by the regulator, the licence holder must give the regulator, in a manner and form required by the regulator, the information referred to in subregulation (2) relating to the person (the ***nominee***) being nominated to replace the supervisor.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) The information must include all of the following —

(a) the name and address of the nominee;

(b) evidence to demonstrate the nominee's relevant and recent experience in demolition work applicable to the class of demolition licence sought, including investigation, planning and supervising safe methods of the demolition work;

(c) 2 written references to verify the demolition work experience of the nominee, provided in the manner and form approved by the regulator;

(d) evidence the nominee has been trained in safe methods of demolition work by an RTO.

(3) The information must be accompanied by the relevant fee.

(4) In addition, the regulator may require the nominee to complete an examination to verify information provided under subregulation (2).

(5) The examination must be conducted in a manner and form approved by the regulator.

(6) The nominee is not a nominated supervisor for the purposes of these regulations until the regulator has approved the nomination.

143B. Amendment imposed by regulator

(1) The regulator may, on its own initiative, amend a demolition licence, including by amending the licence to —

(a) vary or delete a condition of the licence; or

(b) impose a new condition on the licence.

(2) If the regulator proposes to amend a licence, the regulator must give the licence holder written notice —

(a) setting out the proposed amendment and the reasons for it; and

(b) advising the licence holder that the licence holder may, by a specified date (being not less than 28 days after giving the notice), make a submission to the regulator in relation to the proposed amendment.

(3) After the date specified in a notice under subregulation (2), the regulator must —

(a) if the licence holder has made a submission in relation to the proposed amendment — consider that submission; and

(b) whether or not the licence holder has made a submission, decide —

(i) to make the proposed amendment; or

(ii) not to make any amendment; or

(iii) to make a different amendment that results from consideration of any submission made by the licence holder;

and

(c) within 14 days after making that decision, give the licence holder written notice that —

(i) sets out the amendment, if any, or states that no amendment is to be made; and

(ii) if a submission was made in relation to the proposed amendment — sets out the regulator's reasons for making the decision; and

(iii) specifies the date (being not less than the 28 days after the licence holder is given the notice) on which the amendment, if any, takes effect.

Note for this regulation:

A decision to amend a licence is a reviewable decision (see regulation 676).

143C. Amendment on application by licence holder

(1) The regulator, on application by the licence holder, may amend a demolition licence, including by amending the licence to vary or delete a condition of the licence.

(2) If the regulator proposes to refuse to amend the licence, the regulator must give the licence holder a written notice —

(a) informing the licence holder of the proposed refusal to amend the licence and the reasons for the proposed refusal; and

(b) advising the licence holder that the licence holder may, by a specified date (being not less than 28 days after giving the notice), make a submission to the regulator in relation to the proposed refusal.

(3) After the date specified in a notice under subregulation (2) the regulator must —

(a) if the licence holder has made a submission in relation to the proposed refusal — consider that submission; and

(b) whether or not the licence holder has made a submission — decide —

(i) to make the amendment applied for; or

(ii) not to make any amendment; or

(iii) to make a different amendment that results from consideration of any submission made by the licence holder;

and

(c) within 14 days after making that decision, give the licence holder written notice of the decision in accordance with this regulation.

(4) If the regulator makes the amendment applied for, the notice under subregulation (3)(c) must specify the date (being not less than 28 days after the licence holder is given the notice) on which the amendment takes effect.

(5) If the regulator refuses to make the amendment applied for or makes a different amendment, the notice under subregulation (3)(c) must —

(a) if a submission was made in relation to the proposed refusal of the amendment applied for — set out the reasons for the regulator's decision; and

(b) if the regulator makes a different amendment —

(i) set out the amendment; and

(ii) specify the date (being not less than 28 days after the licence holder is given the notice) on which the amendment takes effect.

Note for this subregulation:

A refusal to make the amendment applied for, or a decision to make a different amendment, is a reviewable decision (see regulation 676).

143D. Minor amendments to licence

The regulator may make minor amendments to a demolition licence, including an amendment —

(a) to correct an obvious error; or

(b) to change an address; or

(c) that does not impose a significant burden on the licence holder.

143E. Regulator to give amended licence to the holder

If the regulator amends a demolition licence and considers that the licence document requires amendment, the regulator must

give the licence holder an amended licence document within 14 days after making the decision to amend the licence.

143F. Licence holder to return licence

The holder of a demolition licence that has been amended must return the licence document to the regulator for amendment at the written request of the regulator and within the time specified in the request.

Penalty:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

143G. Replacement licence document

(1) A licence holder of a demolition licence must notify the regulator as soon as practicable if the licence document is lost, stolen or destroyed.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) If a licence document is lost, stolen or destroyed, the licence holder may apply to the regulator for a replacement document.

Note for this subregulation:

A licence holder is required to keep the licence document available for inspection (see regulation 142X).

(3) An application for a replacement licence document must be made in the manner and form required by the regulator.

(4) The application must —

(a) include a declaration describing the circumstances in which the original document was lost, stolen or destroyed; and

Note for this paragraph:

See section 268 of the Act for offences relating to the giving of false or misleading information under the Act, including these regulations.

(b) be accompanied by the relevant fee.

(5) The regulator must issue a replacement licence document if satisfied that the original document was lost, stolen or destroyed.

(6) If the regulator refuses to issue a replacement licence document, it must give the licence holder written notice of this decision, including the reasons for the decision, within 14 days after making the decision.

Note for this subregulation:

A refusal to issue a replacement licence document is a reviewable decision (see regulation 676).

143H. Voluntary surrender of licence

(1) A licence holder may voluntarily surrender the licence document to the regulator.

(2) The licence expires on the surrender of the licence document.

Division 3 — Renewal of licence

143I. Regulator may renew licence

The regulator may renew a demolition licence on application by the licence holder.

143J. Application for renewal

(1) An application for renewal of a demolition licence must be made in the manner and form required by the regulator.

(2) The application must include the following information —

(a) the name and address of the applicant;

(b) if required by the regulator of an applicant who is an individual — a photograph of the applicant in the form required by the regulator;

(c) any other evidence of the applicant's identity required by the regulator;

(d) written evidence that the applicant has obtained any retraining or reassessment or taken any other action required under regulation 142U;

(e) a declaration by the applicant that the applicant or a supervisor nominated by the applicant, as applicable, has maintained the competency required to carry out the work covered by the licence.

Note for this subregulation:

See section 268 of the Act for offences relating to the giving of false or misleading information under the Act, including these regulations.

(3) The application must be accompanied by the relevant fee.

(4) The application must be made before the expiry of the licence.

143K. Provisions relating to renewal of licence

(1) For the purposes of this Division —

(a) regulation 142Q applies as if a reference in that regulation to an application for a licence were a reference to an application to renew a licence; and

(b) regulations 142R (except subregulation (4)), 142S, 142U and 142V apply as if a reference in those regulations to the grant of a licence were a reference to the renewal of a licence; and

(c) regulation 142T applies as if a reference in that regulation to a refusal to grant a licence were a reference to a refusal to renew a licence.

(2) The regulator must not renew a demolition licence unless the regulator is satisfied about the matters referred to in regulation 143L.

(3) If a licence holder applies under regulation 143J for the renewal of a demolition licence, the licence is taken to continue in force from the day it would, apart from this subregulation, have expired until the licence holder is given notice of the decision on the application.

Note for this regulation:

A refusal to renew a licence is a reviewable decision (see regulation 676).

143L. Renewal of demolition licence: regulator to be satisfied about certain matters

(1) For the purposes of regulation 143K, the regulator must not renew a demolition licence unless satisfied that —

(a) the supervisor nominated by the applicant is a competent person; and

(b) demolition work of the type authorised by the licence has been carried out on behalf of the applicant during the term of the licence.

(2) For the purposes of subregulation (1), the regulator may require the supervisor nominated by the applicant to complete an examination.

(3) The examination must be conducted in a manner and form approved by the regulator.

143M. Status of licence during review

(1) This regulation applies if the regulator gives the holder of a demolition licence written notice of its decision to refuse to renew the licence.

(2) If the licence holder does not apply for an internal review of the decision, the licence continues to have effect until the last of the following events —

(a) the expiry of the licence;

(b) the end of the time for applying for an internal review.

(3) If the licence holder applies for an internal review of the decision, the licence continues to have effect until the earlier of the following events —

(a) the licence holder withdraws the application for review;

(b) the regulator makes a decision on the review.

(4) If the licence holder does not apply for an external review, the licence continues to have effect until the end of the time for applying for an external review.

(5) If the licence holder applies for an external review, the licence continues to have effect until the earlier of the following events —

(a) the licence holder withdraws the application for review;

(b) the Tribunal makes a decision on the review.

(6) The licence continues to have effect under this regulation even if its expiry date passes.

Division 4 — Suspension and cancellation of licence

143N. Suspension or cancellation of licence

(1) The regulator may suspend or cancel a demolition licence if satisfied about 1 or more of the following —

(a) the licence holder has failed to ensure that the work or other activities authorised by the licence are carried out safely and competently;

(b) the licence holder has failed to ensure compliance with a condition of the licence, including a condition requiring the licence holder, or the nominated supervisor of the licence holder, to undergo retraining or reassessment during the term of the licence;

(c) the licence holder, in the application for the grant or renewal of the licence or on request by the regulator for additional information —

(i) gave information that was false or misleading in a material particular; or

(ii) failed to give any material information that should have been given in that application or on that request;

(d) the licence was granted or renewed on the basis of a certification that was obtained on the basis of the giving of false or misleading information by any person or body.

(2) It is a ground for the suspension or cancellation of a demolition licence if the licence holder does not have a nominated supervisor approved by the regulator.

Note for this subregulation:

Regulation 143A provides for a licence holder to notify the regulator of any change in the nominated supervisor.

(3) For the purposes of subregulation (1)(b), a licence holder complies with a condition on the licence that requires the licence holder or the nominated supervisor of the licence holder to undergo retraining or reassessment during the term of the licence if the licence holder provides a certification in relation to that retraining or reassessment.

(4) If the regulator suspends or cancels a licence, the regulator may disqualify the licence holder from applying for —

(a) a further licence of the same type; or

(b) another licence under these regulations to carry out work which requires skills that are the same as or similar to those required for the work authorised by the licence that has been suspended or cancelled.

Note for this regulation:

A decision to suspend a licence, to cancel a licence or to disqualify the licence holder from applying for a further licence is a reviewable decision (see regulation 676).

143O. Matters taken into account

(1) In making a decision under regulation 143N, the regulator must have regard to —

(a) any submissions made by the licence holder under regulation 143P; and

(b) any advice received from a corresponding regulator.

(2) For the purposes of regulation 143N(1)(a) and (b), if the licence holder is an individual, the regulator must have regard to all relevant matters, including the following —

(a) any offence under the Act or these regulations or under a corresponding WHS law, of which the licence holder has been convicted or found guilty;

(b) any enforceable undertaking the licence holder has entered into under the Act or a corresponding WHS law;

(c) in relation to any equivalent licence applied for or held by the licence holder under the Act or these regulations or under a corresponding WHS law —

(i) any refusal to grant the licence; and

(ii) any condition imposed on the licence, if granted; and

(iii) any suspension or cancellation of the licence, if granted, including any disqualification from applying for any licence;

(d) the record of the licence holder in relation to any matters arising under the Act or these regulations or under a corresponding WHS law.

(3) For the purposes of regulation 143N(1)(a) and (b), if the licence holder is a body corporate, the regulator must have regard to all

relevant matters, including the matters referred to in regulation 143O, in relation to —

(a) the body corporate; and

(b) each officer of the body corporate.

143P. Notice to and submissions by licence holder

Before suspending or cancelling a demolition licence, the regulator must give the licence holder a written notice of the proposed suspension or cancellation and any proposed disqualification —

(a) outlining all relevant allegations, facts and circumstances known to the regulator; and

(b) advising the licence holder that the licence holder may, by a specified date (being not less than 28 days after giving the notice), make a submission in relation to the proposed suspension or cancellation and any proposed disqualification.

143Q. Notice of decision

(1) The regulator must give the licence holder written notice of a decision under regulation 143N to suspend or cancel a demolition licence within 14 days after making the decision.

(2) The notice must —

(a) state that the licence is to be suspended or cancelled; and

(b) if the licence is to be suspended, state —

(i) when the suspension begins and ends; and

(ii) the reasons for the suspension; and

(iii) whether the licence holder is required to undergo retraining or reassessment or take any other action before the suspension ends; and

(iv) whether or not the licence holder is disqualified from applying for a further licence during the suspension;

and

(c) if the licence is to be cancelled, state —

(i) when the cancellation takes effect; and

(ii) the reasons for the cancellation; and

(iii) whether or not the licence holder is disqualified from applying for a further licence;

and

(d) if the licence holder is disqualified from applying for a further licence, state —

(i) when the disqualification begins and ends; and

(ii) the reasons for the disqualification; and

(iii) whether or not the licence holder is required to undergo retraining or reassessment or take any other action before the disqualification ends; and

(iv) any other class of licence under these regulations that the licence holder is disqualified from applying for;

and

(e) state when the licence document must be returned to the regulator.

143R. Immediate suspension

(1) The regulator may suspend a demolition licence on a ground referred to in regulation 143N without giving notice under regulation 143P, if satisfied that work carried out under the licence should cease because the work may involve an imminent serious risk to the health or safety of any person.

(2) If the regulator decides to suspend a licence under this regulation —

(a) the regulator must give the licence holder written notice of the suspension and the reasons for the suspension; and

(b) the suspension of the licence takes effect on the giving of the notice.

(3) The regulator must then —

(a) give notice under regulation 143P within 14 days after giving the notice under subregulation (2); and

(b) make its decision under regulation 143N.

(4) If the regulator does not give notice under subregulation (3), the suspension ends at the end of the 14 day period.

(5) If the regulator gives notice under subregulation (3), the licence remains suspended until the decision is made under regulation 143N.

143S. Licence holder to return licence document

A licence holder, on receiving a notice under regulation 143Q, must return the licence document to the regulator in accordance with the notice.

Penalty:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

143T. Regulator to return licence document after suspension

The regulator must return the licence document for a demolition licence to the licence holder within 14 days after the licence suspension ends.

Part 4.7 — General electrical safety in workplaces and energised electrical work

Division 1 — Preliminary

144. Meaning of electrical equipment

In this Part —

electrical equipment includes any component or part of an electrical installation.

145. Meaning of electrical installation

In this Part —

electrical installation has the meaning given in the *Electricity (Licensing) Regulations 1991* regulation 3(1).

146. Meaning of electrical work

In this Part —

electrical work has the meaning given in the *Electricity (Licensing) Regulations 1991* regulation 4A.

146A. References to electricity distributor in AS/NZS 3012:2010

For the purposes of this Part, a reference in AS/NZS 3012:2010 (Electrical installations — Construction and demolition sites) to an electricity distributor is to be treated as a reference to a person who is a network operator under the *Electricity (Network Safety) Regulations 2015* regulation 4(1)(a), (b), (c), (d), (e), (f) or (g).

Division 2 — General risk management

147. Risk management

A person conducting a business or undertaking at a workplace must manage risks to health and safety associated with electrical risks at the workplace, in accordance with Part 3.1.

Example for this regulation:

Electrical risks associated with the design, construction, installation, protection, maintenance and testing of electrical equipment and electrical installations at a workplace.

Note for this regulation:

WHS Act — section 19 (see regulation 9).

Division 3 — Electrical equipment and electrical installations

148. Electrical equipment and electrical installations to which Division applies

In this Division, a reference to ***electrical equipment*** or an ***electrical installation*** in relation to a person conducting a business or undertaking is a reference to electrical equipment or an electrical installation that is under the person's management or control.

149. Unsafe electrical equipment

(1A) For the purposes of this regulation, electrical equipment or a component of electrical equipment is ***unsafe*** if there are reasonable grounds for believing it to be unsafe.

(1) A person conducting a business or undertaking at a workplace must ensure that any unsafe electrical equipment at the workplace —

(a) is disconnected (or isolated) from its electricity supply; and

(b) once disconnected (or isolated) —

(i) is not reconnected until it is repaired or tested and found to be safe; or

(ii) is replaced or permanently removed from use.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) *[not used]*

150. Inspection and testing of electrical equipment

(1) A person conducting a business or undertaking at a workplace must ensure that electrical equipment is regularly inspected and tested by a competent person if the electrical equipment is —

(a) supplied with electricity through an electrical socket outlet; and

(b) used in an environment in which the normal use of electrical equipment exposes the equipment to operating conditions that are likely to result in damage to the equipment or a reduction in its expected life span, including conditions that involve exposure to moisture, heat, vibration, mechanical damage, corrosive chemicals or dust.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) In the case of electrical equipment that is new and unused at the workplace, the person conducting the business or undertaking —

(a) is not required to comply with subregulation (1); and

(b) must ensure that the equipment is inspected for obvious damage before being used.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

Note for this subregulation:

However, electrical equipment that is unsafe must not be used (see regulation 149).

(3) The person must ensure that a record of any testing carried out under subregulation (1) is kept until the electrical equipment is —

(a) next tested; or

(b) permanently removed from the workplace or disposed of.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(4) The record of testing —

(a) must specify the following —

(i) the name of the person who carried out the testing;

(ii) the date of the testing;

(iii) the outcome of the testing;

(iv) the date on which the next testing must be carried out;

and

(b) may be in the form of a tag attached to the electrical equipment tested.

151. Untested electrical equipment not to be used

A person conducting a business or undertaking must ensure, so far as is reasonably practicable, that electrical equipment is not used if the equipment —

(a) is required to be tested under regulation 150; and

(b) has not been tested.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

Division 4 — Electrical work on energised electrical equipment

152. Electrical work

(1) A person who, at a workplace, is a person conducting a business or undertaking at, or a person with management or control of, the workplace must ensure that, before electrical work is carried out on a part of an electrical installation at the workplace, the part —

(a) is tested by a competent person to ascertain whether or not it is energised; and

(b) if it is found to be energised, is de-energised by a competent person.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) Subregulation (1)(b) does not apply to electrical work carried out under the *Electricity (Licensing) Regulations 1991* regulation 55(2).

153. Work in roof spaces

(1) In this regulation —

building means a Class 1, Class 2 or Class 10a building as referred to in the *Building Regulations 2012*;

roof space, of a building —

(a) means the space in the building that is —

(i) immediately under the roof; or

(ii) if there is a ceiling under the roof, or a part of the roof, the space between the roof, or that part of the roof, and the ceiling;

but

(b) does not include a habitable room in the roof space;

service apparatus has the meaning given in the *Electricity Act 1945* section 5(1).

(2) A person who, at a workplace, is a person conducting a business or undertaking at, or a person with management or control of, the workplace must ensure that, before work is done in a roof space of a building at the workplace, the building's electrical installation is de-energised by a competent person.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) A worker must not do work in a roof space of a building at a workplace unless the building's electrical installation is de-energised by a competent person.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) If the roof space of a building to which subregulation (2) or (3) applies is divided into separate parts, such that a person cannot move from 1 part of the roof space to another, and each part relates to a separate dwelling, the requirement to de-energise the building's electrical installation only applies to the dwelling that relates to the part of the roof space in which the work is to be done.

(5) Subregulations (2) and (3) do not apply to work done by a competent person to test, service or commission an appliance or other equipment in or accessible by means of the roof space (for example, a gas appliance, air conditioner or antenna), to the extent necessary to energise the appliance or equipment, if —

(a) it is necessary to energise the appliance or equipment for the purpose of testing, servicing or commissioning the appliance or equipment; and

(b) a risk assessment has been undertaken in accordance with Part 3.1 by a competent person; and

(c) the competent person referred to in paragraph (b) is satisfied that —

(i) the risks identified by the risk assessment are or can be reduced to as low as reasonably practicable; and

(ii) the work can be carried out safely;

and

(d) if regulation 299 does not apply to the work — a safe work method statement for the work has been prepared in accordance with regulation 299, as if the work were high risk construction work and the place where the work is to be carried out were a construction site.

(6) Subregulations (2) and (3) do not require the de-energisation of —

(a) service apparatus that is part of a building's electrical installation; or

(b) a supply cable that is part of a building's electrical installation if —

(i) the cable is from a solar power system, wind turbine or battery; and

(ii) it is not reasonably practicable to de-energise the cable;

or

(c) any other part of a building's electrical installation if it is not reasonably practicable to de-energise that part.

(7) Subregulations (2) and (3) do not apply to electrical work carried out under the *Electricity (Licensing) Regulations 1991* regulation 55(2).

154. Not used

155. Not used

156. Not used

157. Not used

158. Not used

159. Not used

160. Not used

161. Not used

162. Not used

Division 5 — Electrical equipment and installations and construction work: additional duties

163. Duty of person conducting business or undertaking

(1) A person conducting a business or undertaking that includes the carrying out of construction work must comply with AS/NZS 3012:2010 (Electrical installations — Construction and demolition sites).

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) For the purposes of subregulation (1), AS/NZS 3012:2010 (Electrical installations — Construction and demolition sites) applies as if any term that is defined in that standard and that is also defined in the Act or these regulations has the same meaning as it has in the Act or these regulations.

(3) If any requirement in AS/NZS 3012:2010 (Electrical installations — Construction and demolition sites) deals with

the same matter as a requirement under this Part, it is sufficient that the person conducting the business or undertaking complies with the requirement in AS/NZS 3012:2010 as modified by subregulation (2).

Division 6 — Residual current devices

164. Use of socket outlets in hostile operating environment

(1) This regulation applies in the following circumstances —

(a) electrical equipment is used in an environment in which the normal use of electrical equipment exposes the equipment to operating conditions that are likely to result in damage to the equipment or a reduction in its expected life span, including conditions that involve exposure to moisture, heat, vibration, mechanical damage, corrosive chemicals or dust;

(b) electrical equipment is moved between different locations in circumstances where damage to the equipment or to a flexible electricity supply cord is reasonably likely;

(c) electrical equipment is frequently moved during its normal use;

(d) electrical equipment forms part of, or is used in connection with, an amusement device.

(2) In a circumstance set out in subregulation (1), a person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that any electrical risk associated with the supply of electricity to the electrical equipment through a socket outlet is minimised by the use of an appropriate residual current device.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) Without limiting subregulation (2), the residual current device must have a tripping current that does not exceed 30 milliamps if electricity is supplied to the equipment through a socket outlet not exceeding 20 amps.

(4) Subregulation (2) does not apply if the supply of electricity to the electrical equipment —

(a) does not exceed 50 volts alternating current; or

(b) is direct current; or

(c) is provided through an isolating transformer that provides at least an equivalent level of protection; or

(d) is provided from a non-earthed socket outlet supplied by an isolated winding portable generator that provides at least an equivalent level of protection.

165. Testing of residual current devices

(1) A person with management or control of a workplace must take all reasonable steps to ensure that residual current devices used at the workplace are tested regularly by a competent person to ensure that the devices are operating effectively.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) The person must keep a record of all testing of a residual current device (other than any testing conducted daily) until the earlier of the following occurs —

(a) the device is next tested;

(b) the device is permanently removed from use.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

Division 7 — Overhead and underground electric lines

166. Duty of person conducting a business or undertaking: underground electric lines

(1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that no person, plant or thing at the workplace comes within an unsafe distance of an underground electric line.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) If it is not reasonably practicable to ensure the safe distance of a person, plant or thing from an underground electric line, the person conducting the business or undertaking at the workplace must ensure that —

(a) a risk assessment is conducted in relation to the proposed work; and

(b) control measures implemented are consistent with —

(i) the risk assessment; and

(ii) if a network operator is responsible for the electric line, any requirements of the network operator.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Note for this regulation:

The *Electricity Act 1945* also applies to the person conducting the business or undertaking.

166A. Duty of person conducting a business or undertaking: overhead electric lines

(1) In this regulation —

danger zone means anywhere that —

(a) is within 0.5 metres of a live insulated overhead electric line or aerial bundled conductor line of a voltage of not more than 1 000 volts; or

(b) is within 1.0 metre of a live uninsulated overhead electric line of a voltage of not more than 1 000 volts; or

(c) is within 3.0 metres of a live overhead electric line, whether insulated or not, of a voltage exceeding 1 000 volts but not more than 33 000 volts; or

(d) is within 6.0 metres of a live overhead electric line, whether insulated or not, of a voltage exceeding 33 000 volts.

(2) Subject to subregulation (3), without limiting clause 2.5.6 of AS/NZS 3012:2010 (Electrical installations — Construction and demolition sites), a person conducting a business or undertaking at, or a person with management or control of, a workplace must ensure that a worker or any plant or material used or controlled by a worker does not enter the danger zone of an overhead electric line or aerial bundled conductor line.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) A person does not commit an offence under subregulation (2) if, proof of which is on the person —

(a) the overhead electric line has been adequately insulated and effectively cordoned off to protect the safety of persons or otherwise made safe, as the case requires; or

(b) the worker is authorised to carry out electrical work under the *Electricity Act 1945*.

Part 4.8 — Diving work

Division 1 — Preliminary

167. Purpose of Part

The purpose of this Part is to impose duties on a person conducting a business or undertaking at a workplace to ensure —

(a) the fitness and competence of persons who carry out general diving work and high risk diving work; and

(b) the health and safety of persons who carry out general diving work and high risk diving work; and

(c) the health and safety of other persons at workplaces where general diving work or high risk diving work is carried out.

Division 2 — General diving work: fitness and competence of worker

168. Person conducting business or undertaking must ensure fitness of workers

(1) A person conducting a business or undertaking at a workplace must not direct or allow a worker to carry out general diving work or undergo training for general diving work unless the worker holds a current certificate of medical fitness.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The person must not direct or allow a worker to carry out general diving work or undergo training for diving work unless the work or training complies with any conditions on the current certificate of medical fitness of the worker.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

169. Certificate of medical fitness

A certificate of medical fitness must —

(a) be issued by a registered medical practitioner with training in underwater medicine; and

(b) state the following —

(i) the name of the person to whom it is issued;

(ii) its date of issue and its expiry date;

(iii) whether or not the person to whom it is issued is, in accordance with the fitness criteria, medically fit to carry out diving work;

(iv) any conditions in relation to the type of diving work the person to whom it is issued is fit to carry out, or the circumstances in which the person is fit to carry out general diving work, including, in the case of a person who is under 18 years of age, any particular conditions applicable to the age of the person.

170. Duty to keep certificate of medical fitness

A person conducting a business or undertaking at a workplace must keep the certificate of medical fitness of a worker who carries out general diving work for 1 year after the work is carried out.

Penalty:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

171. Competence of worker: general diving work: qualifications

(1A) In this regulation —

AS/NZS 2815 means the following —

(a) AS 2815.1:2021 Training and certification of occupational divers, Part 1: Occupational SCUBA diver;

(b) AS 2815.2:2021 Training and certification of occupational divers, Part 2: Surface supplied diver to 30 m;

(c) AS 2815.3:2021 Training and certification of occupational divers, Part 3: Surface supplied diving to 50 m;

(d) AS 2815.4:2021 Training and certification of occupational divers, Part 4: Closed bell diving;

(e) AS/NZS 2815.5:2013 Training and certification of occupational divers, Part 5: Dive supervisor;

(f) AS/NZS 2815.6:2013 Training and certification of occupational divers, Part 6: Restricted occupational SCUBA;

relevant competencies means the competencies specified in AS/NZS 2815 that are relevant to the type of general diving work to which subregulation (1) applies.

(1) A person must not carry out any type of general diving work unless the person holds a certificate for general diving work, issued by a training organisation, that demonstrates that the person has acquired the relevant competencies for that type of general diving work.

(2) This regulation does not apply in relation to incidental diving work or limited scientific diving work.

(3) *[not used]*

Note for this regulation:

See section 44 of the Act.

171A. Competence of worker: general diving work: knowledge and skill

(1) A person must not carry out general diving work unless the person has, through training, qualification or experience, acquired sound knowledge and skill in relation to the following —

(a) the application of diving physics;

(b) the use, inspection and maintenance of diving equipment (including emergency equipment) and air supply of the type to be used in the proposed general diving work;

(c) the use of decompression tables or dive computers;

(d) dive planning;

(e) ways of communicating with another diver and with persons at the surface during general diving work;

(f) how to safely carry out general diving work of the type proposed to be carried out;

(g) diving physiology, emergency procedures and first aid.

(2) *[not used]*

Note for this regulation:

See section 44 of the Act.

172. Competence of worker: incidental diving work

(1A) In this regulation, a person has ***relevant diving experience*** if the person has logged at least 15 hours of diving, of which at least 8 hours and 20 minutes were spent diving between 10 metres above and any depth below the maximum depth at which the diving work is to be carried out.

(1) A person must not carry out incidental diving work unless the person —

(a) has the knowledge and skill referred to in regulation 171A; and

(b) has relevant diving experience; and

(c) is accompanied and supervised in the water by a person who has the competencies referred to in regulation 171.

Note for this subregulation:

See section 44 of the Act.

(2) *[not used]*

173. Competence of worker: limited scientific diving work

(1A) In this regulation, a person has ***relevant diving experience*** if the person has logged at least 60 hours of diving of which at least 8 hours and 20 minutes were spent diving between 10 metres above and any depth below the maximum depth at which the limited scientific diving work is to be carried out.

(1) A person must not carry out limited scientific diving work unless the person has —

(a) the training, qualification or experience referred to in regulation 171A; and

(b) if the person is not permanently resident in Australia — relevant diving experience, including relevant diving experience obtained outside Australia.

Note for this subregulation:

See section 44 of the Act.

(2) *[not used]*

174. Competence of competent person supervising general diving work

A person appointed under regulation 177 must not perform any function associated with that appointment unless the person has —

(a) the qualification specified in regulation 171; and

(b) experience in the type of diving work to be supervised.

Note for this regulation:

See section 44 of the Act.

175. Evidence of competence: duty of person conducting business or undertaking

(1) A person conducting a business or undertaking at a workplace must not direct or allow a worker to carry out general diving work unless the person sees written evidence provided by the worker that the worker has the relevant competence required under this Division.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) A person conducting a business or undertaking at a workplace must not direct or allow a person appointed under regulation 177 to perform any of the functions associated with that appointment unless the person conducting the business or undertaking sees written evidence provided by the person appointed that the person appointed has the competence required under regulation 174.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(3) A person conducting a business or undertaking must keep the written evidence given to the person —

(a) under subregulation (1) — for at least 1 year after the diving work is carried out;

(b) under subregulation (2) — for at least 1 year after the last occasion on which the person performs a function associated with the appointment.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

Division 3 — Managing risks: general diving work

176. Management of risks to health and safety

(1) A person conducting a business or undertaking at a workplace must manage risks to health and safety associated with general diving work, in accordance with Part 3.1.

Note for this subregulation:

WHS Act — section 19 (see regulation 9).

(2) A person conducting a business or undertaking must ensure that a risk assessment is conducted by a competent person for the purposes of subregulation (1).

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(3) The person must ensure that a risk assessment conducted under subregulation (2) is recorded in writing.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

177. Appointment of competent person to supervise diving work

A person conducting a business or undertaking at a workplace must appoint 1 or more competent persons to —

(a) supervise general diving work carried out in the business or undertaking; and

(b) perform other functions under this Division.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Note for this regulation:

See regulation 174 for the qualifications of the competent person.

178. Additional control: dive plan

(1) A person conducting a business or undertaking at a workplace must not direct or allow general diving work to be carried out unless a dive plan for the dive —

(a) is prepared by a competent person appointed under regulation 177; or

(b) has been prepared by a competent person appointed under regulation 177 on an earlier occasion for a similar dive.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A dive plan must state the following —

(a) the method of carrying out the diving work to which it relates;

(b) the tasks and duties of each person involved in the dive;

(c) the diving equipment, breathing gases and procedures to be used in the dive;

(d) as applicable, dive times, bottom times and decompression profiles;

(e) hazards relating to the dive and measures to be implemented in the control of risks associated with those hazards;

(f) emergency procedures.

179. Dive plan must be complied with

(1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that general

diving work is carried out in accordance with the dive plan prepared for it.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A person conducting a business or undertaking must ensure that a competent person appointed by the person under regulation 177 gives workers instruction in relation to the dive plan before commencing the diving work to which the plan relates.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

180. Additional control: dive safety log to be kept

A person conducting a business or undertaking at a workplace where general diving work is carried out must keep a dive safety log that contains the following information about each dive carried out by a worker —

(a) the name of the worker who carries out the dive;

(b) the name of any other person with whom the dive is carried out;

(c) the name of the competent person appointed under regulation 177 to supervise the diving work;

(d) the date and location of the dive;

(e) the time each diver enters and leaves the water;

(f) the maximum depth of the dive;

(g) any incident, difficulty, discomfort or injury that occurs or is experienced during the dive;

(h) if the dive was carried out using a dive computer — the dive time;

(i) if the dive was carried out using dive tables — the repetitive dive group, if available, and either the bottom time or the dive time;

(j) if the repetitive group and surface interval result in a repetitive factor — the surface interval and the repetitive factor;

(k) if the dive is carried out using EANx —

(i) the oxygen content of the EANx; and

(ii) the maximum operating depth of the EANx;

(l) if the dive is carried out using mixed gas —

(i) the oxygen content and the nitrogen content (if any) of the gas; and

(ii) the maximum operating depth of the mixed gas; and

(iii) the minimum operating depth of the bottom mix.

Penalty:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

181. Use of dive safety log

(1A) In this regulation, an event is ***verified*** in the dive safety log —

(a) by signing; or

(b) if the log is electronic, by entering the verifier's unique identifier.

(1) This regulation applies to a person conducting a business or undertaking at a workplace where general diving work is carried out.

(2) The person conducting the business or undertaking must ensure that, after each dive carried out in connection with the general

diving work is completed, the return of each diver is verified in the dive safety log, as soon as practicable after the return, by —

(a) the diver; and

(b) a competent person appointed under regulation 177 to supervise the diving work.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(3) If workers are carrying out general diving work from a vessel, the person conducting the business or undertaking must ensure that a competent person appointed under regulation 177 to supervise the diving work makes and verifies entries in the dive safety log of the number of workers and other persons on board the vessel —

(a) before the diving work commences; and

(b) before the vessel leaves the location after the diving work is completed.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(4) The person conducting the business or undertaking must ensure that the dive safety log is kept for at least 1 year after the last entry is made.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(5) *[not used]*

182. Record keeping

(1) This regulation applies if a person conducting a business or undertaking prepares —

(a) a risk assessment under regulation 176; or

(b) a dive plan under regulation 178.

(2) Subject to subregulation (3), the person must keep —

(a) a copy of the risk assessment until at least 28 days after the work to which it relates is completed; and

(b) a copy of the dive plan until the work to which it relates is completed.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(3) If a notifiable incident occurs in connection with the work to which the assessment or dive plan relates, the person must keep the assessment or dive plan (as applicable) for at least 2 years after the incident occurs.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(4) The person must ensure that, for the period for which the assessment or dive plan must be kept under this regulation, a copy is readily accessible to any worker engaged by the person to carry out the work to which the assessment or dive plan relates.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(5) The person must ensure that, for the period for which the assessment or dive plan must be kept under this regulation, a copy is available for inspection under the Act.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

Division 4 — High risk diving work

183. Duties of person conducting business or undertaking

A person conducting a business or undertaking at a workplace where high risk diving work is carried out must ensure that the following are in accordance with AS/NZS 2299.1:2015 (Occupational diving operations — Standard operational practice) —

(a) the fitness of persons carrying out the work;

(b) the competence of persons carrying out the work;

Note for this paragraph:

See section 44 of the Act.

(c) the carrying out of the work.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

184. Duty of worker: competence

A person must not carry out high risk diving work unless the person has the qualifications, knowledge, skills and experience required by AS/NZS 2299.1:2015 (Occupational diving operations — Standard operational practice) for work of the kind to be carried out by the person.

Note for this regulation:

See section 44 of the Act.

Part 4.9 — Use of power tools on engineered stone products

184A. Use of power tools on engineered stone products

(1) A person conducting a business or undertaking at, or a person with management or control of, a workplace must ensure that a power tool is not used for cutting, grinding or abrasive polishing of engineered stone at the workplace unless the use is controlled.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) For the purposes of subregulation (1), the use of a power tool is ***controlled*** if —

(a) it is used with —

(i) an integrated water delivery system that supplies a continuous feed of water; or

(ii) a commercially available on tool extraction system connected to a Dust Class H Vacuum or other suitable system that captures the dust generated; or

(iii) if subparagraphs (i) and (ii) are not reasonably practicable, local exhaust ventilation;

and

(b) the person who is cutting, grinding or undertaking abrasive polishing of engineered stone is provided with respiratory protective equipment.

(3) For the purposes of subregulation (2)(b), ***respiratory protective equipment*** is personal protective equipment that —

(a) is designed to protect the wearer from the inhalation of airborne contaminants entering the nose, mouth and lungs; and

(b) complies with AS/NZS 1716:2012 (Respiratory protective devices).

(4) A person conducting a business or undertaking at, or a person with management or control of, a workplace must ensure that any controls used in accordance with subregulation (2) are properly designed, installed, used and maintained so that the controls are effective in reducing exposure to airborne crystalline silica dust generated as a result of the cutting, grinding or abrasive polishing of engineered stone.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Part 4.10 — Driving commercial vehicles

184B. Application of Part

This Part does not apply to a commercial goods vehicle, as defined in the *Transport Co-ordination Act 1966* section 4(1), that is required to be licensed under that Act.

184C. Terms used

In this Part —

commercial vehicle means —

(a) a passenger transport vehicle as defined in the *Transport (Road Passenger Services) Act 2018* section 4(1); or

(b) a school bus within the meaning of the *Road Traffic (Vehicles) Regulations 2014* regulation 226; or

(c) any mobile plant or motor vehicle with a GVM over 4.5 tonnes that is designed to carry, or is carrying, a large integrated item of equipment; or

(d) any other motor vehicle with a GVM over 4.5 tonnes used or intended to be used for the carriage of goods for hire or reward;

commercial vehicle driver means a worker who drives a commercial vehicle in the course of work and whose work time —

(a) is more than 60 hours per week; or

(b) for more than once per week, is more than 10 hours in any 24-hour period; or

(c) for more than once per week, includes the period from midnight to 5 am;

driver fatigue management plan, in relation to commercial vehicle drivers, means a written document setting out requirements and procedures relating to —

(a) scheduling trips; and

(b) rostering drivers; and

(c) establishing a driver's fitness to work; and

(d) educating drivers in fatigue management; and

(e) managing incidents on or relating to commercial vehicles; and

(f) establishing and maintaining appropriate workplace conditions;

GVM has the meaning given in the *Road Traffic (Vehicles) Act 2012* section 3(1);

motor vehicle has the meaning given in the *Road Traffic (Vehicles) Regulations 2014* regulation 3;

responsible person at a workplace means a person who is —

(a) a person conducting a business or undertaking at the workplace; or

(b) a person with management or control of the workplace; or

(c) a principal contractor at the workplace;

work time, in relation to driving a commercial vehicle, includes —

(a) time spent doing work incidental to the driving; and

(b) if the commercial vehicle is plant, time spent operating the mobile plant; and

(c) time spent operating mobile plant transported on the commercial vehicle; and

(d) a break from driving, mobile plant operation or incidental work lasting less than 30 minutes.

184D. Commercial vehicle driver: duties

(1) A responsible person at a workplace must ensure that a commercial vehicle driver who is required to drive a commercial vehicle that forms the whole or part of the workplace —

(a) drives the vehicle in accordance with regulation 184E; and

(b) is certified by a registered medical practitioner as fit to drive the vehicle.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A commercial vehicle driver who is required to drive a commercial vehicle that forms the whole or part of a workplace must —

(a) drive the vehicle in accordance with regulation 184E; and

(b) have a certificate issued by a registered medical practitioner confirming the driver's fitness to drive the vehicle.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) For the purposes of subregulations (1)(b) and (2)(b), the certificate must state that not more than 5 years before the driving, the registered medical practitioner examined and passed the commercial vehicle driver in accordance with —

(a) the document Assessing Fitness to Drive 2016 published jointly by Austroads Ltd and the National Transport Commission, as revised in 2017; or

(b) requirements exceeding or substantially equivalent to the requirements in the document referred to in paragraph (a).

184E. Commercial vehicle driver: hours of work

(1) A commercial vehicle driver must, so far as is reasonably practicable, have —

(a) for every 5 hours work time — breaks from driving totalling at least 20 minutes including a break from driving of at least 10 consecutive minutes after 5 hours work time; and

(b) in any 14-day period — no more than 168 hours of work time.

(2) In addition to subregulation (1), a commercial vehicle driver who drives without a relief driver must, so far as reasonably practicable, have —

(a) in any 72-hour period — at least 27 hours non-work time, including at least 3 periods of at least 7 consecutive hours non-work time, with each period separated from the next by not more than 17 hours; and

(b) either —

(i) in any 14-day period — at least 2 periods of 24 consecutive hours non-work time; or

(ii) in any 28-day period — at least 4 periods of 24 consecutive hours non-work time if, and only

if, the driver has no more than 144 hours work time in any 14-day period that is part of the 28-day period.

(3) In addition to subregulation (1), a commercial vehicle driver who drives with a relief driver must, so far as reasonably practicable, have —

(a) in any 24-hour period — at least 7 hours non-work time, whether or not the time is spent in the vehicle while it is moving; and

(b) either —

(i) in any 48-hour period — at least 1 period of 7 continuous hours non-work time, which time is not spent in the vehicle while it is moving; or

(ii) in any 7-day period — at least 48 hours non-work time, which time is not spent in the vehicle while it is moving, includes a period of at least 24 consecutive hours non-work time and does not include a period of non-work time of less than 7 consecutive hours.

(4) In addition to subregulation (1), a commercial vehicle driver who does shiftwork on 5 or more consecutive days must, so far as reasonably practicable, have at least 24 continuous hours non-work time between shift changes.

184F. Requirement for driver fatigue management plan

A responsible person at a workplace must ensure that a driver fatigue management plan is developed and kept current by a competent person for every commercial vehicle driver who is required to drive a commercial vehicle that forms the whole or part of the workplace.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

184G. Record of commercial vehicle drivers' time

(1) A responsible person at a workplace must ensure that a record in accordance with subregulation (3) is established and kept current in respect of the work time, breaks from driving and non-work time of each commercial vehicle driver (a ***relevant commercial vehicle driver***) who is required to drive a commercial vehicle that forms the whole or part of the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A relevant commercial vehicle driver must ensure that a record in accordance with subregulation (3) is established and kept current in respect of the driver's work time, breaks from driving and non-work time.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(3) The record must be —

(a) set out in a clear and systematic manner; and

(b) available for inspection by an inspector at all reasonable times; and

(c) kept for at least 3 years from the date of the last entry on the record.

Chapter 5 — Plant and structures

Part 5.1 — General duties for plant and structures

Division 1 — Preliminary

185. Application of Part to plant

(1) Subject to this regulation, this Part applies to all plant.

(2) Subject to subregulation (3), this Part does not apply to plant that —

(a) relies exclusively on manual power for its operation; and

(b) is designed to be primarily supported by hand.

(3) This Part applies to explosive power tools that are designed to be supported by hand.

186. Application of Part to structures

This Part applies to structures as provided in this Part.

Division 2 — Duties of persons conducting businesses or undertakings that design plant

187. Provision of information to manufacturer

A designer of plant must ensure, when the design of the plant is made available to the manufacturer of the plant, that the manufacturer is provided with —

(a) information to enable the plant to be manufactured in accordance with the design specifications; and

(b) if applicable, information about —

(i) the installation, commissioning, decommissioning, use, handling, storage and, if the plant is capable of being dismantled, dismantling of the plant; and

(ii) the hazards and risks associated with the use of the plant that the designer has identified; and

(iii) testing or inspections to be carried out on the plant; and

(iv) the systems of work and competency of operators that are necessary for the safe use of the plant; and

(v) the emergency procedures (if any) that are required to be implemented if there is a malfunction of the plant.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

Note for this regulation:

A designer also has duties under section 22 of the Act.

188. Hazard identified in design during manufacture

If a manufacturer of plant informs the designer of the plant that there is a hazard in the design of the plant for which the designer has not provided a control measure, the designer must —

(a) revise the information originally supplied to the manufacturer to ensure that —

(i) the risk is eliminated so far as is reasonably practicable; or

(ii) if it is not reasonably practicable to eliminate the risk, the risk is minimised so far as is reasonably practicable;

or

(b) notify the manufacturer, in writing, that the designer is of the opinion that it is not necessary to revise the

information originally supplied to the manufacturer to ensure compliance with this Part.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

Note for this regulation:

A designer also has duties under section 22 of the Act.

189. Guarding

(1) This regulation applies if a designer of plant uses guarding as a control measure.

(2) The designer must ensure, so far as is reasonably practicable, that the guarding designed for that purpose will prevent access to the danger point or danger area of the plant.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The designer must ensure that —

(a) if access to the area of the plant requiring guarding is not necessary during operation, maintenance or cleaning of the plant — the guarding is a permanently fixed physical barrier; or

(b) if access to the area of the plant requiring guarding is necessary during operation, maintenance or cleaning of the plant — the guarding is an interlocked physical barrier that allows access to the area being guarded at times when that area does not present a risk and prevents access to that area at any other time; or

(c) if it is not reasonably practicable to use guarding referred to in paragraph (a) or (b) — the guarding used is a physical barrier that can only be altered or removed by the use of tools; or

(d) if it is not reasonably practicable to use guarding referred to in paragraph (a), (b) or (c) — the design includes a presence-sensing safeguarding system that eliminates any risk arising from the area of the plant requiring guarding while a person or any part of a person is in the area being guarded.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) The designer must ensure that the guarding is designed —

(a) to be of solid construction and securely mounted so as to resist impact or shock; and

(b) to make bypassing or disabling of the guarding, whether deliberately or by accident, as difficult as is reasonably practicable; and

(c) so as not to cause a risk in itself.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(5) If the plant to be guarded contains moving parts and those parts may break or cause workpieces to be ejected from the plant, the designer must ensure, so far as is reasonably practicable, that the guarding will control any risk from those broken or ejected parts and workpieces.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(6) Despite anything to the contrary in this regulation, the designer must ensure —

(a) that the guarding is of a kind that can be removed to allow maintenance and cleaning of the plant at any time that the plant is not in normal operation; and

(b) if the guarding is removed, that, so far as is reasonably practicable, the plant cannot be restarted unless the guarding is replaced.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

190. Operational controls

(1) A designer of plant must ensure that the design provides for any operator's controls for the plant to be —

(a) identified on the plant so as to indicate their nature and function and direction of operation; and

(b) located so as to be readily and conveniently operated by each person using the plant; and

(c) located or guarded to prevent unintentional activation; and

(d) able to be locked into the "off" position to enable the disconnection of all motive power.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) If the need for plant to be operated during maintenance or cleaning cannot be eliminated, the designer of the plant must ensure that the design provides for operator's controls that —

(a) permit operation of the plant while a person is undertaking the maintenance or cleaning of the plant; and

(b) while the plant is being maintained or cleaned, cannot be operated by any person other than the person who is carrying out the maintenance or cleaning of the plant; and

(c) will allow operation of the plant in such a way that any risk associated with the activities in relation to any person who is carrying out the maintenance or cleaning —

(i) is eliminated so far as is reasonably practicable; or

(ii) if it is not reasonably practicable to eliminate the risk, is minimised so far as is reasonably practicable.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

191. Emergency stop controls

(1) If plant is designed to be operated or attended by more than 1 person and more than 1 emergency stop control is fitted, the designer of the plant must ensure that the design provides for the multiple emergency stop controls to be of the “stop and lock-off” type so that the plant cannot be restarted after an emergency stop control has been used unless that emergency stop control is reset.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) If the design of the plant includes an emergency stop control for the plant, the designer of the plant must ensure that the design provides —

(a) for the stop control to be prominent, clearly and durably marked and immediately accessible to each operator of the plant; and

(b) for any handle, bar or push button associated with the stop control to be coloured red; and

(c) that the stop control cannot be adversely affected by electrical or electronic circuit malfunction.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

192. Warning devices

(1) This regulation applies if the design of plant includes an emergency warning device or it is necessary to include an emergency warning device to minimise risk.

(2) The designer of the plant must ensure that the design provides for the device to be positioned on the plant to ensure the device will work to best effect.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Division 3 — Duties of persons conducting businesses or undertakings that manufacture plant

193. Control of risk

(1) A manufacturer of plant must ensure the following —

(a) that the plant is manufactured and inspected having regard to the information provided to the manufacturer

by the designer of the plant under the Act and these regulations;

(b) if the information provided to the manufacturer by the designer of the plant under the Act and these regulations requires the plant to be tested — that the plant is tested in accordance with that information;

(c) if, during the manufacturing process, any hazard is identified in the design of the plant for which the designer has not provided a control measure —

(i) that the hazard is not incorporated into the manufacture of the plant; and

(ii) that the designer of the plant is given written notice of the hazard as soon as practicable; and

(iii) that all reasonable steps are taken to consult with the designer of the plant in relation to the alteration of the design to rectify the hazard.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A manufacturer of plant must ensure that, if it is not possible to inform the designer about the hazard in accordance with subregulation (1) —

(a) the risk is eliminated, so far as is reasonably practicable; or

(b) if it is not reasonably practicable to eliminate the risk, the risk is minimised so far as is reasonably practicable.

Note for this subregulation:

WHS Act — section 23 (see regulation 9).

(3) A manufacturer to whom subregulation (1)(c) applies must not manufacture the plant until —

(a) the designer gives the manufacturer the revised information or written instruction under regulation 188; or

(b) the manufacturer eliminates or minimises the risk under subregulation (2).

Note for this subregulation:

WHS Act — section 23 (see regulation 9).

(4) If the designer notifies a manufacturer of plant under regulation 188, the manufacturer may proceed in accordance with the designer's original information.

194. Guarding

(1) A manufacturer of plant must ensure that guarding used as a control measure is of solid construction and securely mounted so as to resist impact or shock.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A manufacturer of plant must ensure —

(a) that any guarding used as a control measure in relation to plant is of a kind that can be removed to allow maintenance and cleaning of the plant at any time that the plant is not in normal operation; and

(b) if the guarding is removed — that, so far as is reasonably practicable, the plant cannot be restarted unless the guarding is replaced.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

195. Information must be obtained and provided

A manufacturer of plant must —

(a) take all reasonable steps to obtain the information required to be provided to the manufacturer by the designer of the plant under section 22(4)(a) and (c) of the Act and regulations 187 and 188; and

(b) ensure that a person to whom the manufacturer supplies the plant is, at the time of supply, provided with the information provided to the manufacturer by the designer under section 22(4)(a) and (c) of the Act and regulation 187; and

(c) if the manufacturer acts in accordance with regulation 193(1)(c), ensure that a person to whom the manufacturer supplies the plant is provided with the information, applicable to the plant, that is required to be provided by the designer under section 22(4)(a) and (c) of the Act and regulation 188.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

Division 4 — Duties of persons conducting businesses or undertakings that import plant

196. Information to be obtained and provided by importer

An importer of plant must —

(a) take all reasonable steps to obtain —

(i) the information that would be required to be provided by a manufacturer under section 23(4)(a) and (c) of the Act; and

(ii) the information that would be required to be provided by the designer of the plant to the manufacturer under regulations 187 and 188;

and

(b) give that information to any person to whom the importer supplies the plant.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

197. Control of risk

An importer of plant must —

(a) ensure that the plant is inspected having regard to the information provided by the manufacturer; and

(b) if the information provided by the manufacturer requires the plant to be tested — ensure that the plant is tested in accordance with that information; and

(c) if any hazards are identified —

(i) ensure that the plant is not supplied until the risks have been eliminated so far as is reasonably practicable; and

(ii) if it is not reasonably practicable to eliminate the risks, inform the person to whom the plant is supplied about the risks;

and

(d) take all reasonable steps to ensure that the designer and manufacturer of the plant are consulted in relation to any alteration made to the plant to control the risk.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Division 5 — Duties of persons conducting businesses or undertakings that supply plant

198. Information to be obtained and provided by supplier

A supplier of plant must —

(a) take all reasonable steps to obtain the information required to be provided by the manufacturer under section 23(4)(a) and (c) of the Act and these regulations; and

(b) ensure that, when the plant is supplied, the person to whom the plant is supplied is given the information obtained by the supplier under paragraph (a).

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

199. Supply of second-hand plant: duties of supplier

(1) A supplier of second-hand plant must ensure, so far as is reasonably practicable, that any faults in the plant are identified.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(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.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) This regulation does not apply to plant to be used for scrap or spare parts.

200. Second-hand plant to be used for scrap or spare parts

A supplier of plant to be used for scrap or spare parts must, before the plant is supplied, inform the person to whom the plant is supplied, either in writing or by marking the plant, that the plant is being supplied for scrap or spare parts and that the plant in its current form is not to be used as plant.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

Division 6 — Duties of persons conducting businesses or undertakings that install, construct or commission plant or structures

201. Duties of persons conducting businesses or undertakings that install, construct or commission plant

(1) This regulation applies to a person who conducts a business or undertaking that installs, constructs or commissions plant that is to be used, or could reasonably be expected to be used, as, or at, a workplace.

(2) The person must ensure that the plant is installed, constructed or commissioned having regard to —

(a) the information provided by the designer, manufacturer, importer or supplier of the plant under the Act and these regulations; or

(b) the instructions provided by a competent person to the extent that those instructions relate to health and safety.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

202. Duties of persons conducting businesses or undertakings that install, construct or commission structures

(1) This regulation applies to a person who conducts a business or undertaking that installs, constructs or commissions a structure that is to be used, or could reasonably be expected to be used, as or at, a workplace.

(2) The person must ensure that the structure is installed, constructed or commissioned having regard to —

(a) the information provided by the designer, manufacturer, importer or supplier of the structure under the Act and these regulations; or

(b) the instructions provided by a competent person to the extent that those instructions relate to health and safety.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Division 7 — General duties of a person conducting a business or undertaking involving the management or control of plant

Note for this Division:

A person with management or control of plant at a workplace is the person conducting a business or undertaking at the workplace to the extent that the business or undertaking involves the management or control of plant in whole or in part at the workplace. See the definition of ***person with management or control of plant at a workplace*** in regulation 5 and section 21 of the Act.

Subdivision 1 — Management of risks

203. Management of risks to health and safety

A person with management or control of plant at a workplace must manage risks to health and safety associated with plant, in accordance with Part 3.1.

Note for this regulation:

WHS Act — section 21 (see regulation 9).

Subdivision 2 — Additional control measures for general plant

204. Control of risks arising from installation or commissioning

(1) A person with management or control of plant at a workplace must not commission the plant unless the person has established that the plant is, so far as is reasonably practicable, without risks to the health and safety of any person.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A person with management or control of plant at a workplace must not decommission or dismantle the plant unless the decommissioning or dismantling can be carried out, so far as is reasonably practicable, without risks to the health and safety of any person.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) A person with management or control of plant at a workplace must ensure that a person who installs, assembles, constructs,

commissions or decommissions or dismantles the plant is a competent person.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) A person with management or control of plant at a workplace must ensure that a person who installs, assembles, constructs, commissions or decommissions or dismantles the plant is provided with the available information for eliminating or minimising risks to health or safety.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(5) A person with management or control of plant at a workplace must ensure that the processes for the installation, construction, commissioning, decommissioning and dismantling of plant include inspections that ensure, so far as is reasonably practicable, that risks associated with these activities are monitored.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

205. Preventing unauthorised alterations to or interference with plant

The person with management or control of plant at a workplace must, so far as is reasonably practicable, prevent alterations to or interference with the plant that are not authorised by the person.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

206. Proper use of plant and controls

(1) The person with management or control of plant at a workplace must take all reasonable steps to ensure that plant is used only for the purpose for which it was designed, unless the person has determined that the proposed use does not increase the risk to health or safety.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) In determining whether or not a proposed use of plant increases the risk to health or safety, the person with management or control of the plant must ensure that the risk associated with the proposed use is assessed by a competent person.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The person with management or control of plant at a workplace must take all reasonable steps to ensure that all health and safety features and warning devices (including guarding, operational controls, emergency stops and warning devices) are used in accordance with the instructions and information provided by that person under regulation 39.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

207. Plant not in use

The person with management or control of plant at a workplace must ensure, so far as is reasonably practicable, that plant that is

not in use is left in a state that does not create a risk to the health or safety of any person.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

208. Guarding

(1) This regulation applies if guarding is used as a control measure in relation to plant at a workplace.

(2) The person with management or control of the plant must ensure that —

(a) if access to the area of the plant requiring guarding is not necessary during operation, maintenance or cleaning of the plant, the guarding is a permanently fixed physical barrier; or

(b) if access to the area of the plant requiring guarding is necessary during operation, maintenance or cleaning of the plant, the guarding is an interlocked physical barrier that allows access to the area being guarded at times when that area does not present a risk and prevents access to that area at any other time; or

(c) if it is not reasonably practicable to use guarding referred to in paragraph (a) or (b), the guarding used is a physical barrier that can only be altered or removed by the use of tools; or

(d) if it is not reasonably practicable to use guarding referred to in paragraph (a), (b) or (c), the guarding includes a presence-sensing safeguarding system that eliminates any risk arising from the area of the plant requiring guarding while a person or any part of a person is in the area being guarded.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The person with management or control of the plant must ensure that the guarding —

(a) is of solid construction and securely mounted so as to resist impact or shock; and

(b) makes bypassing or disabling of the guarding, whether deliberately or by accident, as difficult as is reasonably practicable; and

(c) does not create a risk in itself; and

(d) is properly maintained.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) If the plant to be guarded contains moving parts that may break or cause workpieces to be ejected from the plant, the person with management or control of the plant must ensure, so far as is reasonably practicable, that the guarding will control any risk from those broken or ejected parts and workpieces.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(5) Despite anything to the contrary in this regulation, the person with management or control of the plant must ensure —

(a) that the guarding is of a kind that can be removed to allow maintenance and cleaning of the plant at any time that the plant is not in normal operation; and

(b) if guarding is removed, that, so far as is reasonably practicable, the plant cannot be restarted unless the guarding is replaced.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

209. Guarding and insulation from heat and cold

The person with management or control of plant at a workplace must ensure, so far as is reasonably practicable, that any pipe or other part of the plant associated with heat or cold is guarded or insulated so that the plant is without risks to the health and safety of any person.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

210. Operational controls

(1) The person with management or control of plant at a workplace must ensure that any operator's controls are —

(a) identified on the plant so as to indicate their nature and function and direction of operation; and

(b) located so as to be readily and conveniently operated by each person using the plant; and

(c) located or guarded to prevent unintentional activation; and

(d) able to be locked into the "off" position to enable the disconnection of all motive power.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) If the need for plant to be operated during maintenance or cleaning cannot be eliminated, the person with management or

control of the plant at a workplace must ensure that the operator's controls —

(a) permit operation of the plant while a person is undertaking the maintenance or cleaning of the plant; and

(b) while the plant is being maintained or cleaned, either —

(i) cannot be operated by any person other than the person who is carrying out the maintenance or cleaning of the plant; or

(ii) if subparagraph (i) cannot be complied with because the plant must be operated by a person other than the person who is carrying out the maintenance or cleaning of the plant, cannot be operated except by a person authorised by the person with management or control of the plant for that purpose;

and

(c) will allow operation of the plant in such a way that any risk associated with the activities in relation to any person who is carrying out the maintenance or cleaning —

(i) is eliminated so far as is reasonably practicable; or

(ii) if it is not reasonably practicable to eliminate the risk, is minimised so far as is reasonably practicable.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

211. Emergency stops

(1) If plant at a workplace is designed to be operated or attended by more than 1 person and more than 1 emergency stop control is

fitted, the person with management or control of plant at the workplace must ensure that the multiple emergency stop controls are of the "stop and lock-off" type so that the plant cannot be restarted after an emergency stop control has been used unless that emergency stop control is reset.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) If the design of plant at a workplace includes an emergency stop control, the person with management or control of the plant at the workplace must ensure that —

(a) the stop control is prominent, clearly and durably marked and immediately accessible to each operator of the plant; and

(b) any handle, bar or push button associated with the stop control is coloured red; and

(c) the stop control cannot be adversely affected by electrical or electronic circuit malfunction.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

212. Warning devices

(1) This regulation applies if the design of plant includes an emergency warning device or it is necessary to include an emergency warning device to minimise risk.

(2) The person with management or control of the plant must ensure that the device is positioned on the plant to ensure that the device will work to best effect.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

213. Maintenance and inspection of plant

(1) The person with management or control of plant at a workplace must ensure that the maintenance, inspection and, if necessary, testing of the plant is carried out by a competent person.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) The maintenance, inspection and testing must be carried out —

(a) in accordance with the manufacturer's recommendations, if any; or

(b) if there are no manufacturer's recommendations, in accordance with the recommendations of a competent person; or

(c) in relation to inspection, if it is not reasonably practicable to comply with paragraph (a) or (b), annually.

Subdivision 3 — Additional control measures for certain plant

Note for this Subdivision:

The person with management or control of plant at a workplace is the person conducting a business or undertaking at a workplace to the extent that the business or undertaking involves the management or control of plant in whole or in part at the workplace. See the definition of ***person with management or control of plant at a workplace*** in regulation 5 and section 21 of the Act.

214. Powered mobile plant: general control of risk

The person with management or control of powered mobile plant at a workplace must in accordance with Part 3.1, manage risks to health and safety associated with the following —

(a) the plant overturning;

(b) things falling on the operator of the plant;

(c) the operator being ejected from the plant;

(d) the plant colliding with any person or thing;

(e) mechanical failure of pressurised elements of plant that may release fluids that pose a risk to health and safety.

Note for this regulation:

WHS Act — section 21 (see regulation 9).

215. Powered mobile plant: specific control measures

(1) This regulation applies to a person with management or control of powered mobile plant at a workplace.

(2) The person must ensure, so far as is reasonably practicable, that a suitable combination of operator protective devices for the plant is provided, maintained and used.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The person must ensure, so far as is reasonably practicable, that no person other than the operator rides on the plant unless the person is provided with a level of protection that is equivalent to that provided to the operator.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) The person must ensure that the plant does not collide with pedestrians or other powered mobile plant.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(5) Without limiting subregulation (4), if there is a possibility of the plant colliding with pedestrians or other powered mobile plant, the person must ensure that the plant has a warning device that

will warn persons who may be at risk from the movement of the plant.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

216. Roll-over protection on tractors

(1A) In this regulation —

historical purpose or activity, in relation to the use of a tractor, includes an activity ancillary to a historical activity;

Examples for this definition:

1. Historical activity: a historical display, parade, demonstration or re-enactment.
2. Activity ancillary to a historical activity: restoring, maintaining, modifying or housing a tractor used, or to be used, for a historical activity.

roll-over protective structure means a structure designed to protect a tractor operator from injury if the tractor rolls over in any direction.

(1) The person with management or control of a tractor at a workplace must ensure that the tractor is not used unless it is securely fitted with a roll-over protective structure.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) If a tractor is used in a place that is too low for the tractor to work while it is fitted with a roll-over protective structure, the structure may be lowered or removed for the period during which the tractor is used in such a situation (but only if other measures to minimise the risk of roll-over are in place).

(3) This regulation does not apply if the tractor is —

(a) installed in a fixed position, and in a manner, which would no longer permit it to be used as powered mobile plant; or

(b) a tractor with a mass of less than 560 kilograms or a mass of 15 000 kilograms or more; or

(c) a tractor with a mass of more than 800 kilograms and less than 15 000 kilograms manufactured, imported or originally purchased before 2 January 1981; or

(d) being used for a historical purpose or activity.

Note for this regulation:

Regulations 214 and 215 also apply to a tractor.

217. Not used

218. Industrial lift trucks

(1) The person with management or control of an industrial lift truck at a workplace must ensure that the truck is —

(a) equipped with lifting attachments that are suitable for the load to be lifted or moved by the truck; and

(b) operated in a manner that ensures that the risks to the operator of the truck and other persons at or near the workplace that arise from systems of work and the environment in which the truck is used —

(i) are eliminated so far as is reasonably practicable; or

(ii) if it is not reasonably practicable to eliminate the risks, are minimised so far as is reasonably practicable.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The person with management or control of an industrial lift truck at a workplace must ensure that the truck is not used to carry a passenger unless —

(a) the truck is designed to carry a seated passenger; and

(b) the passenger seat is —

(i) fitted with suitable seat restraints; and

(ii) located within the zone of protection that is provided by the operator protective device required to be fitted to the industrial lift truck.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The person with management or control of an industrial lift truck at a workplace must take all reasonable steps to ensure that a passenger in an industrial lift truck is seated in a seat that complies with subregulation (2)(b).

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Note for this regulation:

Regulations 214 and 215 also apply to an industrial lift truck.

219. Plant that lifts or suspends loads

(1) This regulation applies in relation to plant that is used to lift or suspend persons or things.

(2) The person with management or control of plant at a workplace must ensure, so far as is reasonably practicable, that the plant used is specifically designed to lift or suspend the load.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) If it is not reasonably practicable to use plant that is specifically designed to lift or suspend the load, the person must ensure that —

(a) the plant does not cause a greater risk to health and safety than if specifically designed plant were used; and

(b) if the plant is lifting or suspending persons, the use of the plant complies with regulation 220.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) The person must ensure that the lifting and suspending is carried out —

(a) with lifting attachments that are suitable for the load being lifted or suspended; and

(b) within the safe working limits of the plant.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(5) The person must ensure, so far as is reasonably practicable, that no loads are suspended or travel over a person unless the plant is specifically designed for that purpose.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(6) The person must ensure, so far as is reasonably practicable, that loads are lifted or suspended in a way that ensures that the load remains under control during the activity.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(7) The person must ensure, so far as is reasonably practicable, that no load is lifted simultaneously by more than 1 item of plant unless the method of lifting ensures that the load placed on each item of plant does not exceed the design capacity of the plant.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

220. Exception: plant not specifically designed to lift or suspend a person

(1) For the purposes of regulation 219(3)(b), the person with management or control of the plant at a workplace must ensure that —

(a) the persons are lifted or suspended in a work box that is securely attached to the plant; and

(b) the persons in the work box remain substantially within the work box while they are being lifted or suspended; and

(c) if there is a risk of a person falling from a height, a safety harness is provided and worn by the person in order to prevent, so far as is reasonably practicable, injury to the person as a result of the fall; and

(d) means are provided by which the persons being lifted or suspended can safely exit from the plant in the event of a failure in its normal operation.

(2) This regulation does not apply to plant used in connection with —

(a) the performance of stunt work; or

(b) the performance of acrobatics; or

(c) theatrical performances.

Note for this regulation:

Part 4.4 (except regulation 79) applies to the matters in subregulation (2).

221. Plant used in connection with tree lopping

(1A) In this regulation —

harness means a work positioning harness that is designed and certified, in accordance with AS/NZS 1891.1:2007 (Industrial fall-arrest systems and devices — Harnesses and ancillary equipment), for the purpose of lifting and suspending a person.

(1) Regulation 220(1)(a) and (b) do not apply in connection with tree lopping if —

(a) a risk assessment shows that lifting or suspending a person in a harness with a crane to place the person in a tree to carry out tree lopping does not create a greater risk to health or safety than using plant specifically designed to lift a person or climbing a tree; and

(b) the tree lopping is carried out by a person who is a competent person in the use of the harness referred to in paragraph (a); and

(c) a crane is used to put the competent person in the tree to lop it; and

(d) the crane has safety mechanisms that would prevent the competent person from inadvertently falling; and

(e) while attached to the crane, the competent person is in visual, audio or radio communication with the crane operator.

(2) *[not used]*

222. Industrial robots

(1) This regulation applies to a person with management or control of an industrial robot or other remotely or automatically energised plant at a workplace.

(2) The person must not direct or allow a worker to work in the immediate vicinity of the plant if it could start without warning

and cause a hazard, unless suitable control measures are in place to control the risks to health and safety.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) If the remote or automatic energising of the plant could lead to risks to health and safety, the person must ensure that access to the area in the immediate vicinity of the plant is controlled at all times —

(a) by isolating the area; or

(b) by —

(i) providing interlocked guards; or

(ii) if a risk remains, providing presence-sensing devices; or

(iii) if a risk then remains, providing permit to work systems.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

223. Lasers

(1) This regulation applies to the person with management or control, at a workplace, of laser equipment that may create a risk to health and safety.

(2) The person must ensure that laser equipment intended for use on plant is designed, constructed and installed so as to prevent accidental irradiation of any person.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The person must ensure that laser equipment on plant is protected so that any operator of the plant or other person is not exposed to direct radiation, radiation produced by reflection or diffusion or secondary radiation.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) The person must ensure that the visual equipment used for the observation or adjustment of laser equipment on plant does not create a risk to health or safety from laser rays.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(5) The person must ensure that the workers operating the laser equipment are trained in the proper operation of the equipment.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(6) The person must ensure that Class 3B and Class 4 lasers (within the meaning of AS 2397:2015 (Safe use of lasers in the building and construction industry)) are not used in construction work.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

224. Pressure equipment

(1) The person with management or control of pressure equipment at a workplace must ensure that —

(a) the equipment is inspected on a regular basis by a competent person; and

(b) any gas cylinder that is inspected is marked with a current inspection mark showing the date of the most recent inspection.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) The person with management or control of gas cylinders at a workplace that is a gas cylinder filling station must ensure that —

(a) a gas cylinder is not filled with gas unless it bears a current inspection mark; and

(b) a gas cylinder is only filled with gas for which that cylinder is designed.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

225. Scaffolds

(1A) In this regulation —

AS/NZS 1576 Parts 1 to 6 means the following —

(a) AS/NZS 1576.1:2019 (General requirements);

(b) AS 1576.2:2016 (Couplers and accessories);

(c) AS 1576.3:2015 (Prefabricated and tube-and-coupler scaffolding);

(d) AS/NZS 1576.4:2013 (Suspended scaffolding);

(e) AS/NZS 1576.5:1995 (Prefabricated splitheads and trestles);

(f) AS 1576.6:2020 (Scaffolding Metal tube-and-coupler scaffolding — Deemed to conform to AS/NZS 1576.1).

(1) This regulation applies in relation to —

(a) a suspended scaffold; and

(b) a cantilevered scaffold; and

(c) a spur scaffold; and

(d) a hung scaffold; and

(e) any other scaffold from which a person or thing could fall more than 4 metres.

(2) The person with management or control of a scaffold at a workplace must ensure that the scaffold is not used unless the person receives written confirmation from a competent person, who has inspected the scaffold, that construction of the scaffold has been completed.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The person with management or control of a scaffold at a workplace must ensure that the scaffold and its supporting structure are inspected by a competent person —

(a) before use of the scaffold is resumed after an incident occurs that may reasonably be expected to affect the stability of the scaffold; and

(b) before use of the scaffold is resumed after repairs; and

(c) at least every 30 days.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) If an inspection indicates that a scaffold at a workplace or its supporting structure creates a risk to health or safety, the person with management or control of the scaffold must ensure that —

(a) any necessary repairs, alterations and additions are made or carried out; and

(b) the scaffold and its supporting structure are inspected again by a competent person before use of the scaffold is resumed.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(5) The person with management or control of a scaffold at a workplace must ensure that unauthorised access to the scaffold is prevented while the scaffold is incomplete or unattended.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Examples for this subregulation:

Danger tags and other warning signs.

(6) A person who erects or dismantles a scaffold at a workplace must ensure that the erection or dismantling, as the case may be, is done in accordance with the relevant requirements of AS/NZS 1576 Parts 1 to 6.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(7) A person who designs, manufactures, imports or supplies scaffolding equipment for use at a workplace must ensure that it complies with the relevant requirements of AS/NZS 1576 Parts 1 to 6.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(8) In subregulation (7) —

scaffolding equipment means any component, assembly or machine used or intended to be used in the construction of a scaffold.

[Regulation 225 amended: SL 2023/134 r. 6.]

226. Plant with presence-sensing safeguarding system: records

(1) The person with management or control of plant with a presence-sensing safeguarding system at a workplace must keep a record of safety integrity tests, inspections, maintenance, commissioning, decommissioning, dismantling and alterations of the plant for the period set out in subregulation (2).

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) The record must be kept for —

(a) 5 years unless paragraph (b) applies; or

(b) the life of the plant or until the person relinquishes control of the plant if the plant is registered plant or has been altered.

(3) The person must keep the record available for inspection under the Act.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(4) The person must make the record available to any person to whom the person relinquishes control of the plant.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

Part 5.2 — Additional duties relating to registered plant and plant designs

Notes for this Part:

1. The person with management or control of plant at a workplace is the person conducting a business or undertaking at a workplace to the extent that the business or undertaking involves the management or control of plant in whole or in part at the workplace. See the definition of ***person with management or control of plant at a workplace*** in regulation 5 and section 21 of the Act.
2. This Part applies in addition to Part 5.1.
3. In this Part, plant includes a structure (see the definition of ***plant*** in regulation 5).

Division 1 — Application of Part

227. Application of Part

This Part applies to —

(a) plant that is required to be registered under Part 5.3; or

(b) plant the design of which is required to be registered under Part 5.3.

Division 2 — Duty of person conducting a business or undertaking who designs plant to record plant design

228. Records and information

If the design of plant is required to be registered under Part 5.3, the designer of that plant must make a record that contains —

(a) the method used to determine the control measures for the plant and the control measures that result from that determination; and

(b) a copy of the information provided to a manufacturer under section 22 of the Act in relation to that plant; and

(c) a copy of the information provided to a manufacturer under regulation 187 in relation to that plant; and

(d) if applicable, a copy of the information provided to a manufacturer under regulation 188 in relation to that plant.

Penalty:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

229. Record of standards or engineering principles used

(1) If the design of plant is required to be registered under Part 5.3, the designer of the plant must record any published technical standard, including any part of a published technical standard, that was used to design the plant.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) If the designer of the plant has not used published technical standards to design the plant, the designer must record any engineering principles used to design the plant.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

230. Records to be available for inspection

(1) A designer of plant must ensure that the records made under regulations 228 and 229 are kept available for inspection under the Act.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) A designer of plant must ensure that the records made under regulations 228 and 229 are made available for inspection by the design verifier of the plant design.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(3) A designer of plant must keep the records made under regulations 228 and 229 for the design life of the plant.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

Division 3 — Duties of a person conducting a business or undertaking

231. Duty of persons conducting businesses or undertakings that manufacture plant

A manufacturer must not supply plant specified in Schedule 5 Division 1 unless the design of that plant is registered under Part 5.3.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

232. Duty of persons conducting businesses or undertakings that import plant

An importer must not supply plant specified in Schedule 5 Division 1 unless the design of that plant is registered under Part 5.3.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

233. Duty of persons conducting businesses or undertakings that supply plant

A supplier must not supply plant specified in Schedule 5 Division 1 unless the design of that plant is registered under Part 5.3.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

234. Duty of persons conducting businesses or undertakings that commission plant

(1) This regulation applies to a person who conducts a business or undertaking that commissions plant.

(2) The person must not commission an item of plant that is specified in Schedule 5 Division 2 for use in a workplace unless that item of plant is registered under Part 5.3.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) Nothing in subregulation (2) prevents a person from performing any necessary adjustments, tests or inspections as part of the commissioning process before the plant is commissioned at a workplace.

Division 4 — Duties of a person conducting a business or undertaking involving the management or control of plant

Subdivision 1 — Control measures for registered plant

235. Major inspection of registered mobile cranes and tower cranes

(1A) In this regulation —

major inspection means —

(a) an examination of all critical components of the crane, if necessary by stripping down the crane and removing paint, grease and corrosion to allow a thorough examination of each critical component; and

(b) a check of the effective and safe operation of the crane.

(1B) In this regulation, a ***competent person*** is a person who —

(a) complies with both of the following —

(i) has acquired through training, qualification or experience the knowledge and skills to carry out a major inspection of the plant; and

(ii) is eligible for professional engineer membership of Engineers Australia;

or

(b) is determined by the regulator to be a competent person.

(1) This regulation applies to the person with management or control of a registered mobile crane or tower crane at a workplace.

(2) The person must ensure that a major inspection of the crane is carried out by, or under the supervision of, a competent person —

(a) at the end of the design life recommended by the manufacturer for the crane; or

(b) if there are no manufacturer's recommendations — in accordance with the recommendations of a competent person; or

(c) if it is not reasonably practicable to comply with paragraph (a) or (b) — every 10 years from the date that the crane was first commissioned or first registered, whichever occurred first.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(3) A major inspection carried out under and in accordance with an equivalent provision of a corresponding WHS law is taken to be a major inspection for the purposes of this regulation.

(4) *[not used]*

(5) The regulator may, on the application of a person, make a determination in relation to the person for the purposes of subregulation (1B)(b) if the regulator considers that exceptional circumstances exist.

(6) The application must be made in the manner and form required by the regulator.

(7) The application must be accompanied by the relevant fee.

236. Lifts

(1) The person with management or control of a lift at a workplace (including a person with management or control of maintenance of a lift) must ensure that —

(a) if there is a risk of a person falling down a lift well —

(i) secure barriers are provided to prevent access to openings into the lift well by someone other than a person who is performing work in the lift well; and

(ii) secure working platforms or equivalent arrangements are provided for a person who is working in the lift well to prevent a fall from height;

and

(b) if there is a risk to a person working in a lift well from objects falling onto that person — a secure barrier is provided to prevent, so far as is reasonably practicable, falling objects from striking the person or otherwise causing a risk.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) The person must ensure that there is a safe means of entry to and exit from the base of the lift well.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(3) The person must ensure that there is fixed, in a prominent place in the lift, a sign that states the safe working load specified in the design of the lift.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

237. Records of plant

(1) This regulation applies in relation to plant that is required to be registered under Part 5.3.

(2) The person with management or control of the plant at a workplace must keep a record of all tests, inspections, maintenance, commissioning, decommissioning, dismantling

and alterations of the plant for the period set out in subregulation (3).

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(3) The record must be kept for the period that the plant is used or until the person relinquishes control of the plant.

(4) The person must keep the record available for inspection under the Act.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(5) The person must make the record available to any person to whom the person relinquishes control of the plant.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

Subdivision 2 — Control measures for amusement devices and passenger ropeways

238. Operation of amusement devices and passenger ropeways

(1) The person with management or control of an amusement device or passenger ropeway at a workplace must ensure that the device or ropeway is operated only by a person who has been provided with instruction and training in its proper operation.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The person with management or control of an amusement device or passenger ropeway at a workplace must ensure that —

(a) the amusement device or passenger ropeway is checked before it is operated on each day on which it is to be operated; and

(b) the amusement device or passenger ropeway is operated without passengers before it is operated with passengers on each day on which it is to be operated; and

(c) the daily checks and operation of the amusement device or passenger ropeway without passengers are properly and accurately recorded in a log book for the device or ropeway.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

239. Storage of amusement devices and passenger ropeways

(1) The person with management or control of an amusement device or passenger ropeway at a workplace must ensure that the device or ropeway is stored so as to be without risk to health and safety.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) The person with management or control of an amusement device or passenger ropeway at a workplace must ensure that a person who stores the device or ropeway is a competent person or is under the supervision of a competent person.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

240. Maintenance, inspection and testing of amusement devices and passenger ropeways

(1) The person with management or control of an amusement device or passenger ropeway at a workplace must ensure that the maintenance, inspection and, if necessary, testing of the device or ropeway is carried out —

(a) by a competent person; and

(b) in accordance with —

(i) the recommendations of the designer or manufacturer or designer and manufacturer; or

(ii) if a maintenance manual for the device or ropeway has been prepared by a competent person, the requirements of the maintenance manual.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A person is not a competent person to carry out a detailed inspection of an amusement device or passenger ropeway that includes an electrical installation unless the person is qualified, or is assisted by a person who is qualified, to inspect electrical installations.

241. Annual inspection of amusement devices and passenger ropeways

(1A) In this regulation, a ***competent person*** is a person who —

(a) in the case of an inflatable device (continuously blown) with a platform height less than 9 metres — has acquired through training, qualification or experience the knowledge and skills to inspect the device; or

(b) in the case of any other amusement device or a passenger ropeway —

(i) has acquired through training, qualification or experience the knowledge and skills to inspect the plant; and

(ii) is eligible for professional engineer membership of Engineers Australia;

or

(c) is determined by the regulator to be a competent person.

(1) The person with management or control of an amusement device or passenger ropeway at a workplace must ensure that a detailed inspection of the device or ropeway is carried out at least once every 12 months by a competent person.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) An annual inspection must include the following —

(a) a check of information about the operational history of the amusement device or passenger ropeway since the last detailed inspection;

(b) a check of the log book for the amusement device or passenger ropeway;

(c) a check that maintenance and inspections of the amusement device or passenger ropeway have been undertaken under regulation 240;

(d) a check that any required tests have been carried out, and that appropriate records have been maintained;

(e) a detailed inspection of the amusement device or passenger ropeway to ensure compliance with the Act and these regulations (including a specific inspection of the critical components of the amusement device or passenger ropeway).

(3) The regulator may extend the date for an inspection by up to 35 days if an inspection is scheduled to coincide with the same event each year.

(4) If the date is extended under subregulation (3), the new date is the date from which future annual inspections of the amusement device or passenger ropeway are determined.

(5) *[not used]*

(6) The regulator may, on the application of a person, make a determination in relation to the person for the purposes of subregulation (1A)(c) if the regulator considers that exceptional circumstances exist.

(7) The application must be made in the manner and form required by the regulator.

(8) The application must be accompanied by the relevant fee.

(9) An annual inspection carried out under and in accordance with an equivalent provision of a corresponding WHS law is taken to be an annual inspection for the purposes of this regulation.

242. Log book and manuals for amusement devices

(1) The person with management or control of an amusement device at a workplace, in addition to complying with the record-keeping requirements of regulation 237, must ensure that —

(a) details of the erection or storage of the amusement device (including the date of erection) are recorded in the log book for the amusement device on each occasion on which it is erected or stored; and

(b) the log book and operating and maintenance manuals for the amusement device are kept with the amusement device.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) The person with management or control of an amusement device at a workplace must ensure that persons involved in the commissioning, installation, use, storage and testing, and the decommissioning, dismantling and disposal, of an amusement device are given —

(a) the log book for the amusement device in which details concerning erection, storage, operation and maintenance of the amusement device are recorded; and

(b) the operating and maintenance manuals for the amusement device.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

Note for this subregulation:

Regulation 237(5) requires the person with management or control of the amusement device to give the log book and maintenance records to the person being supplied with the plant.

Part 5.3 — Registration of plant designs and items of plant

Note for this Part:

In this Part, plant includes a structure (see the definition of ***plant*** in regulation 5).

Division 1 — Plant designs to be registered

243. Plant design to be registered

The design of an item of plant specified in Schedule 5 Division 1 must be registered under this Part.

Note for this regulation:

See section 42 of the Act.

244. Altered plant designs to be registered

(1A) In this regulation a design is ***altered*** if the altered design may affect health or safety.

(1) If the design of an item of plant specified in Schedule 5 Division 1 that is registered under this Part is altered, the altered design must be registered under this Part.

Note for this subregulation:

See section 42 of the Act.

(2) *[not used]*

(3) This regulation does not apply in relation to a gantry crane if —

(a) the crane is relocated for use in a different workplace; and

(b) the design of the supporting structure or foundations of the crane is altered in accordance with a site-specific design prepared for the purpose of the safe operation of the crane at the new location; and

(c) the design of the crane is not altered in any other way.

245. Recognition of designs registered by corresponding regulator

(1) A design of an item of plant is not required to be registered under this Part if the design is registered under a corresponding WHS law.

(2) A design referred to in subregulation (1) that is altered is not required to be registered under this Part if the altered design is registered by the corresponding regulator that registered the original design.

Division 2 — Items of plant to be registered

246. Items of plant to be registered

(1) An item of plant specified in Schedule 5 Division 2 must be registered under this Part.

Note for this subregulation:

See section 42 of the Act.

(2) The purpose of registering an item of plant is to ensure that it is inspected by a competent person and is safe to operate.

247. Recognition of plant registered by corresponding regulator

An item of plant is not required to be registered under this Part if the plant is registered under a corresponding WHS law.

Division 3 — Registration process for plant designs

248. Application of Division

This Division applies to the registration of a design of an item of plant specified in Schedule 5 Division 1.

249. Who can apply to register a plant design

(1) A person conducting a business or undertaking that designs an item of plant may apply to the regulator for the registration of the design of that item of plant.

(2) A person with management or control of an item of plant may apply to the regulator for the registration of the design of that item of plant.

250. Application for registration

(1) An application for registration of the design of an item of plant must be made in the manner and form required by the regulator.

(2) The application must include the following information —

(a) the applicant's name;

(b) whether or not the applicant is a body corporate;

(c) if the applicant conducts the business or undertaking under a business name — that business name and a certificate or other written evidence of the registration of the business name;

(d) any other evidence of the applicant's identity required by the regulator;

(e) a statement signed by the designer of the item of plant —

(i) stating that the designer has complied with the designer's obligations under section 22 of the Act in relation to the design; and

(ii) specifying the published technical standards and engineering principles used in the design;

(f) a design verification statement that accords with regulation 251;

(g) representational drawings of the design;

(h) a declaration that the applicant does not hold an equivalent registration under a corresponding WHS law.

Note for this subregulation:

See section 268 of the Act for offences relating to the giving of false or misleading information under the Act, including these regulations.

(3) Any drawings or other documents provided with the application must be capable of being kept in an electronic form.

(4) The application must be accompanied by the relevant fee.

251. Design verification statement

The design verification statement must —

(a) be written and signed by a person who is eligible to be a design verifier for the design; and

(b) state that the design was produced in accordance with published technical standards or engineering principles specified in the statement; and

(c) include —

(i) the name, business address and qualifications (if applicable) of the design verifier; and

(ii) if applicable, the name and business address of the organisation for which the design verifier works.

252. Who can be the design verifier

(1A) In this regulation, a ***competent person***, in relation to plant, is a person who —

(a) complies with both of the following —

(i) has acquired through training, qualification or experience the knowledge and skills to design the plant or verify the design of the plant; and

(ii) is eligible for professional engineer membership of Engineers Australia;

or

(b) is determined by the regulator to be a competent person.

(1) A person is eligible to be a design verifier for the design of an item of plant if the person is a competent person.

(2) Despite subregulation (1), a person is not eligible to be a design verifier for the design of an item of plant if the person was involved in the production of the design.

[Regulation 252 amended: SL 2023/134 r. 7.]

253. Duty of design verifier

A design verifier of the design of an item of plant specified in Schedule 5 Division 1 must document the design verification process carried out by that person and the results of that process.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

254. Design verification statements not to be made in certain circumstances

A person must not make a design verification statement for the design of an item of plant specified in Schedule 5 Division 1 if the person —

(a) is not eligible to be a design verifier for that design; or

(b) has not carried out a verification of the design.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

255. Additional information

(1) If an application for registration of a design of an item of plant does not contain enough information to enable the regulator to make a decision whether or not to grant the registration, the regulator may ask the applicant to provide additional information.

(2) A request for additional information must —

(a) specify the date (not being less than 28 days after the request) by which the additional information is to be given; and

(b) be confirmed in writing.

(3) If an applicant does not provide the additional information by the date specified, the application is taken to have been withdrawn.

(4) The regulator may make more than 1 request for additional information under this regulation.

256. Decision on application

(1) Subject to subregulation (3), the regulator must grant the registration if satisfied about the matters referred to in subregulation (2).

(2) The regulator must be satisfied about the following —

(a) the application has been made in accordance with this Division;

(b) the design is not registered under a corresponding WHS law;

(c) if the applicant is an individual, the applicant —

(i) resides in the State; or

(ii) resides outside the State and circumstances exist that justify the grant of the registration;

(d) if the applicant is a body corporate, the applicant's registered office —

(i) is located in the State; or

(ii) is located outside the State and circumstances exist that justify the grant of the registration;

(e) the applicant is able to ensure compliance with any conditions that will apply to the registration.

(3) The regulator must refuse to grant a registration if satisfied that, in making the application, the applicant has —

(a) given information that is false or misleading in a material particular; or

(b) failed to give any material information that should have been given.

(4) If the regulator decides to grant the registration, it must notify the applicant within 14 days after making the decision.

(5) If the regulator does not make a decision within 120 days after receiving the application or the additional information requested under regulation 255, the regulator is taken to have refused to grant the registration applied for.

Note for this regulation:

A refusal to grant a registration (including under subregulation (5)) is a reviewable decision (see regulation 676).

257. Refusal of registration: process

(1) If the regulator proposes to refuse to grant a registration, the regulator must give the applicant a written notice —

(a) informing the applicant of the reasons for the proposed refusal; and

(b) advising the applicant that the applicant may, by a specified date (being not less than 28 days after giving the notice), make a submission to the regulator in relation to the proposed refusal.

(2) After the date specified in a notice under subregulation (1), the regulator must —

(a) if the applicant has made a submission in relation to the proposed refusal to grant the registration — consider that submission; and

(b) whether or not the applicant has made a submission — decide whether to grant or refuse to grant the registration; and

(c) within 14 days after making that decision, give the applicant written notice of the decision, including the reasons for the decision.

Note for this regulation:

A refusal to grant a registration is a reviewable decision (see regulation 676).

258. Conditions of registration

(1) The regulator may impose any conditions it considers appropriate on the registration of a plant design.

(2) Without limiting subregulation (1), the regulator may impose conditions in relation to 1 or more of the following —

(a) the use and maintenance of plant manufactured to the design;

(b) the recording or keeping of information;

(c) the provision of information to the regulator.

Notes for this regulation:

1. A person must comply with the conditions of registration (see section 45 of the Act).
2. A decision to impose a condition on a registration is a reviewable decision (see regulation 676).

259. Duration of registration of plant design

A registration of a plant design takes effect on the day it is granted and is granted for an unlimited duration.

260. Plant design registration number

(1) This regulation applies if the regulator registers a design of an item of plant.

(2) The regulator must issue a plant design registration number for the design to the applicant.

(3) The person to whom the plant design registration number is issued must give the registration number to the manufacturer, importer or supplier of plant manufactured to that design.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(4) The manufacturer, supplier or importer of plant to whom a plant design registration number is given under this regulation must give that number to the person with management or control of the plant —

(a) manufactured to that design; or

(b) supplied to that person by the manufacturer, supplier or importer.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(5) The person with management or control of plant at a workplace for which a plant design is registered must ensure that the design registration number is kept readily accessible in the vicinity of the plant at all times.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

261. Registration document

(1) If the regulator registers a design of an item of plant, the regulator must issue to the applicant a registration document in the form determined by the regulator.

(2) The registration document must include the following —

(a) the name of the registration holder;

(b) if the registration holder conducts the business or undertaking under a business name, that business name;

(c) the registration number of the plant design;

(d) any conditions imposed on the registration by the regulator;

(e) the date on which the registration was granted.

262. Registration document to be available

(1) A registration holder must keep the registration document available for inspection under the Act.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) Subregulation (1) does not apply if the registration document is not in the registration holder's possession because —

(a) it has been returned to the regulator under regulation 287; or

(b) the registration holder has applied for, but has not received, a replacement registration document under regulation 288.

263. Disclosure of design information

(1) Subject to this regulation, the regulator must not disclose to any person any confidential information provided by an applicant for registration of a design of an item of plant.

(2) The regulator may disclose information about a plant design in either of the following circumstances —

(a) to a corresponding regulator or an authorised officer of a corresponding regulator, at the request of the corresponding regulator;

(b) to any person authorised by the applicant for the registration of the design.

(3) The regulator may give a copy of the design verification statement to —

(a) workers engaged by the person with management or control at a workplace of plant manufactured to the design; or

(b) a health and safety representative of those workers.

(4) The regulator may provide the person with management or control of plant with the minimum information about the plant design that is necessary for the safe operation of the plant if the registration holder for the design of the plant cannot be located or no longer exists.

Division 4 — Registration process for an item of plant

264. Application of Division

This Division applies in relation to the registration of an item of plant specified in Schedule 5 Division 2 as requiring registration.

265. Who can apply to register an item of plant

A person with management or control of an item of plant may apply to the regulator for the registration of that item of plant.

266. Application for registration

(1) An application for registration of an item of plant must be made in the manner and form required by the regulator.

(2) The application must include the following information —

(a) the applicant's name;

(b) whether or not the applicant is a body corporate;

(c) if the applicant conducts the business or undertaking under a business name — that business name and a certificate or other written evidence of the registration of the business name;

(d) any other evidence of the applicant's identity required by the regulator;

(e) sufficient information to clearly identify the item of plant;

(f) *[not used]*

(g) if the design of the item of plant was also required to be registered under this Part, details of —

(i) the plant design registration number; and

(ii) the regulator or corresponding regulator that registered the design;

(h) a statement that the item of plant has been inspected by a competent person and assessed by that person as being safe to operate;

(i) the date that the item of plant was first commissioned or was first registered, if known, whichever occurred first;

(j) a declaration that the applicant does not hold an equivalent registration under a corresponding WHS law.

Note for this subregulation:

See section 268 of the Act for offences relating to the giving of false or misleading information under the Act, including these regulations.

(3) The application must be accompanied by the relevant fee.

267. When is a person competent to inspect plant

A person is a competent person to inspect an item of plant for registration if the person has —

(a) educational or vocational qualifications in an engineering discipline relevant to the plant to be inspected; or

(b) knowledge of the technical standards relevant to the plant to be inspected.

268. Additional information

(1) If an application for registration of an item of plant does not contain enough information to enable the regulator to make a decision whether or not to grant the registration, the regulator may ask the applicant to provide additional information.

(2) A request for additional information must —

(a) specify the date (not being less than 28 days after the request) by which the additional information is to be given; and

(b) be confirmed in writing.

(3) If an applicant does not provide the additional information by the date specified, the application is taken to have been withdrawn.

(4) The regulator may make more than 1 request for additional information under this regulation.

269. Decision on application

(1) Subject to subregulation (3), the regulator must grant the registration if satisfied about the matters referred to in subregulation (2).

(2) The regulator must be satisfied about the following —

(a) the application has been made in accordance with this Division;

(b) the item of plant is not registered under a corresponding WHS law;

(c) the item of plant is —

(i) located in the State; or

(ii) located outside the State and circumstances exist that justify the grant of the registration;

(d) if the applicant is an individual, the applicant —

(i) resides in the State; or

(ii) resides outside the State and circumstances exist that justify the grant of the registration;

(e) if the applicant is a body corporate, the applicant's registered office —

(i) is located in the State; or

(ii) is located outside the State and circumstances exist that justify the grant of the registration;

(f) the applicant is able to ensure compliance with any conditions that will apply to the registration.

(3) The regulator must refuse to grant a registration if satisfied that, in making the application, the applicant has —

(a) given information that is false or misleading in a material particular; or

(b) failed to give any material information that should have been given.

(4) If the regulator decides to grant the registration, it must notify the applicant within 14 days after making the decision.

(5) If the regulator does not make a decision within 120 days after receiving the application or additional information requested under regulation 268, the regulator is taken to have refused to grant the registration applied for.

Note for this regulation:

A refusal to grant a registration (including under subregulation (5)) is a reviewable decision (see regulation 676).

270. Refusal of registration: process

(1) If the regulator proposes to refuse to grant a registration, the regulator must give the applicant a written notice —

(a) informing the applicant of the reasons for the proposed refusal; and

(b) advising the applicant that the applicant may, by a specified date (being not less than 28 days after giving

the notice), make a submission to the regulator in relation to the proposed refusal.

(2) After the date specified in a notice under subregulation (1), the regulator must —

(a) if the applicant has made a submission in relation to the proposed refusal to grant the registration — consider that submission; and

(b) whether or not the applicant has made a submission — decide whether to grant or refuse to grant the registration; and

(c) within 14 days after making that decision, give the applicant written notice of the decision, including the reasons for the decision.

Note for this regulation:

A refusal to grant a registration is a reviewable decision (see regulation 676).

271. Conditions of registration

(1) The regulator may impose any conditions it considers appropriate on the registration of an item of plant.

(2) Without limiting subregulation (1), the regulator may impose conditions in relation to 1 of more of the following —

(a) the use and maintenance of the item of plant;

(b) the recording or keeping of information;

(c) the provision of information to the regulator.

Notes for this regulation:

1. A person must comply with the conditions of registration (see section 45 of the Act).
2. A decision to impose a condition on a registration is a reviewable decision (see regulation 676).

272. Day when registration takes effect

A registration of an item of plant takes effect on the day it is granted.

273. Plant registration number

(1) This regulation applies if the regulator registers an item of plant.

(2) The regulator must issue a plant registration number for the plant to the registration holder within 14 days after that registration.

(3) The registration holder must give the plant registration number to the person with management or control of the plant at a workplace as soon as practicable after being issued with the number under subregulation (2).

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(4) The person with management or control of the plant at a workplace must ensure that the plant registration number is marked on the item of plant.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

274. Registration document

(1) If the regulator registers an item of plant, the regulator must issue to the applicant within 14 days a registration document in the form determined by the regulator.

(2) The registration document must include the following —

(a) the name of the registration holder;

(b) if the registration holder conducts the business or undertaking under a business name, that business name;

(c) the registration number for the item of plant;

(d) any conditions imposed on the registration by the regulator;

(e) the date on which the plant was first commissioned or first registered, whichever occurred first;

(f) the date on which the registration was granted;

(g) the expiry date of the registration.

275. Registration document to be available

(1) The holder of the registration of an item of plant must keep the registration document available for inspection under the Act.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) Subregulation (1) does not apply if the registration document is not in the registration holder's possession because —

(a) it has been returned to the regulator under regulation 287; or

(b) the registration holder has applied for, but has not received, a replacement registration document under regulation 288.

276. Not used

277. Not used

278. Not used

279. Not used

280. Not used

Division 5 — Changes to registration and registration documents

281. Application of Division

This Division applies to —

(a) the registration of a design of an item of plant; and

(b) the registration of an item of plant.

282. Changes to information

(1) A registration holder must give the regulator written notice of any change to —

(a) the registration holder's name; or

(b) any of the information referred to in regulation 250, 255(1), 266 or 268(1) within 14 days after the registration holder becomes aware of the change.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) Subregulation (1) applies whether the information was given in the application for grant of the registration or in any other circumstance.

(3) Without limiting subregulation (1), a registration holder for an item of plant must give written notice to the regulator if —

(a) the item of plant is altered to an extent or in a way that requires the plant to be subject to new control measures; or

(b) the item of plant is usually fixed and is relocated; or

(c) the registration holder no longer has management or control of the item of plant.

283. Amendment of registration imposed by regulator

(1) The regulator may, on its own initiative, amend a registration, including by amending the registration to —

(a) vary or delete a condition of the registration; or

(b) impose a new condition on the registration.

(2) Before amending a registration, the regulator must give the registration holder written notice —

(a) setting out the proposed amendment and the reasons for it; and

(b) advising the registration holder that the registration holder may make a submission to the regulator in relation to the proposed amendment within a specified period (being not less than 28 days from the date of the notice).

(3) After the date specified in a notice under subregulation (2), the regulator must —

(a) if the registration holder has made a submission in relation to the proposed amendment — consider that submission; and

(b) whether or not the registration holder has made a submission, decide —

(i) to make the proposed amendment; or

(ii) not to make any amendment; or

(iii) to make a different amendment that results from consideration of any submission made by the registration holder;

and

(c) within 14 days after making that decision, give the registration holder written notice that —

(i) sets out the amendment, if any, or states that no amendment is to be made; and

(ii) if a submission was made in relation to the proposed amendment — sets out the regulator's reasons for making the amendment; and

(iii) specifies the date (being not less than the 28 days after the registration holder is given the notice) on which the amendment, if any, takes effect.

Note for this regulation:

A decision to amend a registration is a reviewable decision (see regulation 676).

284. Amendment on application by registration holder

(1) The regulator, on application by the registration holder, may amend a registration, including by amending the registration to vary or delete a condition of the registration.

(2) If the regulator proposes to refuse to amend the registration, the regulator must give the registration holder a written notice —

(a) informing the registration holder of the proposed refusal to amend the registration and the reasons for the proposed refusal; and

(b) advising the registration holder that the registration holder may, by a specified date (being not less than 28 days after giving the notice), make a submission to the regulator in relation to the proposed refusal.

(3) After the date specified in a notice under subregulation (2), the regulator must —

(a) if the registration holder has made a submission in relation to the proposed refusal — consider that submission; and

(b) whether or not the registration holder has made a submission, decide —

(i) to make the amendment applied for; or

(ii) not to make any amendment; or

(iii) to make a different amendment that results from consideration of any submission made by the registration holder;

and

(c) within 14 days after making that decision, give the registration holder written notice of the decision in accordance with this regulation.

(4) If the regulator makes the amendment applied for, the notice under subregulation (3)(c) must specify the date (being not less than 28 days after the registration holder is given the notice) on which the amendment takes effect.

(5) If the regulator refuses to make the amendment or makes a different amendment, the notice under subregulation (3)(c) must —

(a) if a submission was made in relation to the proposed refusal of the amendment applied for — set out the reasons for the regulator's decision; and

(b) if the regulator makes a different amendment —

(i) set out the amendment; and

(ii) specify the date (being not less than 28 days after the licence holder is given the notice) on which the amendment takes effect.

Note for this subregulation:

A refusal to make the amendment applied for, or a decision to make a different amendment, is a reviewable decision (see regulation 676).

285. Minor corrections to registration

The regulator may make minor amendments to a registration, including an amendment —

(a) to correct an obvious error; or

(b) to change an address; or

(c) that does not impose a significant burden on the registration holder.

286. Regulator to give amended registration document

If the regulator amends a registration and considers that the registration document requires amendment, the regulator must give the registration holder an amended registration document within 14 days after making the decision to amend the registration.

287. Registration holder to return registration document

A registration holder must return the registration document to the regulator for amendment at the written request of the regulator within the time specified in the request.

Penalty:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

288. Replacement registration document

(1) A registration holder must notify the regulator as soon as practicable if the registration document is lost, stolen or destroyed.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) If a registration document is lost, stolen or destroyed, the registration holder may apply to the regulator for a replacement document.

Note for this subregulation:

A registration holder is required to keep a registration document available for inspection (see regulation 275).

(3) An application for a replacement registration document must be made in the manner and form required by the regulator.

(4) The application must —

(a) include a declaration describing the circumstances in which the original document was lost, stolen or destroyed; and

Note for this paragraph:

See section 268 of the Act for offences relating to the giving of false or misleading information under the Act, including these regulations.

(b) be accompanied by the relevant fee.

(5) The regulator must issue a replacement registration document if satisfied that the original document was lost, stolen or destroyed.

(6) If the regulator refuses to issue a replacement registration document, it must give the registration holder written notice of this decision, including the reasons for the decision within 14 days of making the decision.

Note for this subregulation:

A refusal to issue a replacement registration document is a reviewable decision (see regulation 676).

Division 6 — Cancellation of registration

288A. Application of Division

This Division applies to —

(a) the registration of a design of an item of plant; and

(b) the registration of an item of plant.

288B. Regulator may cancel registration

The regulator may cancel a registration if satisfied that —

(a) the registration holder, in applying for the registration —

(i) gave information that was false or misleading in a material particular; or

(ii) failed to give any material information that should have been given;

or

(b) the design of the item of plant, or the item of plant (as applicable), is unsafe.

Note for this regulation:

A decision to cancel a registration is a reviewable decision (see regulation 676).

288C. Cancellation process

(1) Before cancelling a registration, the regulator must give the registration holder written notice —

(a) setting out the proposal to cancel the registration and the reasons for it; and

(b) advising the registration holder that the registration holder may make a submission to the regulator in relation to the proposed cancellation within a specified period (being not less than 28 days from the date of the notice).

(2) After the date specified in a notice under subregulation (1), the regulator must —

(a) if the registration holder has made a submission in relation to the proposed cancellation — consider that submission; and

(b) whether or not the registration holder has made a submission, decide —

(i) to cancel the registration; or

(ii) not to cancel the registration;

and

(c) within 14 days after making that decision, give the registration holder written notice that —

(i) states whether or not the registration is cancelled; and

(ii) if a submission was made in relation to the proposed cancellation — sets out the regulator's reasons for cancelling the registration; and

(iii) specifies the date on which the cancellation, if any, takes effect.

Note for this subregulation:

A decision to cancel a registration is a reviewable decision (see regulation 676).

288D. Registration holder to return registration document

A registration holder who receives a cancellation notice under regulation 288C must return the registration document to the regulator at the written request of the regulator within the time specified in the request.

Penalty:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

Chapter 6 — Construction work

Part 6.1 — Preliminary

289. Meaning of construction work

(1) In this Chapter —

construction work means any work carried out in connection with the construction, alteration, conversion, fitting-out, commissioning, renovation, repair, maintenance, refurbishment, demolition, decommissioning or dismantling of a structure.

(2) Without limiting subregulation (1), ***construction work*** includes the following —

(a) any installation or testing carried out in connection with an activity referred to in subregulation (1);

(b) the removal from the workplace of any product or waste resulting from demolition;

(c) the prefabrication or testing of elements, at a place specifically established for the construction work, for use in construction work;

(d) the assembly of prefabricated elements to form a structure, or the disassembly of prefabricated elements forming part of a structure;

(e) the installation, testing or maintenance of an essential service in relation to a structure;

(f) any work connected with an excavation;

(g) any work connected with any preparatory work or site preparation (including landscaping as part of site preparation) carried out in connection with an activity referred to in subregulation (1);

(h) an activity referred to in subregulation (1), that is carried out on, under or near water, including work on buoys and obstructions to navigation.

(3) In this Chapter, ***construction work*** does not include any of the following —

(a) the manufacture of plant;

(b) the prefabrication of elements, other than at a place specifically established for the construction work, for use in construction work;

(c) the construction or assembly of a structure that once constructed or assembled is intended to be transported to another place;

(d) testing, maintenance or repair work of a minor nature carried out in connection with a structure;

(e) mining or the exploration for or extraction of minerals.

290. Meaning of structure

(1) In this Chapter —

structure has the same meaning as it has in the Act.

Examples for this definition:

1. A roadway or pathway.
2. A ship or submarine.
3. Foundations, earth retention works and other earthworks, including river works and sea defence works.
4. Formwork, falsework or any other structure designed or used to provide support, access or containment during construction work.
5. An airfield.
6. A dock, harbour, channel, bridge, viaduct, lagoon or dam.
7. A sewer or sewerage or drainage works.

(2) This Chapter does not apply to plant unless —

(a) the plant is —

(i) a ship or submarine; or

(ii) a pipe or pipeline; or

(iii) an underground tank; or

(iv) designed or used to provide support, access or containment during work in connection with construction work;

or

(b) work on the plant relates to work that is carried out in connection with construction work; or

(c) the plant is fixed plant on which outage work or overhaul work that involves or may involve work being carried out by 5 or more persons conducting businesses or undertakings at any point in time.

Note for this subregulation:

This Chapter does not apply to the manufacture of plant (see regulation 289(3)(a)).

291. Meaning of high risk construction work

In this Chapter —

high risk construction work means construction work that —

(a) involves a risk of a person falling more than 2 metres; or

(b) is carried out on a telecommunication tower; or

(c) involves demolition of an element of a structure that is load-bearing or otherwise related to the physical integrity of the structure; or

(d) involves, or is likely to involve, the disturbance of asbestos; or

(e) involves structural alterations or repairs that require temporary support to prevent collapse; or

(f) is carried out in or near a confined space; or

(g) is carried out in or near —

(i) a shaft or trench with an excavated depth greater than 1.5 metres; or

(ii) a tunnel;

or

(h) involves the use of explosives; or

(i) is carried out on or near pressurised gas distribution mains or piping; or

(j) is carried out on or near chemical, fuel or refrigerant lines; or

(k) is carried out on or near energised electrical installations or services; or

(l) is carried out in an area that may have a contaminated or flammable atmosphere; or

(m) involves tilt-up or precast concrete; or

(n) is carried out on, in or adjacent to a road, railway, shipping lane or other traffic corridor that is in use by traffic other than pedestrians; or

(o) is carried out in an area at a workplace in which there is any movement of powered mobile plant; or

(p) is carried out in an area in which there are artificial extremes of temperature; or

(q) is carried out in or near water or other liquid that involves a risk of drowning; or

(r) involves diving work.

292. Meaning of construction project

In this Chapter, a ***construction project*** is a project that involves construction work where 5 or more persons are, or are likely to be, working at the same time at a construction site.

293. Meaning of principal contractor

(1) In this Chapter, a person conducting a business or undertaking that commissions a construction project is, subject to this regulation, the ***principal contractor*** for the project.

(2) If the person referred to in subregulation (1) engages another person conducting a business or undertaking as principal

contractor for the construction project and authorises the person to have management or control of the workplace and to discharge the duties of a principal contractor under this Chapter, the person so engaged is the principal contractor for the project.

(3) If the owner of residential premises is an individual who directly or indirectly engages a person conducting a business or undertaking to undertake a construction project in relation to the premises, the person so engaged is the principal contractor for the project if the person has management or control of the workplace.

(4) A construction project has only 1 principal contractor at any specific time.

Note for this regulation:

A person with management or control of a workplace must comply with section 20 of the Act.

Part 6.2 — Duties of designer of structure and person who commissions construction work

294. Person who commissions work must consult with designer

(1) A person conducting a business or undertaking that commissions construction work in relation to a structure must, so far as is reasonably practicable, consult with the designer of the whole or any part of the structure about how to ensure that risks to health and safety arising from the design during the construction work are —

(a) eliminated, so far as is reasonably practicable; or

(b) if it is not reasonably practicable to eliminate the risks, minimised so far as is reasonably practicable.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) Consultation must include giving the designer any information that the person who commissions the construction work has in relation to the hazards and risks at the workplace where the construction work is to be carried out.

295. Designer must give safety report to person who commissions design

(1) The designer of a structure or any part of a structure that is to be constructed must give the person conducting a business or undertaking who commissioned the design a written report that specifies the hazards relating to the design of the structure that, so far as the designer is reasonably aware —

(a) create a risk to the health or safety of persons who are to carry out any construction work on the structure or part; and

(b) are associated only with the particular design and not with other designs of the same type of structure.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) If the person conducting a business or undertaking who commissions a construction project did not commission the design of the construction project, the person must take all reasonable steps to obtain a copy of the written report referred to in subregulation (1) in relation to that design.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

296. Person who commissions project must give information to principal contractor

If a person conducting a business or undertaking that commissions a construction project engages a principal

contractor for the project, the person must give the principal contractor any information the person has in relation to hazards and risks at or in the vicinity of the workplace where the construction work is to be carried out.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

Part 6.3 — Duties of person conducting business or undertaking

Note for this Part:

As a principal contractor is a person conducting a business or undertaking, this Part also applies to a principal contractor.

Division 1 — General

297. Management of risks to health and safety

A person conducting a business or undertaking must manage risks associated with the carrying out of construction work in accordance with Part 3.1.

Note for this regulation:

WHS Act — section 19 (see regulation 9).

298. Security of workplace

(1) A person with management or control of a workplace at which construction work is carried out must ensure, so far as is reasonably practicable, that the workplace is secured from unauthorised access.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) In complying with subregulation (1), the person must have regard to all relevant matters, including —

(a) risks to health and safety arising from unauthorised access to the workplace; and

(b) the likelihood of unauthorised access occurring; and

Example for this paragraph:

The proximity of the workplace to places frequented by children, including schools, parks and shopping precincts.

(c) to the extent that unauthorised access to the workplace cannot be prevented — how to isolate hazards within the workplace.

Division 2 — High risk construction work: safe work method statements

299. Safe work method statement required for high risk construction work

(1) A person conducting a business or undertaking that includes the carrying out of high risk construction work must, before high risk construction work commences, ensure that a safe work method statement for the proposed work —

(a) is prepared; or

(b) has already been prepared by another person.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A safe work method statement must —

(a) identify the work that is high risk construction work; and

(b) specify hazards relating to the high risk construction work and risks to health and safety associated with those hazards; and

(c) describe the measures to be implemented to control the risks; and

(d) describe how the control measures are to be implemented, monitored and reviewed.

(3) A safe work method statement must —

(a) be prepared taking into account all relevant matters, including —

(i) circumstances at the workplace that may affect the way in which the high risk construction work is carried out; and

(ii) if the high risk construction work is carried out in connection with a construction project — the WHS management plan that has been prepared for the workplace;

and

(b) be set out and expressed in a way that is readily accessible and understandable to persons who use it.

300. Compliance with safe work method statement

(1) A person conducting a business or undertaking that includes the carrying out of high risk construction work must put in place arrangements for ensuring that high risk construction work is carried out in accordance with the safe work method statement for the work.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) If high risk construction work is not carried out in accordance with the safe work method statement for the work, the person must ensure that the work —

(a) is stopped immediately or as soon as it is safe to do so; and

(b) resumed only in accordance with the statement.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

301. Safe work method statement: copy to be given to principal contractor

A person conducting a business or undertaking that includes carrying out high risk construction work in connection with a construction project must, before the high risk construction work commences, ensure that a copy of the safe work method statement for the work is given to the principal contractor.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

302. Review of safe work method statement

A person conducting a business or undertaking must ensure that a safe work method statement is reviewed and as necessary revised if relevant control measures are revised under regulation 38.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

303. Safe work method statement must be kept

(1) Subject to subregulation (2), a person conducting a business or undertaking must keep a copy of the safe work method statement until the high risk construction work to which it relates is completed.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) If a notifiable incident occurs in connection with the high risk construction work to which the statement relates, the person must keep the statement for at least 2 years after the incident occurs.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(3) The person must ensure that for the period for which the statement must be kept under this regulation, a copy is readily accessible to any worker engaged by the person to carry out the high risk construction work.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(4) The person must ensure that for the period for which the statement must be kept under this regulation, a copy is available for inspection under the Act.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

Division 3 — Excavation work

304. Excavation work: underground essential services information

(1A) In this regulation —

underground essential services means essential services that use pipes, cables or other associated plant located underground;

underground essential services information, in relation to proposed excavation work, means the following information about underground essential services that may be affected by the excavation —

(a) the essential services that may be affected;

(b) the location, including the depth, of any pipes, cables or other plant associated with the affected essential services;

(c) any conditions on the proposed excavation work.

(1) This regulation applies in relation to a part of a workplace where excavation work is being carried out and any adjacent areas.

(2) A person with management or control of the workplace must take all reasonable steps to obtain current underground essential services information about the areas referred to in subregulation (1) before directing or allowing the excavation work to commence.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(3) The person with management or control of the workplace must provide the information obtained under subregulation (2) to any person engaged by the person to carry out the excavation work.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(4) The person with management or control of the workplace and any person conducting a business or undertaking who is given information under subregulation (3) must have regard to the

information referred to in subregulation (2) in carrying out or directing or allowing the carrying out of the excavation work.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

Note for this subregulation:

Legislation relating to the essential services may also impose duties on the person conducting the business or undertaking and the persons carrying out the work.

(5) The person with control or management of the workplace must ensure that the information referred to in subregulation (2) is available for inspection under the Act for the period specified in subregulation (6).

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(6) The information must be available —

(a) if a notifiable incident occurs in connection with the excavation work to which the information relates — for at least 2 years after the incident occurs; and

(b) in every other case — until the excavation work is completed.

(7) *[not used]*

305. Management of risks to health and safety associated with excavation work

(1) A person conducting a business or undertaking must manage risks to health and safety associated with excavation work, in accordance with Part 3.1.

Note for this subregulation:

WHS Act — section 19 (see regulation 9).

(1A) In addition, a person conducting a business or undertaking or a principal contractor at, or a person with management or control of, a workplace where excavation work is to be carried out must ensure that suitable signs that warn of risks to health and safety associated with the excavation work are erected at the place where the excavation work is to be carried out.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) The risks this regulation applies to include the following —

(a) a person falling into an excavation;

(b) a person being trapped by the collapse of an excavation;

(c) a person working in an excavation being struck by a falling thing;

(d) a person working in an excavation being exposed to an airborne contaminant.

(3) In complying with subregulation (1) or (1A), the person must have regard to all relevant matters, including the following —

(a) the nature of the excavation;

(b) the nature of the excavation work, including the range of possible methods of carrying out the work;

(c) the means of entry into and exit from the excavation, if applicable.

306. Additional controls: trenches

(1) A person conducting a business or undertaking, who proposes to excavate a trench at least 1.5 metres deep must ensure, so far as

is reasonably practicable, that the work area is secured from unauthorised access (including inadvertent entry).

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) In complying with subregulation (1), the person must have regard to all relevant matters, including —

(a) risks to health and safety arising from unauthorised access to the work area; and

(b) the likelihood of unauthorised access occurring.

(3) In addition, the person must minimise the risk to any person arising from the collapse of the trench by ensuring that all sides of the trench are adequately supported by doing 1 or more of the following —

(a) shoring by shielding or other comparable means;

(b) benching;

(c) battering.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) Subregulation (3) does not apply if the person receives written advice from a geotechnical engineer that all sides of the trench are safe from collapse.

(5) An advice under subregulation (4) —

(a) may be subject to a condition that specified natural occurrences may create a risk of collapse; and

(b) must state the period of time to which the advice applies.

Division 4 — Tilt-up concrete and precast concrete elements

306A. Terms used

(1) In this Division —

AS 3850 means AS 3850-2003 (Tilt-up concrete construction);

concrete panel —

(a) means a concrete panel that is manufactured as a separate and movable panel for the purpose of being incorporated as a wall (including a retaining wall) once the process by which the panel is manufactured is complete; but

(b) does not include a column, beam or paving slab or a panel that is for decorative purposes only;

tilt-up work means any of the following —

(a) the manufacture, transport, cranage, temporary storage, erection or temporary bracing of a concrete panel;

(b) the fixing of a concrete panel for the incorporation of the panel as a wall (including a retaining wall);

(c) the removal of temporary bracing of a concrete panel.

(2) For the purposes of this Division, a reference in AS 3850 to a tilt-up panel is to be treated as a reference to a concrete panel as defined in subregulation (1).

306B. Regulator to be notified of proposed manufacture of concrete panel

(1) A person who, at a workplace (other than a construction site) where a concrete panel is proposed to be manufactured, is a person conducting a business or undertaking must ensure that the regulator is notified of the proposed work at least 10 working days before the panel is proposed to be cast.

(2) A person who, at a construction site where a concrete panel is proposed to be manufactured, is the principal contractor must ensure that the regulator is notified of the proposed work at least 10 working days before the panel is proposed to be cast.

(3) A notice under subregulation (1) or (2) must be made in the manner and form required by the regulator and must specify —

(a) the construction site or other workplace at which the proposed manufacturing work is to take place; and

(b) the construction site at which the panel is to be incorporated as a wall (including a retaining wall) once the process by which the panel is manufactured is complete.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) A person referred to in subregulation (1) (other than the regulator) must ensure that a copy of the notice is given to the principal contractor at the construction site referred to in subregulation (3)(b) within the period referred to in subregulation (1).

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

306C. Concrete panels to be designed and made in accordance with standard

(1) A person who, at a workplace (other than a construction site) where a concrete panel is proposed to be manufactured, is a person conducting a business or undertaking must ensure that —

(a) the design and shop drawings of the panel are in accordance with AS 3850 section 3; and

(b) the materials, components and equipment used in the manufacture of the panel are in accordance, or used in accordance, with AS 3850 section 2; and

(c) the manufacture of the panel is in accordance with AS 3850 section 4; and

(d) a competent person who is not involved in the original form set-up conducts an inspection referred to in AS 3850 section 4.10 and provides a written report setting out the inspection results.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A person who, at a construction site where a concrete panel is proposed to be manufactured, is the principal contractor must ensure that —

(a) the design and shop drawings of the panel are in accordance with AS 3850 section 3; and

(b) the materials, components and equipment used in the manufacture of the panel are in accordance, or used in accordance, with AS 3850 section 2; and

(c) the manufacture of the panel is in accordance with AS 3850 section 4; and

(d) a competent person who is not involved in the original form set-up conducts an inspection referred to in AS 3850 section 4.10 and provides a written report setting out the inspection results.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

306D. Concrete panel at construction site to be transported, craned, stored and erected in accordance with standard

(1) A person who, at a construction site, is the principal contractor or a person conducting a business or undertaking must ensure that —

(a) the transport of a concrete panel at or adjacent to the construction site is in accordance with AS 3850 section 5; and

(b) the cranage, temporary storage and erection of a concrete panel at the construction site is in accordance with AS 3850 section 5.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) For the purposes of subregulation (1), a reference in AS 3850 —

(a) section 5.1 to a delivery vehicle is to be treated as a reference to a vehicle that transports a concrete panel at or adjacent to the construction site; and

(b) section 5.1.3 to the specification of particular requirements for the unloading of panels is to be treated as a reference to the specification of such matters by a qualified practising engineer; and

(c) section 5.2 to a designated area is to be treated as a reference to an area that is —

(i) well-drained and consolidated; and

(ii) located where there is little chance of damage to the panels to be stored; and

(iii) adequate to support the weight of the panels to be stored and any necessary stacking frames; and

(iv) unlikely to settle unevenly;

and

(d) section 5.4.3 to a suitably qualified person is to be treated as a reference to a qualified practising engineer.

306E. Concrete panel at construction site to be temporarily braced in accordance with standard

(1) A person who, at a construction site, is the principal contractor or a person conducting a business or undertaking must ensure that —

(a) the design of temporary bracing for a concrete panel at the construction site is in accordance with AS 3850 section 6; and

(b) the temporary bracing of a concrete panel at the construction site is in accordance with AS 3850 section 6.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) For the purposes of subregulation (1), a reference in AS 3850 section 6.2 to written approval for a variation is to be treated as a reference to the written approval of a qualified practising engineer.

306F. Concrete panel to be fixed and temporary bracing to be removed in accordance with standard

A person who, at a construction site, is the principal contractor or a person conducting a business or undertaking must ensure that —

(a) the fixing of a concrete panel for the incorporation of the panel as a wall (including a retaining wall) at the construction site is in accordance with AS 3850 section 7; and

(b) the removal of temporary bracing of a concrete panel at the construction site is in accordance with AS 3850 section 7.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

306G. Tilt-up work at construction site not to be done unless regulator notified under r. 306B

A person must not do any kind of tilt-up work in relation to a concrete panel (other than work relating to the manufacture of a concrete panel at a stage before the panel is cast) at a construction site unless the regulator has been notified of the intention to manufacture the panel under regulation 306B(1) or (2), as is relevant to the case.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

306H. Documents required at construction site where tilt-up work done

The principal contractor at a construction site must ensure that at all times when tilt-up work is being done at the site there is kept at the site —

(a) if a concrete panel that is, or is to be, involved in the work was manufactured at a place other than the construction site, the copy of the notification to the regulator given under regulation 306B(4) to the principal contractor in respect of the panel; and

(b) if a concrete panel that is, or is to be, involved in the work was manufactured at the construction site, a copy of the notification under regulation 306B(2) given to the regulator in respect of the panel; and

(c) a copy of any exemption under Part 11.2 relating to the work; and

(d) a copy of the shop drawings of each concrete panel that is, or is to be, involved in the work; and

(e) a current plan setting out details of the proposed execution of the work; and

(f) a copy of any written or diagrammatic advice, from a qualified practising engineer, received by the principal contractor, that sets out the manner in which an aspect of the work should be executed; and

(g) in relation to each concrete panel that is, or is to be, involved in the work, a copy of the inspection report for that panel referred to in regulation 306C(1)(d) or (2)(d), as is relevant to the case.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

306I. Duty of principal contractor etc. to limit entry to construction site area where tilt-up work being done

A person who, at a construction site where tilt-up work is being done, is the principal contractor, a person conducting a business or undertaking or a person with management or control of the workplace (a ***responsible person***) must not allow any person to enter or remain in an area of the site where tilt-up work is being done except —

(a) a person doing the work; or

(b) a person who has the written authority of a responsible person to enter the area for a purpose connected with the work; or

(c) a person authorised under a written law to enter the area.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

306J. Certain persons to ensure only trained persons manufacture concrete panels

A person who, at a workplace where a concrete panel is proposed to be manufactured, is a person with management or control of the workplace must ensure that —

(a) the manufacture is directly supervised by a person who is a competent person concerning the manufacture of concrete panels; and

(b) each person involved in the manufacture has completed —

(i) any specified VET course concerning the aspect of the work in which the person is involved; or

(ii) a course that was, immediately before the commencement of this regulation, approved by the Commissioner under the *Occupational Safety and Health Regulations 1996* regulation 3.88I(1)(b).

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

306K. Certain persons to ensure only trained persons do tilt-up work other than manufacturing concrete panels

A person who, at a construction site where tilt-up work (other than work relating to the manufacture of a concrete panel) is proposed to be done, is a person with management or control of the workplace must ensure that —

(a) the work is directly supervised by a person who is a competent person concerning the tilt-up work; and

(b) each person involved in the tilt-up work has completed —

(i) a specified VET course concerning the aspect of the work in which the person is involved; or

(ii) a course that was, immediately before the commencement of this regulation, approved by the Commissioner under the *Occupational Safety and Health Regulations 1996* regulation 3.88I(1)(b).

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Part 6.4 — Additional duties of principal contractor

307. Application of Part

This Part —

(a) applies in relation to a construction project; and

(b) imposes duties on the principal contractor for the project that are additional to the duties imposed under Part 6.3.

Note for this regulation:

As a principal contractor has management or control of a workplace, the principal contractor is also subject to duties imposed by the Act and these regulations on a person with management or control of a workplace.

308. Not used

309. WHS management plan: preparation

(1) The principal contractor for a construction project must prepare a written WHS management plan for the workplace before work on the project commences.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A WHS management plan must include the following —

(a) the names, positions and health and safety responsibilities of all persons at the workplace whose positions or roles involve specific health and safety responsibilities in connection with the project;

(b) the arrangements in place, between any persons conducting a business or undertaking at the workplace where the construction project is being undertaken, for consultation, cooperation and the coordination of activities in relation to compliance with their duties under the Act and these regulations;

(c) the arrangements in place for managing any work health and safety incidents that occur;

(d) any site-specific health and safety rules, and the arrangements for ensuring that all persons at the workplace are informed of these rules;

(e) the arrangements for the collection and any assessment, monitoring and review of safe work method statements at the workplace.

310. WHS management plan: duty to inform

The principal contractor for a construction project must ensure, so far as is reasonably practicable, that each person who is to carry out construction work in connection with the project is, before commencing work, made aware of —

(a) the content of the WHS management plan for the workplace; and

(b) the person's right to inspect the WHS management plan under regulation 313.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

311. WHS management plan: review

(1) The principal contractor for a construction project must review and as necessary revise the WHS management plan to ensure that it remains up to date.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) The principal contractor for a construction project must ensure, so far as is reasonably practicable, that each person carrying out construction work in connection with the project is made aware of any revision to the WHS management plan.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

312. High risk construction work: safe work method statements

The principal contractor for a construction project must take all reasonable steps to obtain a copy of the safe work method statement relating to high risk construction work before the high risk construction work commences.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

Note for this regulation:

The WHS management plan contains arrangements for cooperation between persons conducting a business or undertaking at the construction project workplace, including in relation to the preparation of safe work method statements (see regulation 309(2)(b) and (e)).

313. Copy of WHS management plan must be kept

(1A) In this regulation —

WHS management plan means the initial plan and all revised versions of the plan.

(1) Subject to subregulation (2), the principal contractor for a construction project must ensure that a copy of the WHS management plan for the project is kept until the project to which it relates is completed.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) If a notifiable incident occurs in connection with the construction project to which the statement relates, the person must keep the WHS management plan for at least 2 years after the incident occurs.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(3) The person must ensure that, for the period for which the WHS management plan must be kept under this regulation, a copy is readily accessible to any person who is to carry out construction work in connection with the construction project.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(4) The person must ensure that for the period for which the WHS management plan must be kept under this regulation, a copy is available for inspection under the Act.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(5) *[not used]*

314. Further health and safety duties: specific regulations

The principal contractor for a construction project must put in place arrangements for ensuring compliance at the workplace with the following —

(a) Part 3.2 Division 2;

(b) Part 3.2 Division 3;

(c) Part 3.2 Division 4;

(d) Part 3.2 Division 5;

(e) Part 3.2 Division 7;

(f) Part 3.2 Division 8;

(g) Part 3.2 Division 9;

(h) Part 3.2 Division 10;

(i) Part 4.4;

(j) Part 6.3 Division 4.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Note for this regulation:

All persons conducting a business or undertaking at the construction project workplace have these same duties (see Part 3.2 of these regulations and section 19 of the Act). Section 16 of the Act provides for situations in which more than 1 person has the same duty.

315. Further health and safety duties: specific risks

The principal contractor for a construction project must in accordance with Part 3.1 manage risks to health and safety associated with the following —

(a) the storage, movement and disposal of construction materials and waste at the workplace;

(b) the storage at the workplace of plant that is not in use;

(c) traffic in the vicinity of the workplace that may be affected by construction work carried out in connection with the construction project;

(d) essential services at the workplace.

Note for this regulation:

WHS Act — section 19 (see regulation 9).

Part 6.4A — Duties of local government

315A. Local government to notify regulator of construction work permits

(1) Each local government must notify the regulator within the first week of each month of all permits issued by the local government within the previous month in relation to the commencement of construction work in the local government's district.

Penalty for this subregulation: a fine of $21 000.

(2) The notification must be made in the manner and form required by the regulator.

Part 6.5 — General construction induction training

Division 1 — General construction induction training requirements

316. Duty to provide general construction induction training

A person conducting a business or undertaking must ensure that general construction induction training is provided to a worker engaged by the person who is to carry out construction work, if the worker —

(a) has not successfully completed general construction induction training; or

(b) successfully completed general construction induction training more than 2 years previously and has not carried out construction work in the preceding 2 years.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

317. Duty to ensure worker has been trained

(1) A person conducting a business or undertaking must not direct or allow a worker to carry out construction work unless —

(a) the worker has successfully completed general construction induction training; and

(b) if the worker completed the training more than 2 years previously — the worker has carried out construction work in the preceding 2 years.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) The person conducting the business or undertaking must ensure that —

(a) the worker holds a general construction induction training card; or

(b) if the worker has applied for but not yet been issued with a general construction induction training card, the worker holds a general construction induction training certification, issued within the preceding 60 days.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

318. Recognition of general construction induction training cards issued in other jurisdictions

(1) In this Part (other than Division 2), a reference to a ***general construction induction training card*** includes a reference to a similar card issued under a corresponding WHS law.

(2) Subregulation (1) does not apply to a card that is cancelled in the corresponding jurisdiction.

Division 2 — General construction induction training cards

318A. Meaning of authorised RTO

In this Division —

authorised RTO means an RTO authorised to issue a general construction induction training card by agreement with the regulator under regulation 325.

319. Not used

320. Content of card

A general construction induction training card must —

(a) state the following —

(i) that the card holder has completed general construction induction training;

(ii) the name of the card holder;

(iii) the date on which the card was issued;

(iv) a unique identifying number;

(v) the State or Territory in which the card was issued;

and

(b) contain the card holder's signature.

321. Not used

322. Not used

323. Cancellation of card: grounds

The regulator may cancel a general construction induction training card issued by the regulator if satisfied that the card holder, when applying for the card —

(a) gave information that was false or misleading in a material particular; or

(b) failed to give information that should have been given; or

(c) produced a general construction induction training certification that had been obtained on the basis of the giving of false or misleading information by any person or body; or

(d) had been issued by the authorised RTO with a general construction induction training certification or the general construction induction card in circumstances in contravention of an agreement made with the regulator under regulation 325.

Note for this regulation:

A decision to cancel a general construction induction training card is a reviewable decision (see regulation 676).

324. Cancellation of card: process

(1) The regulator must, before cancelling a general construction induction training card, give the card holder —

(a) written notice of the proposed cancellation that outlines all relevant allegations, facts and circumstances known to the regulator; and

(b) a reasonable opportunity to make submissions to the regulator in relation to the proposed cancellation.

(2) On cancelling a general construction induction training card, the regulator must give the card holder a written notice of its decision, stating —

(a) when the cancellation takes effect; and

(b) the reasons for the cancellation; and

(c) when the card must be returned to the regulator.

325. RTO may enter agreement to issue cards

(1) The regulator may enter into an agreement with an RTO that empowers the RTO to issue and replace general construction induction training cards.

(2) *[not used]*

(3) *[not used]*

(4) Nothing in an agreement under this regulation prevents the regulator from exercising its functions and powers under this Division.

Division 3 — Duties of workers

326. Duties of workers

(1) A worker carrying out construction work must keep available for inspection under the Act —

(a) the worker's general construction induction training card; or

(b) within 60 days of it being issued by the authorised RTO — the general construction induction training certification.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) A card holder, on receiving a cancellation notice under regulation 324(2), must return the card in accordance with the notice.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(3) Subregulation (1)(a) does not apply if the card is not in the possession of the worker (***card holder***) because —

(a) it has been lost, stolen or destroyed; and

(b) the card holder has applied for, but has not received, a replacement card under regulation 325.

327. Alteration of general construction induction training card

A person who holds a general construction induction training card must not intentionally or recklessly alter the card.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

Chapter 7 — Hazardous chemicals

Part 7.1 — Hazardous chemicals

Note for this Part:

Most of the obligations in this Part apply to persons conducting businesses or undertakings at a workplace. However, some obligations apply to persons in different capacities, for example importers and suppliers of hazardous chemicals.

Division 1 — Application

328. Application

(1) This Part applies to —

(a) the use, handling and storage of hazardous chemicals at a workplace and the generation of hazardous substances at a workplace; and

(b) a pipeline used to convey a hazardous chemical.

(2) *[not used]*

(3) This Part does not apply to hazardous chemicals and explosives being transported by road, rail, sea or air if the transport is regulated under another written law.

(4) This Part does not apply to the following hazardous chemicals in the circumstances described —

(a) hazardous chemicals in batteries when incorporated in plant;

(b) fuel, oils or coolants in a container fitted to a vehicle, vessel, aircraft, mobile plant, appliance or other device, if the fuel, oil or coolant is intended for use in the operation of the device;

(c) fuel in the fuel container of a domestic or portable fuel burning appliance, if the quantity of fuel does not exceed 25 kilograms or 25 litres;

(d) hazardous chemicals in portable firefighting or medical equipment for use in a workplace;

(e) hazardous chemicals that form part of the integrated refrigeration system of refrigerated freight containers;

(f) potable liquids that are consumer products at retail premises.

(5) This Part, other than the following regulations and Schedule 7, does not apply to substances, mixtures or articles categorised only as explosives under the GHS —

(a) regulation 329;

(b) regulation 330;

(c) regulation 339;

(d) regulation 344;

(e) regulation 345.

Note for this subregulation:

The *Dangerous Goods Safety Act 2004* may have application to matters covered by this Part.

(6) This Part does not apply to the following —

(a) food and beverages within the meaning of the Food Standards Australia New Zealand Food Standards Code that are in a package and form intended for human consumption;

(b) tobacco or products made of tobacco;

(c) therapeutic goods within the meaning of the *Therapeutic Goods Act 1989* (Commonwealth) at the point of intentional intake by or administration to humans;

(d) veterinary chemical products within the meaning of the Agvet Code at the point of intentional administration to animals.

Division 2 — Obligations relating to safety data sheets and other matters

Subdivision 1 — Obligations of manufacturers and importers

Notes for this Division:

1. A manufacturer or importer of hazardous chemicals may also be a person conducting a business or undertaking at a workplace.
2. A manufacturer or importer is defined in section 23 or 24 of the Act as a person conducting a business or undertaking of manufacturing or importing.

329. Classification of hazardous chemicals

The manufacturer or importer of a substance, mixture or article must, before first supplying it to a workplace —

(a) determine whether the substance, mixture or article is a hazardous chemical; and

(b) if the substance, mixture or article is a hazardous chemical — ensure that the hazardous chemical is correctly classified in accordance with Schedule 9 Division 1.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

330. Manufacturer or importer to prepare and provide safety data sheets

(1) A manufacturer or importer of a hazardous chemical must prepare a safety data sheet for the hazardous chemical —

(a) before first manufacturing or importing the hazardous chemical; or

(b) if that is not practicable — as soon as practicable after first manufacturing or importing the hazardous chemical and before first supplying it to a workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The safety data sheet must comply with Schedule 7 clause 1 unless regulation 331 applies.

(3) The manufacturer or importer of the hazardous chemical must —

(a) review the safety data sheet at least once every 5 years; and

(b) amend the safety data sheet whenever necessary to ensure that it contains correct, current information.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) The manufacturer or importer of the hazardous chemical must provide the current safety data sheet for the hazardous chemical to any person, if the person —

(a) is likely to be affected by the hazardous chemical; and

(b) asks for the safety data sheet.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(5) Subregulations (3) and (4) do not apply to a manufacturer or importer of a hazardous chemical who has not manufactured or imported the hazardous chemical in the past 5 years.

331. Safety data sheets: research chemical, waste product or sample for analysis

(1) This regulation applies if —

(a) a hazardous chemical is a research chemical, waste product or sample for analysis; and

(b) it is not reasonably practicable for a manufacturer or importer of the hazardous chemical to comply with Schedule 7 clause 1.

(2) The manufacturer or importer must prepare a safety data sheet for the hazardous chemical that complies with Schedule 7 clause 2.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

332. Emergency disclosure of chemical identities to registered medical practitioner

(1) This regulation applies if a registered medical practitioner —

(a) reasonably believes that knowing the chemical identity of an ingredient of a hazardous chemical may help to treat a patient; and

(b) requests the manufacturer or importer of the hazardous chemical to give the registered medical practitioner the chemical identity of the ingredient; and

(c) gives an undertaking to the manufacturer or importer that the chemical identity of the ingredient will be used only to help treat the patient; and

(d) gives an undertaking to the manufacturer or importer to give the manufacturer or importer as soon as practicable a written statement about the need to obtain the chemical identity of the ingredient.

(2) The manufacturer or importer of a hazardous chemical must give the registered medical practitioner the chemical identity of an ingredient of the hazardous chemical as soon as practicable.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

333. Emergency disclosure of chemical identities to emergency service worker

The manufacturer or importer of a hazardous chemical must give an emergency service worker the chemical identity of an ingredient of the hazardous chemical as soon as practicable after the worker requests it.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

334. Packing hazardous chemicals

The manufacturer or importer of a hazardous chemical must ensure that the hazardous chemical is correctly packed, in accordance with Schedule 9 Division 2, as soon as practicable after manufacturing or importing the hazardous chemical.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

335. Labelling hazardous chemicals

(1A) In this regulation —

Poisons Standard means the Standard for the Uniform Scheduling of Medicines and Poisons November 2016 published by the Commonwealth, as in force or remade from time to time.

(1) The manufacturer or importer of a hazardous chemical must ensure that the hazardous chemical is correctly labelled as soon as practicable after manufacturing or importing the hazardous chemical.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A hazardous chemical is ***correctly labelled*** if —

(a) the selection and use of label elements is in accordance with the GHS and it complies with Schedule 9 Division 3; or

(b) the label includes content that complies with another labelling requirement imposed by these regulations or by another written law or a law of the Commonwealth and the content is the same, or substantially the same, as the content that is required by Schedule 9 Division 3.

(3) This regulation does not apply to a hazardous chemical if —

(a) the hazardous chemical is a consumer product that is labelled in accordance with the Poisons Standard; and

(b) the container for the hazardous chemical has its original label; and

(c) it is reasonably foreseeable that the hazardous chemical will be used in a workplace only in —

(i) a quantity that is consistent with household use; and

(ii) a way that is consistent with household use; and

(iii) a way that is incidental to the nature of the work carried out by a worker using the hazardous chemical.

(4) This regulation does not apply to hazardous chemicals in transit.

(5) This regulation does not apply to a hazardous chemical that —

(a) is therapeutic goods within the meaning of the *Therapeutic Goods Act 1989* (Commonwealth); and

(b) is in a form intended for human consumption, for administration to or by a person or use by a person for therapeutic purposes; and

(c) is labelled in accordance with that Act or an order made under that Act.

(6) This regulation does not apply to cosmetics and toiletries.

(7) This regulation does not apply to a hazardous chemical that is —

(a) a veterinary chemical product within the meaning of the Agvet Code; and

(b) listed in —

(i) the Poisons Standard Part 4 Schedule 4, if the chemical product is packaged and supplied in a form intended for direct administration to an animal for therapeutic purposes; or

(ii) the Poisons Standard Part 4 Schedule 8.

(8) *[not used]*

Subdivision 2 — Obligations of suppliers

Notes for this Subdivision:

1. A supplier of hazardous chemicals may also be a person conducting a business or undertaking at a workplace.
2. A supplier is defined in section 25 of the Act as a person who conducts a business or undertaking of supplying.

336. Restriction on age of person who can supply hazardous chemicals

A person conducting a business or undertaking must not direct or allow a worker to supply a hazardous chemical that is a flammable gas or flammable liquid to another person into any

container or vehicle provided by that other person unless the worker is at least 16 years of age.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

Examples for this regulation:

1. Decanting fuel into a fuel container.
2. Refuelling a car.

337. Retailer or supplier packing hazardous chemicals

(1) The supplier of a hazardous chemical must not supply the hazardous chemical for use at another workplace if the supplier knows or ought reasonably to know that the hazardous chemical is not correctly packed.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) A retailer who supplies a hazardous chemical in a container provided by the person supplied with the chemical must ensure that the hazardous chemical is correctly packed.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

338. Supplier labelling hazardous chemicals

The supplier of a hazardous chemical must not supply the hazardous chemical to another workplace if the supplier knows or ought reasonably to know that the hazardous chemical is not correctly labelled in accordance with regulation 335.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

339. Supplier to provide safety data sheets

(1A) A hazardous chemical is taken to be ***first supplied*** to a workplace if the supply is the first supply of the hazardous chemical to the workplace for 5 years.

(1) The supplier of a hazardous chemical to a workplace must ensure that the current safety data sheet for the hazardous chemical is provided with the hazardous chemical —

(a) when the hazardous chemical is first supplied to the workplace; and

(b) if the safety data sheet for the hazardous chemical is amended — when the hazardous chemical is first supplied to the workplace after the safety data sheet is amended.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) *[not used]*

(3) The supplier of a hazardous chemical to a workplace must ensure that the current safety data sheet for the hazardous chemical is provided to a person at the workplace if the person asks for the safety data sheet.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) This regulation does not apply to a supplier of a hazardous chemical if —

(a) the hazardous chemical is a consumer product; or

(b) the supplier is a retailer.

Note for this subregulation:

A manufacturer or importer is required to prepare a safety data sheet under regulation 330.

340. Supply of prohibited and restricted carcinogens

(1) The supplier of a prohibited carcinogen referred to in an item in Schedule 10 Table 10.1 must not supply the substance unless the person to be supplied with the substance gives the supplier evidence that —

(a) the substance is to be used, handled or stored for genuine research or analysis; and

(b) either —

(i) the regulator has authorised the person to use, handle or store the substance under regulation 384; or

(ii) the regulator has granted an exemption under Part 11.2 to the person to use, handle or store the substance.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The supplier of a restricted carcinogen referred to in an item in Schedule 10 Table 10.2 column 2 must not supply the substance for a use referred to in column 3 for the item unless the person to be supplied with the substance gives the supplier evidence that —

(a) the regulator has authorised the person to use, handle or store the substance under regulation 384; or

(b) the regulator has granted an exemption to the person under Part 11.2 to use, handle or store the substance.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) A supplier under subregulation (1) or (2) must keep a record of —

(a) the name of the person supplied; and

(b) the name and quantity of the substance supplied.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(4) The supplier must keep the record for 5 years after the substance was last supplied to the person.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

Subdivision 3 — Obligations of persons conducting businesses or undertakings

341. Labelling hazardous chemicals: general requirement

(1) A person conducting a business or undertaking at a workplace must ensure that a hazardous chemical used, handled or stored at the workplace is correctly labelled in accordance with regulation 335.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) Subregulation (1) does not apply to a hazardous chemical if the chemical —

(a) was supplied before 1 January 2017; and

(b) was, at the time it was supplied, labelled in accordance with the *National Code of Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)]* as in force at that time.

Note for this regulation:

Regulation 338 applies if the chemical is being supplied to another workplace.

342. Labelling hazardous chemicals: containers

(1) A person conducting a business or undertaking at a workplace must ensure that a hazardous chemical is correctly labelled in accordance with regulation 335 if the hazardous chemical is —

(a) manufactured at the workplace; or

(b) transferred or decanted from its original container at the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(1A) Subregulation (1) does not apply to a hazardous chemical if the chemical —

(a) was manufactured, or transferred or decanted from its original container at the workplace, before 1 January 2017; and

(b) was, at the time it was manufactured, or transferred or decanted from its original container at the workplace, labelled in accordance with the *National Code of*

Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)] as in force at that time.

Note for this subregulation:

Regulation 338 applies if the chemical is being supplied to another workplace.

(2) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that a container that stores a hazardous chemical is correctly labelled in accordance with regulation 335 while the container contains the hazardous chemical.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2A) Subregulation (2) does not apply to a container if the container —

(a) was supplied before 1 January 2017; and

(b) was, at the time it was supplied, labelled in accordance with the *National Code of Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)]* as in force at that time.

Note for this subregulation:

Regulation 338 applies if the chemical is being supplied to another workplace.

(3) A person conducting a business or undertaking at a workplace must ensure that a container labelled for a hazardous chemical is used only for the use, handling or storage of the hazardous chemical.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) This regulation does not apply to a container if —

(a) the hazardous chemical in the container is used immediately after it is put in the container; and

(b) the container is thoroughly cleaned immediately after the hazardous chemical is used, handled or stored so that the container is in the condition it would be in if it had never contained the hazardous chemical.

343. Labelling hazardous chemicals: pipe work

A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that a hazardous chemical in pipe work is identified by a label, sign or another way on or near the pipe work.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

344. Person conducting business or undertaking to obtain and give access to safety data sheets

(1A) A hazardous chemical is taken to be ***first supplied*** to a workplace if the supply is the first supply of the hazardous chemical to the workplace for 5 years.

(1) A person conducting a business or undertaking at a workplace must obtain the current safety data sheet for a hazardous chemical prepared in accordance with these regulations from the manufacturer, importer or supplier of the hazardous chemical in the following circumstances —

(a) either —

(i) not later than when the hazardous chemical is first supplied for use at the workplace; or

(ii) if the person is not able to obtain the safety data sheet under subparagraph (i) — as soon as practicable after the hazardous chemical is first supplied to the workplace but before the hazardous chemical is used at the workplace;

(b) if the safety data sheet for the hazardous chemical is amended either —

(i) not later than when the hazardous chemical is first supplied to the workplace after the safety data sheet is amended; or

(ii) if the person is not able to obtain the amended safety data sheet under subparagraph (i) — as soon as practicable after the hazardous chemical is first supplied to the workplace after the safety data sheet is amended and before the hazardous chemical supplied is used at the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) *[not used]*

(3) The person must ensure that the current safety data sheet for the hazardous chemical is readily accessible to —

(a) a worker who is involved in using, handling or storing the hazardous chemical at the workplace; and

(b) an emergency service worker, or anyone else, who is likely to be exposed to the hazardous chemical at the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(4) Subregulations (1) and (3) do not apply to a hazardous chemical that —

(a) is in transit; or

(b) if the person conducting the business or undertaking at the workplace is a retailer — is —

(i) a consumer product; and

(ii) intended for supply to other premises;

or

(c) is a consumer product and it is reasonably foreseeable that the hazardous chemical will be used at the workplace only in —

(i) quantities that are consistent with household use; and

(ii) a way that is consistent with household use; and

(iii) a way that is incidental to the nature of the work carried out by a worker using the hazardous chemical.

(5) In the circumstances referred to in subregulation (4), the person must ensure that sufficient information about the safe use, handling and storage of the hazardous chemical is readily accessible to —

(a) a worker at the workplace; and

(b) an emergency service worker, or anyone else, who is likely to be exposed to the hazardous chemical at the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(6) The person must ensure that the current safety data sheet for the hazardous chemical is readily accessible to a person at the workplace if the person —

(a) is likely to be affected by the hazardous chemical; and

(b) asks for the safety data sheet.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

345. Changes to safety data sheets

A person conducting a business or undertaking at a workplace may change a safety data sheet for a hazardous chemical only if —

(a) the person —

(i) is an importer or manufacturer of the hazardous chemical; and

(ii) changes the safety data sheet in a way that is consistent with the duties of the importer or manufacturer under regulation 330;

or

(b) the change is only the attachment of a translation of the safety data sheet, and clearly states that the translation is not part of the original safety data sheet.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Note for this regulation:

The manufacturer or importer of a hazardous chemical must amend a safety data sheet as necessary to ensure the information is correct and current (see regulation 330(3)(b)).

Division 3 — Register of hazardous chemicals

Subdivision 1 — Hazardous chemicals register

346. Hazardous chemicals register

(1) A person conducting a business or undertaking at a workplace must ensure that —

(a) a register of hazardous chemicals used, handled or stored at the workplace is prepared and kept at the workplace; and

(b) the register is maintained to ensure the information in the register is up to date.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The register must include —

(a) a list of hazardous chemicals used, handled or stored; and

(b) the current safety data sheet for each hazardous chemical listed.

(3) The person must ensure that the register is readily accessible to —

(a) a worker involved in using, handling or storing a hazardous chemical; and

(b) anyone else who is likely to be affected by a hazardous chemical at the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(4) This regulation does not apply to a hazardous chemical if —

(a) the hazardous chemical is in transit, unless there is a significant or frequent presence of the hazardous chemical in transit at the workplace; or

(b) the hazardous chemical is a consumer product and the person is not required to obtain a safety data sheet for the hazardous chemical under regulation 344.

Note for this regulation:

See regulation 344(4).

Subdivision 2 — Not used

347. Not used

348. Not used

Division 4 — Not used

349. Not used

350. Not used

Division 5 — Control of risk: obligations of persons conducting businesses or undertakings

Subdivision 1 — General obligations relating to management of risk

351. Management of risks to health or safety

(1) A person conducting a business or undertaking must manage, in accordance with Part 3.1, risks to health and safety associated with using, handling, generating or storing a hazardous chemical at a workplace.

Note for this subregulation:

WHS Act — section 19 (see regulation 9).

(2) In managing risks the person must have regard to the following —

(a) the hazardous properties of the hazardous chemical;

(b) any potentially hazardous chemical or physical reaction between the hazardous chemical and another substance or mixture, including a substance that may be generated by the reaction;

(c) the nature of the work to be carried out with the hazardous chemical;

(d) any structure, plant or system of work —

(i) that is used in the use, handling, generation or storage of the hazardous chemical; or

(ii) that could interact with the hazardous chemical at the workplace.

352. Review of control measures

In addition to the circumstances in regulation 38, a person conducting a business or undertaking at a workplace must ensure that any measures implemented to control risks in relation to a hazardous chemical at the workplace are reviewed and as necessary revised in any of the following circumstances —

(a) following any change to the safety data sheet for the hazardous chemical or the register of hazardous chemicals;

(b) if the person obtains a health monitoring report for a worker under Division 6 that contains —

(i) test results that indicate that the worker has been exposed to the hazardous chemical and has an elevated level of metabolites in the person's body for that hazardous chemical; or

(ii) any advice that test results indicate that the worker may have contracted a disease, injury or

illness as a result of carrying out the work using, handling, generating or storing the hazardous chemical that triggered the requirement for health monitoring; or

(iii) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out the work using, handling, generating or storing the hazardous chemical that triggered the requirement for health monitoring;

(c) if monitoring carried out under regulation 50 determines that the airborne concentration of the hazardous chemical at the workplace exceeds the relevant exposure standard;

(d) at least once every 5 years.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

353. Safety signs

(1A) In this regulation —

safety sign does not include a placard.

(1) This regulation applies if a safety sign is required to control an identified risk in relation to using, handling, generating or storing hazardous chemicals at a workplace.

(2) A person conducting a business or undertaking at the workplace must display a safety sign at the workplace to —

(a) warn of a particular hazard associated with the hazardous chemicals; or

(b) state the responsibilities of a particular person in relation to the hazardous chemicals.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The person must ensure that the safety sign is —

(a) located next to the hazard; and

(b) clearly visible to a person approaching the hazard.

(4) *[not used]*

354. Identification of risk of physical or chemical reaction

(1) A person conducting a business or undertaking at a workplace must identify any risk of a physical or chemical reaction in relation to a hazardous chemical used, handled, generated or stored at a workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) Subregulation (1) does not apply if the hazardous chemical undergoes the physical or chemical reaction in a manufacturing process or as part of a deliberate process or activity at the workplace.

(3) A person conducting a business or undertaking at a workplace must take all reasonable steps to ensure that a hazardous chemical is used, handled, generated or stored so as not to contaminate food, food packaging or personal use products.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Examples for this subregulation:

Personal use products —

(a) cosmetics;

(b) face washer.

(4) Subregulation (3) does not apply to the use of a hazardous chemical for agricultural purposes when used in accordance with the Agvet Code.

355. Specific control: fire and explosion

A person conducting a business or undertaking at a workplace must, if there is a possibility of fire or explosion in a hazardous area being caused by an ignition source being introduced into the area, ensure that the ignition source is not introduced into the area (from outside or within the space).

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

356. Keeping hazardous chemicals stable

(1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that a hazardous chemical used, handled or stored at the workplace does not become unstable, decompose or change so as to —

(a) create a hazard that is different from the hazard originally created by the hazardous chemical; or

(b) significantly increase the risk associated with any hazard in relation to the hazardous chemical.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A person conducting a business or undertaking at a workplace must ensure that —

(a) if the stability of a hazardous chemical used, handled or stored at the workplace is dependent on the maintenance of the proportions of the ingredients of the hazardous chemical — the proportions are maintained as stated in the safety data sheet for the chemical or by the manufacturer of the hazardous chemical; and

(b) if a hazardous chemical used, handled or stored at the workplace is known to be unstable above a particular temperature — the hazardous chemical is used, handled or stored at or below that temperature.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) This regulation does not apply if —

(a) the hazardous chemical is changed or allowed to become unstable, without risk to health or safety, as part of a deliberate process or activity at the workplace; or

(b) the hazardous chemical undergoes a chemical reaction in a manufacturing process or as part of a deliberate process or activity at the workplace.

Subdivision 2 — Spills and damage

357. Containing and managing spills

(1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that where there is a risk from a spill or leak of a hazardous chemical in a solid or liquid form, provision is made in each part of the workplace where the hazardous chemical is used, handled, generated or stored for a spill containment system that contains within the

workplace any part of the hazardous chemical that spills or leaks, and any resulting effluent.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The person must ensure that the spill containment system does not create a hazard by bringing together different hazardous chemicals that are not compatible.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2A) In subregulation (2) —

compatible, for 2 or more substances, mixtures or items, means that the substances, mixtures or items do not react together to cause a fire, explosion, harmful reaction or evolution of flammable, toxic or corrosive vapour.

(3) The person must ensure that the spill containment system provides for the cleanup and disposal of a hazardous chemical that spills or leaks, and any resulting effluent.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) *[not used]*

358. Protecting hazardous chemicals from damage

A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that containers of hazardous chemicals and any associated pipe work or

attachments are protected against damage caused by an impact or excessive loads.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Subdivision 3 — Emergency plans and safety equipment

359. Fire protection and firefighting equipment

(1) A person conducting a business or undertaking at a workplace must ensure the following —

(a) the workplace is provided with fire protection and firefighting equipment that is designed and built for the types of hazardous chemicals at the workplace in the quantities in which they are used, handled, generated or stored at the workplace, and the conditions under which they are used, handled, generated or stored, having regard to —

(i) the fire load of the hazardous chemicals; and

(ii) the fire load from other sources; and

(iii) the compatibility of the hazardous chemicals with other substances and mixtures at the workplace;

(b) the fire protection and firefighting equipment is compatible with firefighting equipment used by the primary emergency service organisation;

(c) the fire protection and firefighting equipment is properly installed, tested and maintained;

(d) a dated record is kept of the latest testing results and maintenance until the next test is conducted.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) If a part of the fire protection and firefighting equipment provided at the workplace becomes unserviceable or inoperative, the person must ensure that —

(a) the implications of the equipment being unserviceable or inoperative are assessed; and

(b) for risks that were controlled by the equipment when functioning fully, alternative measures are taken to manage the risks.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The person must ensure that the fire protection and firefighting equipment is returned to full operation as soon as practicable.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

360. Emergency equipment

A person conducting a business or undertaking at a workplace that uses, handles, generates or stores hazardous chemicals must ensure that equipment is always available at the workplace for use in an emergency.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Note for this regulation:

A person conducting a business or undertaking must comply with Part 3.2 Division 4.

361. Not used

362. Safety equipment

(1) This regulation applies if safety equipment is required to control an identified risk in relation to using, handling, generating or storing hazardous chemicals at a workplace.

(2) A person conducting a business or undertaking at the workplace must ensure that the safety equipment is provided, maintained and readily accessible to persons at the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Subdivision 4 — Not used

363. Not used

364. Not used

365. Not used

366. Not used

367. Not used

Division 6 — Health monitoring

368. Duty to provide health monitoring

A person conducting a business or undertaking must ensure that health monitoring is provided to a worker carrying out work for the business or undertaking if —

(a) the worker is carrying out ongoing work at a workplace using, handling, generating or storing hazardous chemicals and there is a risk to the worker's health because of exposure to a hazardous chemical referred to in Schedule 14 Table 14.1 column 2; or

(b) the person identifies that because of ongoing work carried out by a worker using, handling, generating or storing hazardous chemicals there is a risk that the worker will be exposed to a hazardous chemical (other than a hazardous chemical referred to in Schedule 14 Table 14.1) and either —

(i) valid techniques are available to detect the effect on the worker's health; or

(ii) a valid way of determining biological exposure to the hazardous chemical is available and it is uncertain, on reasonable grounds, whether the exposure to the hazardous chemical has resulted in the biological exposure standard being exceeded.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Note for this regulation:

The biological exposure standard is published by Safe Work Australia.

369. Duty to inform of health monitoring

A person conducting a business or undertaking who is required to provide health monitoring to a worker must give information about the health monitoring requirements to —

(a) a person who is likely to be engaged to carry out work using, handling, generating or storing a hazardous chemical; and

(b) a worker for the business or undertaking, before the worker commences work using, handling, generating or storing a hazardous chemical.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

370. Duty to ensure that appropriate health monitoring is provided

A person conducting a business or undertaking must ensure that health monitoring of a worker referred to in regulation 368 includes health monitoring of a type referred to in an item in Schedule 14 Table 14.1 column 3 in relation to a hazardous chemical referred to in column 2 for the item, unless —

(a) an equal or better type of health monitoring is available; and

(b) the use of that other type of monitoring is recommended by a registered medical practitioner with experience in health monitoring.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

371. Duty to ensure health monitoring is supervised by registered medical practitioner with experience

(1) A person conducting a business or undertaking must ensure that the health monitoring of a worker referred to in regulation 368 is carried out by or under the supervision of a registered medical practitioner with experience in health monitoring.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The person must consult the worker in relation to the selection of the registered medical practitioner.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

372. Duty to pay costs of health monitoring

(1) A person conducting a business or undertaking must pay all expenses relating to health monitoring referred to in regulation 368.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) If 2 or more persons conducting businesses or undertakings have a duty to provide health monitoring for a worker and have arranged for one of them to commission the health monitoring, the costs of the health monitoring for which any of those persons is liable must be apportioned equally between each of those persons unless they agree otherwise.

373. Information that must be provided to registered medical practitioner

A person conducting a business or undertaking who commissions health monitoring for a worker must provide the following information to the registered medical practitioner carrying out or supervising the health monitoring —

(a) the name and address of the person conducting the business or undertaking;

(b) the name and date of birth of the worker;

(c) the work that the worker is, or will be, carrying out that has triggered the requirement for health monitoring;

(d) if the worker has started that work — how long the worker has been carrying out that work.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

374. Duty to obtain health monitoring report

(1) A person conducting a business or undertaking who commissions health monitoring referred to in regulation 368 must take all reasonable steps to obtain a health monitoring report from the registered medical practitioner who carried out or supervised the monitoring as soon as practicable after the monitoring is carried out in relation to a worker.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The health monitoring report must include the following —

(a) the name and date of birth of the worker;

(b) the name and registration number of the registered medical practitioner;

(c) the name and address of the person conducting the business or undertaking who commissioned the health monitoring;

(d) the date of the health monitoring;

(e) any test results that indicate whether or not the worker has been exposed to a hazardous chemical;

(f) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the work that triggered the requirement for health monitoring;

(g) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out the type of work that triggered the requirement for health monitoring;

(h) whether medical counselling is required for the worker in relation to the work that triggered the requirement for health monitoring.

375. Duty to give health monitoring report to worker

The person conducting a business or undertaking who commissioned health monitoring for a worker must give a copy of the health monitoring report to the worker as soon as practicable after the person obtains the report.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

376. Duty to give health monitoring report to regulator

The registered medical practitioner who prepares the health monitoring report must give a copy of the report to the regulator as soon as practicable if the report contains monitoring results that are consistent with exposure to a hazardous chemical.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

377. Duty to give health monitoring report to relevant persons conducting businesses or undertakings

The person who commissioned health monitoring for a worker under regulation 368 must give a copy of the health monitoring report to all other persons conducting businesses or undertakings who have a duty to provide health monitoring for the worker as soon as practicable after obtaining the report.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

378. Health monitoring records

(1) A person conducting a business or undertaking must ensure that health monitoring reports in relation to a worker carrying out

work for the business or undertaking are kept as a confidential record —

(a) identified as a record in relation to the worker; and

(b) for at least 30 years after the record is made.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) The person must ensure that the health monitoring report and results of a worker are not disclosed to another person without the worker's written consent.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(3) Subregulation (2) does not apply if the record is disclosed under regulation 376 or 377 or to a person who must keep the record confidential under a duty of professional confidentiality.

Division 7 — Induction, information, training and supervision

379. Duty to provide supervision

(1) A person conducting a business or undertaking at a workplace must provide any supervision to a worker that is necessary to protect the worker from risks to the worker's health and safety arising from the work if, at the workplace, the worker —

(a) uses, handles, generates or stores a hazardous chemical; or

(b) operates, tests, maintains, repairs or decommissions a storage or handling system for a hazardous chemical; or

(c) is likely to be exposed to a hazardous chemical.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The person must ensure that the supervision of the worker is suitable and adequate having regard to —

(a) the nature of the risks associated with the hazardous chemical; and

(b) the information, training and instruction required under regulation 39.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Note for this subregulation:

In addition, section 19(3)(f) of the Act requires the provision of information, training, instruction and supervision.

Division 8 — Prohibition, authorisation and restricted use

380. Using, handling and storing prohibited carcinogens

A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, a prohibited carcinogen referred to in Schedule 10 Table 10.1 column 2 unless —

(a) the prohibited carcinogen is used, handled or stored for genuine research or analysis; and

(b) the regulator has authorised the use, handling or storage of the prohibited carcinogen under regulation 384.

Note for this regulation:

See section 43 of the Act.

381. Using, handling and storing restricted carcinogens

A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, a restricted carcinogen referred to in an item in Schedule 10 Table 10.2 column 2 for a

purpose referred to in column 3 for the item unless the regulator has authorised the use, handling or storage of the restricted carcinogen under regulation 384.

Note for this regulation:

See section 43 of the Act.

382. Using, handling and storing restricted hazardous chemicals

(1) A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, a restricted hazardous chemical referred to in an item in Schedule 10 Table 10.3 column 2 for a purpose referred to in column 3 for the item.

Note for this subregulation:

See section 43 of the Act.

(2) A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, polychlorinated biphenyls (PCBs) unless the use, handling or storage is —

(a) in relation to existing electrical equipment or construction material; or

(b) for disposal purposes; or

(c) for genuine research and analysis.

Note for this subregulation:

See section 43 of the Act.

383. Application for authorisation to use, handle or store prohibited and restricted carcinogens

(1) A person conducting a business or undertaking at a workplace may apply in writing to the regulator for authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen referred to in Schedule 10 at the workplace.

(2) The application must include the following information —

(a) the applicant's name and business address;

(b) if the applicant conducts the business or undertaking under a business name, that business name;

(c) the name and address of the supplier of the carcinogen;

(d) the address where the carcinogen will be used, handled or stored;

(e) the name of the carcinogen;

(f) the quantity of the carcinogen to be used, handled or stored at the workplace each year;

(g) the purpose and activity for which the carcinogen will be used, handled or stored;

(h) the number of workers that may be exposed to the carcinogen;

(i) information about how the person will manage risks to health and safety, including a summary of the steps taken, or to be taken, by the person in relation to the following —

(i) hazard identification;

(ii) control measures;

(iii) if elimination or substitution of the carcinogen is not reasonably practicable — why the elimination or substitution is not reasonably practicable;

(j) any other information requested by the regulator.

384. Authorisation to use, handle or store prohibited carcinogens and restricted carcinogens

(1) If a person applies under regulation 383, the regulator may grant an authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen under this regulation.

(2) The regulator may authorise the person to use, handle or store a prohibited carcinogen referred to in an item in Schedule 10 Table 10.1 at the workplace only if the carcinogen will be used, handled or stored only for genuine research or analysis.

(3) The regulator may authorise the person to use, handle or store a restricted carcinogen referred to in an item in Schedule 10 Table 10.2 at the workplace only if the carcinogen will be used, handled or stored only for a use referred to in column 3 for the item.

(4) The regulator may impose any conditions on the authorisation that the regulator considers necessary to achieve the objectives of the Act or these regulations.

(5) The regulator must refuse to authorise the use, handling or storage of the carcinogen for a use not referred to in this regulation.

Note for this subregulation:

A decision to refuse an authorisation is a reviewable decision (see regulation 676).

385. Changes to information in application to be reported

A person who applies under regulation 383 for authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen must give the regulator written notice of any change in the information given in the application before the change or as soon as practicable after the person becomes aware of the change.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

386. Regulator may cancel authorisation

The regulator may cancel an authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen given under regulation 384 if satisfied that —

(a) the person granted the authorisation has not complied with a condition on the authorisation; or

(b) the risk to the health or safety of a worker that may be affected by using, handling or storing the carcinogen has changed since the authorisation was granted.

Note for this regulation:

A decision to cancel an authorisation is a reviewable decision (see regulation 676).

387. Statement of exposure to be given to workers

(1) This regulation applies if —

(a) a person conducting a business or undertaking at a workplace is authorised under regulation 384 to use, handle or store a prohibited carcinogen or restricted carcinogen at the workplace; and

(b) a worker uses, handles or stores the prohibited carcinogen or restricted carcinogen at the workplace.

(2) The person must give to the worker, at the end of the worker's engagement by the person, a written statement of the following —

(a) the name of the prohibited or restricted carcinogen to which the worker may have been exposed during the engagement;

(b) the time the worker may have been exposed;

(c) how and where the worker may obtain records of the possible exposure;

(d) whether the worker should undertake regular health assessments, and the relevant tests to undertake.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

388. Records to be kept

(1) This regulation applies if a person conducting a business or undertaking at a workplace is authorised under regulation 384 to use, handle or store a prohibited carcinogen or restricted carcinogen at the workplace.

(2) The person must —

(a) record the full name, date of birth and address of each worker likely to be exposed to the prohibited carcinogen or restricted carcinogen during the period of authorisation; and

(b) keep a copy of each authorisation given to the person including any conditions imposed on the authorisation.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(3) The person must keep the records for 30 years after the authorisation ends.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

Division 9 — Not used

389. Not used

390. Not used

391. Not used

Part 7.2 — Lead

Note for this Part:

In workplaces where lead processes are carried out, this Part applies in addition to Part 7.1.

Division 1 — Lead process

392. Meaning of lead process

In this Part, a ***lead process*** consists of any of the following carried out at a workplace —

(a) work that exposes a person to lead dust or lead fumes arising from the manufacture or handling of dry lead compounds;

(b) work in connection with the manufacture, assembly, handling or repair of, or parts of, batteries containing lead that involves the manipulation of dry lead compounds, or pasting or casting lead;

(c) breaking up or dismantling batteries containing lead, or sorting, packing and handling plates or other parts containing lead that are removed or recovered from the batteries;

(d) spraying molten lead metal or alloys containing more than 5% by weight of lead metal;

(e) melting or casting lead alloys containing more than 5% by weight of lead metal in which the temperature of the molten material exceeds 450°C;

(f) recovering lead from its ores, oxides or other compounds by thermal reduction process;

(g) dry machine grinding, discing, buffing or cutting by power tools alloys containing more than 5% by weight of lead metal;

(h) machine sanding or buffing surfaces coated with paint containing more than 1% by dry weight of lead;

(i) a process by which electric arc, oxyacetylene, oxy gas, plasma arc or a flame is applied for welding, cutting or cleaning, to the surface of metal coated with lead or paint containing more than 1% by dry weight of lead metal;

(j) radiator repairs that may cause exposure to lead dust or lead fumes;

(k) fire assays if lead, lead compounds or lead alloys are used;

(l) hand grinding and finishing lead or alloys containing more than 50% by dry weight of lead;

(m) spray painting with lead paint containing more than 1% by dry weight of lead;

(n) melting lead metal or alloys containing more than 50% by weight of lead metal if the exposed surface area of the molten material exceeds 0.1 square metre and the temperature of the molten material does not exceed 450°C;

(o) using a power tool, including abrasive blasting and high pressure water jets, to remove a surface coated with paint containing more than 1% by dry weight of lead and handling waste containing lead resulting from the removal;

(p) a process that exposes a person to lead dust or lead fumes arising from manufacturing or testing detonators or other explosives that contain lead;

(q) a process that exposes a person to lead dust or lead fumes arising from firing weapons at an indoor firing range;

(r) foundry processes involving —

(i) melting or casting lead alloys containing more than 1% by weight of lead metal in which the temperature of the molten material exceeds 450°C; or

(ii) dry machine grinding, discing, buffing or cutting by power tools lead alloys containing more than 1% by weight of lead metal;

(s) a process decided by the regulator to be a lead process under regulation 393.

393. Regulator may decide lead process

(1) The regulator may decide that a process to be carried out at a workplace is a lead process.

(2) The regulator must not decide that the process is a lead process unless the regulator is satisfied on reasonable grounds that the process creates a risk to the health of a worker at the workplace having regard to blood lead levels of workers, or airborne lead levels, at the workplace.

Note for this subregulation:

A decision that a process is a lead process is a reviewable decision (see regulation 676).

(3) The regulator must, within 14 days after a decision is made under subregulation (1), give written notice of the decision to the person conducting a business or undertaking at the workplace.

394. Meaning of lead risk work

In this Part —

lead risk work means work carried out in a lead process that is likely to cause the blood lead level of a worker carrying out the work to exceed —

(a) for a female of reproductive capacity — 5µg/dL (0.24µmol/L); or

(b) in any other case — 20µg/dL (0.97µmol/L).

395. Duty to give information about health risks of lead process

(1) A person conducting a business or undertaking that carries out a lead process must give information about the lead process to —

(a) a person who is likely to be engaged to carry out the lead process — before the person is engaged; and

(b) a worker for the business or undertaking — before the worker commences the lead process.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) If work is identified as lead risk work after a worker commences the work, the person conducting a business or undertaking must give information about the lead process to the worker as soon as practicable after it is identified as lead risk work and before health monitoring of the worker is provided under Division 4.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The information that must be given is —

(a) information about the health risks and toxic effects associated with exposure to lead; and

(b) if the lead process involves lead risk work — the need for, and details of, health monitoring under Division 4.

Division 2 — Control of risk

396. Containment of lead contamination

A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that contamination by lead is confined to a lead process area at the workplace.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

397. Cleaning methods

(1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that a lead process area at the workplace is kept clean.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The person must ensure that the methods used to clean a lead process area —

(a) do not create a risk to the health of persons in the immediate vicinity of the area; and

(b) do not have the potential to spread the contamination of lead.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

398. Prohibition on eating, drinking and smoking

(1) A person conducting a business or undertaking at a workplace must take all reasonable steps to ensure that a person does not eat, drink, chew gum, smoke or carry materials used for smoking in a lead process area at the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A person conducting a business or undertaking at a workplace must provide workers with an eating and drinking area that, so far as is reasonably practicable, cannot be contaminated with lead from a lead process.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

399. Provision of changing and washing facilities

(1) A person conducting a business or undertaking at a workplace must provide and maintain in good working order changing rooms and washing, showering and toilet facilities at the workplace so as to —

(a) minimise secondary lead exposure from contaminated clothing; and

(b) minimise ingestion of lead; and

(c) avoid the spread of lead contamination.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The person must ensure, so far as is reasonably practicable, that workers at the workplace remove clothing and equipment that is or is likely to be contaminated with lead, and wash their hands

and faces, before entering an eating or drinking area at the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

400. Laundering, disposal and removal of personal protective equipment

(1) A person conducting a business or undertaking at a workplace must ensure that personal protective equipment that is likely to be contaminated with lead dust —

(a) is sealed in a container before being removed from the lead process area; and

(b) so far as is reasonably practicable, is disposed of on the completion of the lead process work at a site equipped to accept lead-contaminated equipment; and

(c) if it is not reasonably practicable to dispose of the personal protective equipment that is clothing —

(i) is laundered at a laundry, whether on-site or off-site, equipped to launder lead-contaminated clothing; or

(ii) if it is not practicable to launder the clothing — is kept in the sealed container until it is re-used for lead process work;

and

(d) if it is not reasonably practicable to dispose of the personal protective equipment that is not clothing —

(i) is decontaminated before it is removed from the lead process area; or

(ii) if it is not practicable to decontaminate the equipment in the lead process area — is kept in

the sealed container until it is re-used for lead process work.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Example for this subregulation:

Work boots.

(2) The person must ensure that a sealed container referred to in subregulation (1) is decontaminated before being removed from the lead process area.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Note for this subregulation:

Regulation 335 also requires the container to be labelled to indicate the presence of lead.

(3) The person must take all reasonable steps to ensure that clothing contaminated with lead-dust is not removed from the workplace unless it is to be —

(a) laundered in accordance with this regulation; or

(b) disposed of.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

401. Review of control measures

(1) A person conducting a business or undertaking at a workplace must ensure that any measures implemented to control health

risks from exposure to lead at the workplace are reviewed and as necessary revised in the following circumstances —

(a) a worker is removed from carrying out lead risk work at the workplace under regulation 415;

(b) the person obtains a health monitoring report for a worker under Division 4 that contains —

(i) test results that indicate that the worker has reached or exceeded the relevant blood lead level for that worker under regulation 415; and

(ii) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the lead risk work that triggered the requirement for health monitoring; and

(iii) any recommendation that the person conducting the business or undertaking take remedial measures, including a recommendation that the worker be removed from carrying out lead risk work at the workplace;

(c) the control measure does not control the risk it was implemented to control so far as is reasonably practicable;

Examples for this paragraph:

1. Results of any monitoring.
2. A notifiable incident occurs because of the risk.

(d) before a change at the workplace that is likely to give rise to a new or different risk to health or safety that the measure may not effectively control;

(e) a new relevant hazard or risk is identified;

(f) the results of consultation by the person under the Act or these regulations indicate that a review is necessary;

(g) a health and safety representative requests a review under subregulation (3);

(h) the regulator requires the review;

(i) at least once every 5 years.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) Without limiting subregulation (1)(d), a change at the workplace includes —

(a) a change to the workplace itself or any aspect of the work environment; or

(b) a change to a system of work, a process or a procedure.

(3) A health and safety representative for workers at a workplace may request a review of a control measure if the representative reasonably believes that —

(a) a circumstance referred to in subregulation (1)(a), (b), (c), (d), (e) or (f) affects or may affect the health and safety of a member of the work group represented by the health and safety representative; and

(b) the duty holder has not adequately reviewed the control measure in response to the circumstance.

Division 3 — Lead risk work

402. Identifying lead risk work

(1) A person conducting a business or undertaking at a workplace must assess each lead process carried out by the business or undertaking at the workplace to determine if lead risk work is carried out in the process.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) In assessing a lead process, the person must have regard to the following —

(a) past biological monitoring results of workers;

(b) airborne lead levels;

(c) the form of lead used;

(d) the tasks and processes required to be undertaken with lead;

(e) the likely duration and frequency of exposure to lead;

(f) possible routes of exposure to lead;

(g) any information about incidents, illnesses or diseases in relation to the use of lead at the workplace.

(3) In assessing a lead process, the person must not have regard to the effect of using personal protective equipment on the health and safety of workers at the workplace.

(4) If a person conducting a business or undertaking at a workplace is unable to determine whether lead risk work is carried out in a lead process at the workplace, the process is taken to include lead risk work until the person determines that lead risk work is not carried out in the process.

403. Notification of lead risk work

(1) Subject to subregulation (5), if a person conducting a business or undertaking at a workplace determines that work at the workplace is lead risk work, the person must give the regulator written notice within 7 days that the work is lead risk work.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) A notice under this regulation must state the kind of lead process being carried out that includes the lead risk work.

(3) The person must —

(a) keep a copy of the notice given to the regulator while the lead risk work is carried out at the workplace; and

(b) ensure that a copy of the notice is readily accessible to a worker who is likely to be exposed to lead, and the worker's health and safety representative.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(4) Subregulation (5) applies to an emergency service organisation in relation to work carried out by an emergency service worker who, at the direction of the emergency service organisation, is —

(a) rescuing a person; or

(b) providing first aid to a person.

(5) The emergency service organisation must give notice under subregulation (1) as soon as practicable after determining that the work is lead risk work.

404. Changes to information in notification of lead risk work

(1) A person conducting a business or undertaking at a workplace must give the regulator written notice of any change in the information given in a notice under regulation 403 before the change or as soon as practicable after the person becomes aware of the change.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) The person must —

(a) keep a copy of the notice given to the regulator while the lead risk work is carried out at the workplace; and

(b) ensure that a copy of the notice is readily accessible to a worker who is likely to be exposed to lead, and the worker's health and safety representative.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

Division 4 — Health monitoring

405. Duty to provide health monitoring before first commencing lead risk work

(1) A person conducting a business or undertaking at a workplace must ensure that health monitoring is provided to a worker —

(a) before the worker first commences lead risk work for the person; and

(b) 1 month after the worker first commences lead risk work for the person.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) If work is identified as lead risk work after a worker commences the work, the person conducting the business or undertaking must ensure that health monitoring of the worker is provided —

(a) as soon as practicable after the lead risk work is identified; and

(b) 1 month after the first monitoring of the worker under paragraph (a).

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

406. Duty to ensure that appropriate health monitoring is provided

Subject to regulation 407, a person conducting a business or undertaking must ensure that health monitoring of a worker referred to in regulation 405 includes health monitoring of a type referred to in an item in Schedule 14 Table 14.2 unless —

(a) an equal or better type of health monitoring is available; and

(b) the use of that other type of monitoring is recommended by a registered medical practitioner with experience in health monitoring.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

407. Frequency of biological monitoring

(1) A person conducting a business or undertaking at a workplace must arrange for biological monitoring of each worker who carries out lead risk work for the person to be carried out at the following times —

(a) for workers who are not females of reproductive capacity —

(i) if the last monitoring shows a blood lead level of less than 10µg/dL (0.48µmol/L) — 6 months after the last biological monitoring of the worker; or

(ii) if the last monitoring shows a blood lead level of 10µg/dL (0.48µmol/L) or more but less than 20µg/dL (0.97µmol/L) — 3 months after the last biological monitoring of the worker; or

(iii) if the last monitoring shows a blood lead level of 20µg/dL (0.97µmol/L) or more — 6 weeks after the last biological monitoring of the worker;

(b) for females of reproductive capacity —

(i) if the last monitoring shows a blood lead level of less than 5µg/dL (0.24µmol/L) — 3 months after the last biological monitoring of the worker; or

(ii) if the last monitoring shows a blood lead level of 5µg/dL (0.24µmol/L) or more but less than 10µg/dL (0.48µmol/L) — 6 weeks after the last biological monitoring of the worker.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The person must increase the frequency of biological monitoring of a worker who carries out lead risk work if the worker carries out an activity that is likely to significantly change the nature or increase the duration or frequency of the worker's lead exposure.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The regulator may determine a different frequency for biological monitoring of workers at a workplace, or a class of workers, carrying out lead risk work having regard to —

(a) the nature of the work and the likely duration and frequency of the workers' lead exposure; and

(b) the likelihood that the blood lead level of the workers will significantly increase.

Note for this subregulation:

A determination of a different frequency for biological monitoring is a reviewable decision (see regulation 676).

(4) The regulator must give a person conducting a business or undertaking written notice of a determination under subregulation (3) within 14 days after making the determination.

(5) The person conducting a business or undertaking at the workplace must arrange for biological monitoring to be carried out at the frequency stated in a determination notified to the person under subregulation (4).

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

408. Duty to ensure health monitoring is supervised by registered medical practitioner with relevant experience

(1) A person conducting a business or undertaking must ensure that the health monitoring of a worker referred to in this Division is carried out by or under the supervision of a registered medical practitioner with experience in health monitoring.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The person must consult the worker in relation to the selection of the registered medical practitioner.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

409. Duty to pay costs of health monitoring

(1) A person conducting a business or undertaking must pay all expenses relating to health monitoring referred to in this Division.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) If 2 or more persons conducting businesses or undertakings have a duty to provide health monitoring for a worker and have arranged for one of them to commission the health monitoring, the costs of the health monitoring for which any of those persons is liable must be apportioned equally between each of those persons unless they agree otherwise.

410. Information that must be provided to registered medical practitioner

A person conducting a business or undertaking who commissions health monitoring for a worker must provide the following information to the registered medical practitioner carrying out or supervising the health monitoring —

(a) the name and address of the person conducting the business or undertaking;

(b) the name and date of birth of the worker;

(c) the lead risk work that the worker is, or will be, carrying out that has triggered the requirement for health monitoring;

(d) if the worker has started that work, how long the worker has been carrying out that work.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

411. Duty to obtain health monitoring report

(1) A person conducting a business or undertaking who commissioned health monitoring referred to in this Division must take all reasonable steps to obtain a health monitoring report from the registered medical practitioner who carried out

or supervised the monitoring as soon as practicable after the monitoring is carried out in relation to a worker.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The health monitoring report must include the following —

(a) the name and date of birth of the worker;

(b) the name and registration number of the registered medical practitioner;

(c) the name and address of the person conducting the business or undertaking who commissioned the health monitoring;

(d) the date of health monitoring;

(e) if a blood sample is taken — the date the blood sample is taken;

(f) the results of biological monitoring that indicate blood lead levels in the worker's body;

(g) the name of the pathology service used to carry out tests;

(h) any test results that indicate that the worker has reached or exceeded the relevant blood lead level for that worker under regulation 415;

(i) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the lead risk work that triggered the requirement for health monitoring;

(j) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out

the type of work that triggered the requirement for health monitoring;

Note for this paragraph:

The duty under regulation 415 to remove a worker from carrying out lead risk work applies even if there is no recommendation of a registered medical practitioner to do so.

(k) whether medical counselling is required for the worker in relation to the work that triggered the requirement for health monitoring.

412. Duty to give health monitoring report to worker

A person conducting a business or undertaking who commissioned health monitoring for a worker must give a copy of the health monitoring report to the worker as soon as practicable after the person obtains the report.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

413. Duty to give health monitoring report to regulator

The registered medical practitioner who prepares the health monitoring report must give a copy of the health monitoring report to the regulator as soon as practicable after preparing the report if the report contains —

(a) test results that indicate that the worker has reached or exceeded the relevant blood lead level for that person under regulation 415; or

(b) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the work that triggered the requirement for health monitoring; or

(c) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out

the work that triggered the requirement for health monitoring.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

414. Duty to give health monitoring report to relevant persons conducting businesses or undertakings

A person conducting a business or undertaking who commissioned health monitoring for a worker under this Division must give a copy of the health monitoring report to all other persons conducting businesses or undertakings who have a duty to provide health monitoring for the worker as soon as practicable after obtaining the report.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

415. Removal of worker from lead risk work

(1) A person conducting a business or undertaking for which a worker is carrying out work must immediately remove the worker from carrying out lead risk work if following health monitoring —

(a) biological monitoring of the worker shows that the worker's blood lead level is, or is more than —

(i) for workers who are not females of reproductive capacity — 30µg/dL (1.45µmol/L); or

(ii) for females of reproductive capacity — 10µg/dL (0.48µmol/L);

or

(b) the registered medical practitioner who supervised the health monitoring recommends that the worker be removed from carrying out the lead risk work; or

(c) there is an indication that a risk control measure has failed and, as a result, the worker's blood lead level is likely to reach the relevant level for the worker referred to in paragraph (a).

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The person must notify the regulator as soon as practicable if a worker is removed from carrying out lead risk work under subregulation (1).

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

416. Duty to ensure medical examination if worker removed from lead risk work

(1) This regulation applies if a worker is removed from carrying out lead risk work under regulation 415.

(2) The person conducting the business or undertaking who removes the worker from carrying out lead risk work must arrange for the worker to be medically examined by a registered medical practitioner with experience in health monitoring within 7 days after the day the worker is removed.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The person must consult the worker in the selection of the registered medical practitioner.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

417. Return to lead risk work after removal

(1) This regulation applies if —

(a) a worker is removed from carrying out lead risk work under regulation 415; and

(b) the person conducting a business or undertaking at the workplace who removed the worker expects the worker to return to carrying out lead risk work at the workplace.

(2) The person conducting the business or undertaking must arrange for health monitoring under the supervision of a registered medical practitioner with experience in health monitoring at a frequency decided by the practitioner to determine whether the worker's blood lead level is low enough for the worker to return to carrying out lead risk work.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The person conducting the business or undertaking must ensure that the worker does not return to carrying out lead risk work until —

(a) the worker's blood lead level is less than —

(i) for workers who are not females of reproductive capacity — 20µg/dL (0.97µmol/L); or

(ii) for females of reproductive capacity — 5µg/dL (0.24µmol/L);

and

(b) a registered medical practitioner with experience in health monitoring is satisfied that the worker is fit to return to carrying out lead risk work.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

418. Health monitoring records

(1) A person conducting a business or undertaking must ensure that health monitoring reports in relation to a worker carrying out work for the business or undertaking are kept as a confidential record —

(a) identified as a record in relation to the worker; and

(b) for at least 30 years after the record is made.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) The person must ensure that the health monitoring report and results of a worker are not disclosed to another person without the worker's written consent.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(3) Subregulation (2) does not apply if the record is disclosed under regulation 412, 413 or 414 or to a person who must keep the record confidential under a duty of professional confidentiality.

Chapter 8 — Asbestos

Part 8.1 — Prohibitions and authorised conduct

419. Work involving asbestos or ACM: prohibitions and exceptions

(1A) In this regulation, work ***involves asbestos*** if the work involves manufacturing, supplying, transporting, storing, removing, using, installing, handling, treating, disposing of or disturbing asbestos or ACM.

(1) A person conducting a business or undertaking must not carry out, or direct or allow a worker to carry out, work if it involves asbestos.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) *[not used]*

(3) Subregulation (1) does not apply if the work involving asbestos is any of the following —

(a) genuine research and analysis;

(b) sampling and identification in accordance with these regulations;

(c) maintenance of, or service work on, non-friable asbestos or ACM, fixed or installed before 31 December 2003, in accordance with these regulations;

(d) removal or disposal of asbestos or ACM, including demolition, in accordance with these regulations;

(e) the transport and disposal of asbestos or asbestos waste in accordance with the *Environmental Protection Act 1986*;

(f) demonstrations, education or practical training in relation to asbestos or ACM;

(g) display, or preparation or maintenance for display, of an artefact or thing that is, or includes, asbestos or ACM;

(h) management in accordance with these regulations of in situ asbestos that was installed or fixed before 31 December 2003;

(i) work that disturbs asbestos during mining operations that involve the extraction of, or exploration for, a mineral other than asbestos;

(j) laundering asbestos contaminated clothing in accordance with these regulations.

(4) Subregulation (1) does not apply if the regulator approves the method adopted for managing risk associated with asbestos.

(5) Subregulation (1) does not apply to the following —

(a) soil that a competent person has determined —

(i) does not contain any visible ACM or friable asbestos; or

(ii) if friable asbestos is visible — does not contain more than trace levels of asbestos determined in accordance with AS 4964:2004 (Method for the qualitative identification of asbestos in bulk samples);

(b) naturally occurring asbestos managed in accordance with an asbestos management plan prepared under regulation 432.

Part 8.2 — General duty

420. Exposure to airborne asbestos at workplace

(1) A person conducting a business or undertaking at a workplace must ensure that —

(a) exposure of a person at the workplace to airborne asbestos is eliminated so far as is reasonably practicable; and

(b) if it is not reasonably practicable to eliminate exposure to airborne asbestos — exposure is minimised so far as is reasonably practicable.

Note for this subregulation:

WHS Act — section 19 (see regulation 9).

(2) A person conducting a business or undertaking at a workplace must ensure that the exposure standard for asbestos is not exceeded at the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) Subregulations (1)(a) and (2) do not apply in relation to an asbestos removal area —

(a) that is enclosed to prevent the release of respirable asbestos fibres in accordance with regulation 477; and

(b) in which negative pressure is used in accordance with that regulation.

Part 8.3 — Management of asbestos and associated risks

421. Application of Part

(1) This Part does not apply to naturally occurring asbestos.

(2) Regulations 425, 426, 427, 428, 429 and 430 do not apply to any part of residential premises that is used only for residential purposes.

421A. Regulator may direct tests for, or removal of, asbestos at workplace

(1) The regulator may issue a written notice to a person who is a person conducting a business or undertaking at a workplace, directing the person —

(a) to conduct tests to ascertain if asbestos is present in the workplace in such manner set out in the direction; or

(b) to cause any ACM at the workplace to be removed if it was installed on or after 31 December 2003.

(2) A person must comply with each direction issued to the person under subregulation (1).

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The regulator is not liable for any costs in relation to the tests or asbestos removal work.

422. Asbestos to be identified or assumed at workplace

(1) A person with management or control of a workplace must ensure, so far as is reasonably practicable, that all asbestos or ACM at the workplace is identified by a competent person.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A person with management or control of a workplace must —

(a) if material at the workplace cannot be identified but a competent person reasonably believes that the material

is asbestos or ACM — assume that the material is asbestos; and

(b) if part of the workplace is inaccessible to workers and likely to contain asbestos or ACM — assume that asbestos is present in the part of the workplace.

(3) Subregulation (1) does not apply if the person —

(a) assumes that asbestos or ACM is present; or

(b) has reasonable grounds to believe that asbestos or ACM is not present.

(4) If asbestos or ACM is assumed to be present at a workplace, it is taken to be identified at the workplace.

423. Analysis of sample

(1) A person with management or control of a workplace may identify asbestos or ACM by arranging for a sample of material at the workplace to be analysed for the presence of asbestos or ACM.

(2) If a person with management or control of a workplace arranges for an analysis, the person must ensure that the sample is analysed only by a NATA-accredited laboratory accredited for the relevant test method.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

424. Presence and location of asbestos to be indicated

A person with management or control of a workplace must ensure that —

(a) the presence and location of asbestos or ACM identified at the workplace under regulation 422 is clearly indicated; and

(b) if it is reasonably practicable to do so, indicate the presence and location of the asbestos or ACM by a label.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

425. Asbestos register

(1) A person with management or control of a workplace must ensure that a register (an ***asbestos register***) is prepared and kept at the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) The person must ensure that the asbestos register is maintained to ensure the information in the register is up to date.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(3) The asbestos register must —

(a) record any asbestos or ACM identified at the workplace under regulation 422, or likely to be present at the workplace from time to time including —

(i) the date on which the asbestos or ACM was identified; and

(ii) the location, type and condition of the asbestos or ACM;

or

(b) state that no asbestos or ACM is identified at the workplace if the person knows that no asbestos or ACM is identified, or is likely to be present from time to time, at the workplace.

(4) The person is not required to prepare an asbestos register for a workplace if a register has already been prepared for that workplace.

(5) Subject to subregulation (6), this regulation applies to buildings whenever constructed.

(6) This regulation does not apply to a workplace if —

(a) the workplace is a building that was constructed on or after 31 December 2003; and

(b) no asbestos has been identified at the workplace; and

(c) no asbestos is likely to be present at the workplace from time to time.

426. Review of asbestos register

A person with management or control of a workplace where an asbestos register is kept must ensure that the register is reviewed and as necessary revised if —

(a) the asbestos management plan is reviewed under regulation 430; or

(b) further asbestos or ACM is identified at the workplace; or

(c) asbestos is removed from, or disturbed, sealed or enclosed at, the workplace.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

427. Access to asbestos register

(1) A person with management or control of a workplace where an asbestos register is kept must ensure that the asbestos register is readily accessible to —

(a) a worker who has carried out, carries out or intends to carry out, work at the workplace; and

(b) a health and safety representative who represents a worker referred to in paragraph (a); and

(c) a person conducting a business or undertaking who has carried out, carries out or intends to carry out, work at the workplace; and

(d) a person conducting a business or undertaking who has required, requires, or intends to require work to be carried out at the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) If a person conducting a business or undertaking carries out, or intends to carry out, work at a workplace that involves a risk of exposure to airborne asbestos, the person with management or control of the workplace must ensure that the person is given a copy of the asbestos register.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

428. Transfer of asbestos register by person relinquishing management or control

If a person with management or control of a workplace plans to relinquish management or control of the workplace, the person must ensure, so far as is reasonably practicable, that the asbestos

register is given to the person, if any, assuming management or control of the workplace.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

429. Asbestos management plan

(1) This regulation applies if asbestos or ACM is —

(a) identified at a workplace under regulation 422; or

(b) likely to be present at a workplace from time to time.

(2) A person with management or control of the workplace must ensure that a written plan (an ***asbestos management plan***) for the workplace is prepared.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) A person with management or control of the workplace must ensure that the asbestos management plan is maintained to ensure the information in the plan is up to date.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) An asbestos management plan must include information about the following —

(a) the identification of asbestos or ACM;

Examples for this paragraph:

A reference or link to the asbestos register for the workplace and signage and labelling.

(b) decisions, and reasons for decisions, about the management of asbestos at the workplace;

Examples for this paragraph:

Safe work procedures and control measures.

(c) procedures for detailing incidents or emergencies involving asbestos or ACM at the workplace;

(d) workers carrying out work involving asbestos.

Examples for this paragraph:

Consultation, responsibilities, information and training.

(5) A person with management or control of a workplace must ensure that a copy of the asbestos management plan for the workplace is readily accessible to —

(a) a worker who has carried out, carries out or intends to carry out, work at the workplace; and

(b) a health and safety representative who represents a worker referred to in paragraph (a); and

(c) a person conducting a business or undertaking who has carried out, carries out or intends to carry out, work at the workplace; and

(d) a person conducting a business or undertaking who has required, requires, or intends to require work to be carried out at the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

430. Review of asbestos management plan

(1) A person with management or control of a workplace that has an asbestos management plan must ensure that the plan is

reviewed and as necessary revised in the following circumstances —

(a) there is a review of the asbestos register or a control measure;

(b) asbestos is removed from, or disturbed, sealed or enclosed at, the workplace;

(c) the plan is no longer adequate for managing asbestos or ACM at the workplace;

(d) a health and safety representative requests a review under subregulation (2);

(e) at least once every 5 years.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) A health and safety representative for workers at a workplace may request a review of an asbestos management plan if the representative reasonably believes that —

(a) a circumstance referred to in subregulation (1)(a), (b) or (c) affects or may affect the health and safety of a member of the work group represented by the health and safety representative; and

(b) the person with management and control of the workplace has not adequately reviewed the asbestos management plan in response to the circumstance.

Part 8.4 — Management of naturally occurring asbestos

431. Naturally occurring asbestos

The person with management or control of a workplace must manage, in accordance with Part 3.1, risks to health and safety associated with naturally occurring asbestos at the workplace.

Note for this regulation:

WHS Act — section 20 (see regulation 9).

432. Asbestos management plan

(1) This regulation applies if naturally occurring asbestos is —

(a) identified at a workplace; or

(b) likely to be present at a workplace.

(2) A person with management or control of the workplace must ensure that a written plan (an ***asbestos management plan***) for the workplace is prepared in relation to the naturally occurring asbestos.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) A person with management or control of the workplace must ensure that the asbestos management plan is maintained to ensure the information in the plan is up to date.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) An asbestos management plan must include information about the following —

(a) the identification of naturally occurring asbestos;

(b) decisions, and reasons for decisions, about the management of naturally occurring asbestos at the workplace;

Examples for this paragraph:

Safe work procedures and control measures.

(c) procedures for detailing incidents or emergencies involving naturally occurring asbestos at the workplace;

(d) workers carrying out work involving naturally occurring asbestos.

Examples for this paragraph:

Consultation, responsibilities, information and training.

(5) A person with management or control of a workplace must ensure that a copy of the asbestos management plan for naturally occurring asbestos at the workplace is readily accessible to —

(a) a worker who has carried out, carries out or intends to carry out, work at the workplace; and

(b) a health and safety representative who represents a worker referred to in paragraph (a); and

(c) a person conducting a business or undertaking who has carried out, carries out or intends to carry out, work at the workplace; and

(d) a person conducting a business or undertaking who has required, requires, or intends to require work to be carried out at the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

433. Review of asbestos management plan

A person with management or control of a workplace that has an asbestos management plan for naturally occurring asbestos must ensure that the plan is reviewed and as necessary revised if the plan is no longer adequate for managing naturally occurring asbestos at the workplace.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

Example for this regulation:

A control measure is revised under regulation 38.

434. Training in relation to naturally occurring asbestos

A person conducting a business or undertaking must ensure that the training required under regulation 445 includes training in the hazards and risks associated with naturally occurring asbestos for workers who carry out work where naturally occurring asbestos is likely to be found.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Part 8.5 — Asbestos at the workplace

Division 1 — Health monitoring

435. Duty to provide health monitoring

(1) A person conducting a business or undertaking must ensure that health monitoring is provided, in accordance with regulation 436, to a worker carrying out work for the business or undertaking if the worker is —

(a) carrying out licensed asbestos removal work at a workplace and is at risk of exposure to asbestos when carrying out the work; or

(b) carrying out other ongoing asbestos removal work or asbestos-related work and is at risk of exposure to asbestos when carrying out the work.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) For the purposes of subregulation (1)(a), the person must ensure that the health monitoring of the worker commences before the worker carries out licensed asbestos removal work.

(3) The person must ensure that the worker is informed of any health monitoring requirements before the worker carries out any work that may expose the worker to asbestos.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

436. Duty to ensure that appropriate health monitoring is provided

(1) A person conducting a business or undertaking must ensure that the health monitoring of a worker referred to in regulation 435 includes —

(a) consideration of —

(i) the worker's demographic, medical and occupational history; and

(ii) records of the worker's personal exposure;

and

(b) a physical examination of the worker.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) Subregulation (1) applies unless another type of health monitoring is recommended by a registered medical practitioner.

437. Duty to ensure health monitoring is supervised by registered medical practitioner with relevant experience

(1) A person conducting a business or undertaking must ensure that the health monitoring of a worker referred to in regulation 435

is carried out by or under the supervision of a registered medical practitioner with experience in health monitoring.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The person must consult the worker in relation to the selection of the registered medical practitioner.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

438. Duty to pay costs of health monitoring

(1) A person conducting a business or undertaking must pay all expenses relating to health monitoring referred to in regulation 435.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) If 2 or more persons conducting businesses or undertakings have a duty to provide health monitoring for a worker and have arranged for one of them to commission the health monitoring, the costs of the health monitoring for which any of those persons is liable must be apportioned equally between each of those persons unless they agree otherwise.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

439. Information that must be provided to registered medical practitioner

A person conducting a business or undertaking who commissions health monitoring for a worker must provide the following information to the registered medical practitioner carrying out or supervising the health monitoring —

(a) the name and address of the person conducting the business or undertaking;

(b) the name and date of birth of the worker;

(c) the work that the worker is, or will be, carrying out that has triggered the requirement for health monitoring;

(d) if the worker has started that work, how long the worker has been carrying out that work.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

440. Duty to obtain health monitoring report

(1) A person conducting a business or undertaking who commissioned health monitoring referred to in regulation 435 must take all reasonable steps to obtain a health monitoring report from the registered medical practitioner who carried out or supervised the monitoring as soon as practicable after the monitoring is carried out in relation to a worker.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The health monitoring report must include the following —

(a) the name and date of birth of the worker;

(b) the name and registration number of the registered medical practitioner;

(c) the name and address of the person conducting the business or undertaking who commissioned the health monitoring;

(d) the date of health monitoring;

(e) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the work that triggered the requirement for health monitoring;

(f) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out the type of work that triggered the requirement for health monitoring;

(g) whether medical counselling is required for the worker in relation to the work that triggered the requirement for health monitoring.

441. Duty to give health monitoring report to worker

A person conducting a business or undertaking who commissioned health monitoring for a worker must give a copy of the health monitoring report to the worker as soon as practicable after the person obtains the report.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

442. Duty to give health monitoring report to regulator

The registered medical practitioner who prepares the health monitoring report must give a copy of the health monitoring report to the regulator as soon as practicable after preparing the report if the report contains —

(a) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of

carrying out the work that triggered the requirement for health monitoring; or

(b) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out the work referred to in regulation 435.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

443. Duty to give health monitoring report to relevant persons conducting businesses or undertakings

A person conducting a business or undertaking who commissioned health monitoring for a worker must give a copy of the health monitoring report to all other persons conducting businesses or undertakings who have a duty to provide health monitoring for the worker as soon as practicable after obtaining the report.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

444. Health monitoring records

(1) A person conducting a business or undertaking must ensure that health monitoring reports in relation to a worker carrying out work for the business or undertaking are kept as a confidential record —

(a) identified as a record in relation to the worker; and

(b) for at least 40 years after the record is made.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) The person must ensure that the health monitoring report and results of a worker are not disclosed to another person without the worker's written consent.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(3) Subregulation (2) does not apply if the record is disclosed under regulation 442 or 443 or to a person who must keep the record confidential under a duty of professional confidentiality.

Division 2 — Training

445. Duty to train workers about asbestos

(1) In addition to the training required by Part 3.2 Division 1, a person conducting a business or undertaking must ensure that workers engaged by the person, whom the person reasonably believes may be involved in asbestos removal work or in the carrying out of asbestos-related work, are trained in the identification and safe handling of, and suitable control measures for, asbestos and ACM.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) This regulation does not apply in relation to a worker referred to in regulation 460.

(3) The person must ensure that a record is kept of the training undertaken by the worker —

(a) while the worker is carrying out the work; and

(b) for 5 years after the day the worker ceases working for the person.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(4) The person must keep the record available for inspection under the Act.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

Division 3 — Control on use of certain equipment

446. Duty to limit use of equipment

(1) A person conducting a business or undertaking must not use, or direct or allow a worker to use, either of the following on asbestos or ACM —

(a) high-pressure water spray;

(b) compressed air.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) Subregulation (1)(a) does not apply to the use of a high-pressure water spray for firefighting or fire protection purposes.

(3) A person conducting a business or undertaking must not use, or direct or allow a worker to use, any of the following equipment on asbestos or ACM unless the use of the equipment is controlled —

(a) power tools;

(b) brooms;

(c) any other implements that cause the release of airborne asbestos into the atmosphere.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(4) In subregulation (3), the use of equipment is ***controlled*** if —

(a) the equipment is enclosed during its use; or

(b) the equipment is designed to capture or suppress airborne asbestos and is used in accordance with its design; or

(c) the equipment is used in a way that is designed to capture or suppress airborne asbestos safely; or

(d) any combination of paragraphs (a), (b) and (c) applies.

Part 8.6 — Demolition and refurbishment

447. Application of Part

(1A) In this regulation —

demolition or refurbishment does not include minor or routine maintenance work, or other minor work.

(1) This Part applies to the demolition or refurbishment of a structure or plant constructed or installed before 31 December 2003.

(2) *[not used]*

448. Review of asbestos register

The person with management or control of a workplace must ensure that, before demolition or refurbishment is carried out at the workplace, the asbestos register for the workplace is —

(a) reviewed; and

(b) if the register is inadequate having regard to the proposed demolition or refurbishment — revised.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

Example for this regulation:

The register identifies an inaccessible area that is likely to contain asbestos and the area is likely to be accessible because of demolition.

449. Duty to give asbestos register to person conducting business or undertaking of demolition or refurbishment

The person with management or control of a workplace must ensure that the person conducting a business or undertaking who carries out the demolition or refurbishment is given a copy of the asbestos register before the demolition or refurbishment is commenced.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

450. Duty to obtain asbestos register

A person conducting a business or undertaking who carries out demolition or refurbishment at a workplace must obtain a copy of the asbestos register from the person with management or control of the workplace, before the person commences the demolition or refurbishment.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

451. Determining presence of asbestos or ACM

(1) This regulation applies if —

(a) demolition or refurbishment is to be carried out at a workplace; and

(b) there is no asbestos register for the structure or plant to be demolished or refurbished at the workplace.

(2) The person conducting a business or undertaking who is to carry out the demolition or refurbishment must not carry out the demolition or refurbishment until the structure or plant has been inspected to determine whether asbestos or ACM is fixed to or installed in the structure or plant.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The person conducting a business or undertaking who is to carry out the demolition or refurbishment must ensure that the determination is undertaken by a competent person.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) The person conducting a business or undertaking who is to carry out the demolition or refurbishment must assume that asbestos or ACM is fixed to or installed in the structure or plant if —

(a) the competent person is, on reasonable grounds, uncertain whether or not asbestos is fixed to or installed in the structure or plant; or

(b) part of the structure or plant is inaccessible and likely to be disturbed.

(5) If asbestos or ACM is determined or assumed to be fixed to or installed in the structure or plant, the person conducting a business or undertaking who is to carry out the demolition or refurbishment must inform —

(a) if the workplace is residential premises —

(i) the occupier of the premises; and

(ii) the owner of the premises;

and

(b) in any other case — the person with management or control of the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

452. Identification and removal of asbestos before demolition

(1) This regulation applies if a structure or plant at a workplace is to be demolished.

(2) This regulation does not apply —

(a) in an emergency to which regulation 454 applies; or

(b) to residential premises.

(3) The person with management or control of the workplace, or of the structure or plant, must ensure —

(a) that all asbestos that is likely to be disturbed by the demolition is identified; and

(b) so far as is reasonably practicable, that the asbestos is removed before the demolition is commenced.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) Subregulation (3)(b) does not apply if the purpose of the demolition is to gain access to the asbestos.

453. Identification and removal of asbestos before demolition of residential premises

(1) A person conducting a business or undertaking that is to carry out the demolition of residential premises must ensure —

(a) that all asbestos that is likely to be disturbed by the demolition is identified; and

(b) so far as is reasonably practicable, that the asbestos is removed before the demolition is commenced.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) This regulation does not apply in an emergency to which regulation 455 applies.

(3) Subregulation (1)(b) does not apply if the purpose of the demolition is to gain access to the asbestos.

454. Emergency procedure

(1A) For the purposes of this regulation, an ***emergency*** occurs if —

(a) a structure or plant is structurally unsound; or

(b) collapse of the structure or plant is imminent.

(1) This regulation applies if —

(a) an emergency occurs at a workplace other than residential premises; and

(b) a structure or plant at the workplace must be demolished; and

(c) asbestos is fixed to or installed in the structure or plant before the emergency occurs.

(2) The person with management or control of the workplace must ensure, so far as is reasonably practicable, that —

(a) before the demolition is commenced, a procedure is developed that will, so far as is reasonably practicable, reduce the risk of exposure of workers and persons in the vicinity of the demolition site to asbestos to below the exposure standard; and

(b) the asbestos register for the workplace is considered in the development of the procedure.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(3) The person must ensure that the regulator is given written notice about the emergency —

(a) immediately after the person becomes aware of the emergency; and

(b) before the demolition is commenced.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(4) *[not used]*

455. Emergency procedure: residential premises

(1A) For the purposes of this regulation, an ***emergency*** occurs if —

(a) a structure or plant is structurally unsound; or

(b) collapse of the structure or plant is imminent.

(1) This regulation applies if —

(a) an emergency occurs at residential premises; and

(b) a structure or plant at the premises must be demolished; and

(c) asbestos is fixed to or installed in the structure or plant before the emergency occurs.

(2) A person conducting a business or undertaking who is to carry out the demolition of the residential premises must ensure so far as is reasonably practicable, that, before the demolition is commenced, a procedure is developed that will, so far as is reasonably practicable, reduce the risk of exposure of workers

and persons in the vicinity of the demolition site to asbestos to below the exposure standard.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(3) The person must ensure that the regulator is given written notice about the emergency —

(a) immediately after the person becomes aware of the emergency; and

(b) before the demolition is commenced.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(4) *[not used]*

456. Identification and removal of asbestos before refurbishment

(1) This regulation applies if a structure or plant at a workplace is to be refurbished.

(2) This regulation does not apply to residential premises.

(3) The person with management or control of the workplace, or of the structure or plant, must ensure —

(a) that all asbestos that is likely to be disturbed by the refurbishment is identified; and

(b) so far as is reasonably practicable, that the asbestos is removed before the refurbishment is commenced.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

457. Refurbishment of residential premises

A person conducting a business or undertaking who is to carry out refurbishment of residential premises must ensure —

(a) that all asbestos that is likely to be disturbed by the refurbishment is identified; and

(b) so far as is reasonably practicable, that the asbestos is removed before the refurbishment is commenced.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Part 8.7 — Asbestos removal work

Note for this Part:

In this Part some duties are placed on licensed asbestos removalists and some on asbestos removalists generally.

458. Duty to ensure asbestos removalist is licensed

(1) A person conducting a business or undertaking that commissions the removal of asbestos must ensure that the asbestos removal work is carried out by a licensed asbestos removalist who is licensed to carry out the work.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) Subregulation (1) does not apply if the asbestos to be removed is —

(a) 10 square metres or less of non-friable asbestos or ACD associated with the removal of that amount of non-friable asbestos; or

(b) ACD that is not associated with the removal of friable or non-friable asbestos and is only a minor contamination.

(3) If subregulation (2) applies, the person conducting the business or undertaking that commissions the asbestos removal work must ensure that the work is carried out by a competent person who has been trained in accordance with regulation 445.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

459. Asbestos removal supervisor must be present or readily available

A licensed asbestos removalist must ensure that the nominated asbestos removal supervisor for asbestos removal work is —

(a) if the asbestos removal work requires a Class A asbestos removal licence — present at the asbestos removal area whenever the asbestos removal work is being carried out; and

(b) if the asbestos removal work requires a Class B asbestos removal licence — readily available to a worker carrying out asbestos removal work whenever the work is being carried out.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

460. Asbestos removal worker must be trained

(1A) In this regulation —

appropriate training means training designed specifically for the workplace where the licensed asbestos removal work is carried out and the work to be carried out at the workplace.

(1) A licensed asbestos removalist must not direct or allow a worker to carry out licensed asbestos removal work unless the removalist is satisfied that the worker holds a certification in relation to the specified VET course for asbestos removal

relevant to the class of licensed asbestos removal work to be carried out by the worker.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) A licensed asbestos removalist must provide appropriate training to a worker carrying out licensed asbestos removal work at a workplace to ensure that the work is carried out in accordance with the asbestos removal control plan for the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) *[not used]*

Note for this regulation:

Unless this regulation applies, the obligation to provide training to workers carrying out unlicensed asbestos removal work is set out in regulation 445.

461. Licensed asbestos removalist must keep training records

(1) A licensed asbestos removalist must keep a record of the training undertaken by a worker carrying out licensed asbestos removal work —

(a) while the worker is carrying out licensed asbestos removal work; and

(b) for 5 years after the day the worker stopped carrying out licensed asbestos removal work for the removalist.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) The licensed asbestos removalist must ensure that the training record is readily accessible at the asbestos removal area and available for inspection under the Act.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

462. Duty to give information about health risks of licensed asbestos removal work

A licensed asbestos removalist must give the following information to a person likely to be engaged to carry out licensed asbestos removal work before the person is engaged to carry out the work —

(a) the health risks and health effects associated with exposure to asbestos;

(b) the need for, and details of, health monitoring of a worker carrying out licensed asbestos removal work.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

463. Asbestos removalist must obtain register

(1) A licensed asbestos removalist must obtain a copy of the asbestos register for a workplace before the removalist carries out asbestos removal work at the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) Subregulation (1) does not apply if the asbestos removal work is to be carried out at residential premises.

464. Asbestos removal control plan

(1) A licensed asbestos removalist must prepare an asbestos removal control plan for any licensed asbestos removal work the removalist is commissioned to undertake.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) An asbestos removal control plan must include —

(a) details of how the asbestos removal will be carried out, including the method to be used and the tools, equipment and personal protective equipment to be used; and

(b) details of the asbestos to be removed, including the location, type and condition of the asbestos.

(3) The licensed asbestos removalist must give a copy of the asbestos removal control plan to the person who commissioned the licensed asbestos removal work.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

465. Asbestos removal control plan to be kept and available

(1) Subject to subregulation (2), a licensed asbestos removalist must ensure that a copy of the asbestos removal control plan prepared under regulation 464 is kept until the asbestos removal work to which it relates is completed.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) If a notifiable incident occurs in connection with the asbestos removal work to which the asbestos removal control plan

relates, the licensed asbestos removalist must keep the asbestos removal control plan for at least 2 years after the incident occurs.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(3) The licensed asbestos removalist must ensure that, for the period for which the asbestos removal control plan must be kept under this regulation, a copy is —

(a) readily accessible to —

(i) a person conducting a business or undertaking at the workplace; and

(ii) the person's workers at the workplace, or a health and safety representative who represents the workers; and

(iii) if the asbestos removal work is to be carried out in residential premises — the occupants of the premises;

and

(b) available for inspection under the Act.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

466. Regulator must be notified of asbestos removal

(1) A licensed asbestos removalist must give written notice to the regulator at least 5 days before the removalist commences licensed asbestos removal work.

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(2) Despite subregulation (1), licensed asbestos removal work may be commenced immediately if there is —

(a) a sudden and unexpected event, including a failure of equipment, that may cause persons to be exposed to respirable asbestos fibres; or

(b) an unexpected breakdown of an essential service that requires immediate rectification to enable the service to continue.

(3) If the asbestos must be removed immediately, the licensed asbestos removalist must give notice to the regulator —

(a) immediately by telephone; and

(b) in writing within 24 hours after notice is given under paragraph (a).

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

(4) A notice under subregulation (1) or (3) must include the following —

(a) the following in relation to the licensed asbestos removalist —

(i) name;

(ii) registered business name;

(iii) Australian Business Number;

(iv) licence number;

(v) business contact details;

(b) the name and business contact details of the supervisor of the licensed asbestos removal work;

(c) the name of the competent person engaged to carry out a clearance inspection and issue a clearance certificate for the work;

(d) the name and contact details of the person for whom the work is to be carried out;

(e) the following in relation to the workplace where the asbestos is to be removed —

(i) the name, including the registered business or company name, of the person with management or control of the workplace;

(ii) the address and, if the workplace is large, the specific location of the asbestos removal;

(iii) the kind of workplace;

(f) the date of the notice;

(g) the date when the asbestos removal work is to commence and the estimated duration of the work;

(h) whether the asbestos to be removed is friable or non-friable;

(i) if the asbestos to be removed is friable — the way the area of removal will be enclosed;

(j) the estimated quantity of asbestos to be removed;

(k) the number of workers who are to carry out the asbestos removal work;

(l) for each worker who is to carry out asbestos removal work — details of the worker's competency to carry out asbestos removal work.

467. Licensed asbestos removalist must inform certain persons about intended asbestos removal work

(1) This regulation applies if a licensed asbestos removalist is to carry out licensed asbestos removal work at a workplace.

(2) The licensed asbestos removalist must, before commencing the licensed asbestos removal work, inform the person with management or control of the workplace —

(a) that licensed asbestos removal work is to be carried out at the workplace; and

(b) when the work is to commence.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) If the workplace is residential premises, the licensed asbestos removalist must, so far as is reasonably practicable, before commencing the licensed asbestos removal work, inform the following persons that asbestos removal work is to be carried out at the workplace, and when the work is to commence —

(a) the person who commissioned the asbestos removal work;

(b) a person conducting a business or undertaking at the workplace;

(c) the occupier of the residential premises;

(d) the owner of the residential premises;

(e) anyone occupying premises in the immediate vicinity of the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

468. Person with management or control of workplace must inform persons about asbestos removal work

(1) This regulation applies if the person with management or control of a workplace is informed that asbestos removal work is to be carried out at the workplace.

(2) The person must ensure that the following persons are informed that asbestos removal work is to be carried out at the workplace and when the work is to commence, before the work commences —

(a) the person's workers and any other persons at the workplace;

(b) the person who commissioned the asbestos removal work.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The person must take all reasonable steps to ensure that the following persons are informed that asbestos removal work is to be carried out at the workplace and when the work is to commence, before the work commences —

(a) anyone conducting a business or undertaking at, or in the immediate vicinity of, the workplace;

(b) anyone occupying premises in the immediate vicinity of the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

469. Signage and barricades for asbestos removal work

An asbestos removalist must ensure that —

(a) signs alerting persons to the presence of asbestos are placed to indicate where the asbestos removal work is being carried out; and

(b) barricades are erected to delineate the asbestos removal area.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

470. Limiting access to asbestos removal area

(1) This regulation applies to —

(a) a person conducting a business or undertaking at a workplace who commissions a person to carry out licensed asbestos removal work at the workplace; and

(b) a person with management or control of a workplace who is aware that licensed asbestos removal work is being carried out at the workplace.

(2) Subject to subregulation (4), the person must ensure, so far as is reasonably practicable, that no-one other than the following has access to an asbestos removal area —

(a) workers engaged in the asbestos removal work;

(b) other persons associated with the asbestos removal work;

(c) anyone allowed under these regulations or another law to be in the asbestos removal area.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The person may refuse to allow access to an asbestos removal area at the workplace to anyone who does not comply with —

(a) a control measure implemented for the workplace in relation to asbestos; or

(b) a direction of the licensed asbestos removalist.

(4) A person referred to in subregulation (2)(a), (b) or (c) has access to an asbestos removal area subject to any direction of the licensed asbestos removalist.

(5) If a person referred to in subregulation (2)(a), (b) or (c) has access to an asbestos removal area, the person must comply with any direction of the licensed asbestos removalist.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

471. Decontamination facilities

(1) An asbestos removalist must ensure that facilities are available to decontaminate the following —

(a) the asbestos removal area;

(b) any plant used in the asbestos removal area;

(c) workers carrying out asbestos removal work;

(d) other persons who have access to the asbestos removal area under regulation 470(2)(b).

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) An asbestos removalist must ensure that nothing that is likely to be contaminated with asbestos is removed from the asbestos removal area unless the thing —

(a) is decontaminated before being removed; or

(b) is sealed in a container, and the exterior of the container is, before being removed —

(i) decontaminated; and

(ii) labelled in accordance with Schedule 9 clause 8.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

472. Disposing of asbestos waste and contaminated personal protective equipment

(1) Subject to subregulations (2) and (3), an asbestos removalist must ensure that asbestos waste —

(a) is contained and labelled in accordance with Schedule 9 clause 8 before the waste is removed from an asbestos removal area; and

(b) is disposed of as soon as practicable at a site authorised to accept asbestos waste.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) An asbestos removalist must ensure that personal protective equipment used in asbestos removal work and contaminated with asbestos —

(a) is sealed in a container before being removed from an asbestos waste area; and

(b) so far as is reasonably practicable, is disposed of on the completion of the asbestos removal work at a site authorised to accept asbestos waste; and

(c) if it is not reasonably practicable to dispose of the personal protective equipment that is clothing —

(i) is laundered at a laundry equipped to launder asbestos-contaminated clothing; or

(ii) if it is not practicable to launder the clothing — is kept in the sealed container until it is re-used for asbestos removal purposes;

and

(d) if it is not reasonably practicable to dispose of the personal protective equipment that is not clothing —

(i) is decontaminated before it is removed from the asbestos removal area; or

(ii) if it is not practicable to decontaminate the equipment in the asbestos removal area — is kept in the sealed container until it is re-used for asbestos removal purposes.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Example for this subregulation:

Work boots.

(3) An asbestos removalist must ensure that a sealed container referred to in subregulation (2) is decontaminated and labelled in accordance with Schedule 9 clause 8 to indicate the presence of asbestos before being removed from the asbestos removal area.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

473. Clearance inspection

(1A) In this regulation, a ***clearance inspection*** is an inspection of an asbestos removal area after asbestos removal work has been completed to verify that the area is safe for normal use, that —

(a) includes a visual inspection; and

(b) may include air monitoring.

(1) This regulation applies if a person commissions licensed asbestos removal work at a workplace.

(2) The person or, if the workplace is residential premises, the licensed asbestos removalist must ensure that, when the licensed asbestos removal work is completed, a clearance inspection of

the asbestos removal area at the workplace is carried out by an independent competent person.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2A) For the purposes of subregulation (2), if the asbestos removal work must be carried out by the holder of a Class A asbestos removal licence, the independent competent person must be a licensed asbestos assessor.

(3) *[not used]*

Note for this regulation:

If it is not reasonably practicable for the competent person to be independent, the person or licensed asbestos removalist may apply to the regulator for an exemption under Part 11.2 from the requirement that the assessor or competent person be independent.

474. Clearance certificates

(1) This regulation applies if a clearance inspection has been made in accordance with regulation 473.

(2) The competent person who carried out the clearance inspection must issue a certificate (a ***clearance certificate***), in accordance with this regulation, before the asbestos removal area at the workplace is re-occupied.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The competent person must ensure that the asbestos removal area does not pose a risk to health and safety from exposure to asbestos.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(4) The competent person must not issue a clearance certificate unless satisfied that —

(a) the asbestos removal area, and the area immediately surrounding it, are free from visible asbestos contamination; and

(b) if the competent person undertook air monitoring as part of the clearance inspection — the monitoring shows asbestos below 0.01 fibres/mL.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(5) The clearance certificate must be in writing and must state that —

(a) the competent person found no visible asbestos residue from asbestos removal work in the area, or in the vicinity of the area, where the work was carried out; and

(b) if air monitoring was carried out by the competent person as part of the clearance inspection — the airborne asbestos fibre level was less than 0.01 asbestos fibres/mL.

Part 8.8 — Asbestos removal requiring Class A asbestos removal licence

475. Air monitoring: asbestos removal requiring Class A asbestos removal licence

(1) A person conducting a business or undertaking who commissions asbestos removal work at a workplace must ensure that an independent competent person undertakes air monitoring of the asbestos removal area at the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) If the workplace is residential premises, the licensed removalist carrying out asbestos removal work at the premises must ensure that an independent competent person undertakes air monitoring of the asbestos removal area at the premises.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2A) For the purposes of subregulations (1) and (2), if the asbestos removal work must be carried out by the holder of a Class A asbestos removal licence, the independent competent person must be a licensed asbestos assessor.

(3) The air monitoring must be carried out —

(a) immediately before the licensed asbestos removal work commences, unless glove bags are to be used for the removal; and

(b) while the licensed asbestos removal work is carried out.

(4) The person who commissions the licensed asbestos removal work must ensure that the results of the air monitoring are given to the following —

(a) workers at the workplace;

(b) health and safety representatives for workers at the workplace;

(c) a person conducting a business or undertaking at the workplace;

(d) other persons at the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(5) If the workplace is residential premises, the licensed asbestos removalist carrying out the licensed asbestos removal work at

the premises must ensure that the results of the air monitoring are given to the following —

(a) the person who commissioned the asbestos removal work;

(b) workers at the workplace;

(c) health and safety representatives for workers at the workplace;

(d) a person conducting a business or undertaking at the workplace;

(e) the occupier of the residential premises;

(f) the owner of the residential premises;

(g) other persons at the workplace.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(6) An independent competent person, who undertakes air monitoring for the purposes of this regulation, must use the membrane filter method for the air monitoring.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

476. Action if respirable asbestos fibre level too high

(1) The licensed removalist carrying out asbestos removal work requiring a Class A asbestos removal licence at a workplace must —

(a) if respirable asbestos fibre levels are recorded at the asbestos removal area at 0.01 fibres/mL or more, but not more than 0.02 fibres/mL — immediately —

(i) investigate the cause of the respirable asbestos fibre level; and

(ii) implement controls to prevent exposure of anyone to asbestos; and

(iii) prevent the further release of respirable asbestos fibres;

and

(b) if respirable asbestos fibre levels are recorded at the asbestos removal area at more than 0.02 fibres/mL — immediately —

(i) order the asbestos removal work to stop; and

(ii) notify the regulator; and

(iii) investigate the cause of the respirable asbestos fibre level; and

(iv) implement controls to prevent exposure of anyone to asbestos; and

(v) prevent the further release of respirable asbestos fibre.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) If the licensed removalist stops asbestos removal work requiring a Class A asbestos removal licence because the recorded respirable asbestos fibre level exceeds 0.02 fibres/mL, the removalist must ensure that the asbestos removal work does not resume until air monitoring shows that the recorded respirable asbestos fibre level is below 0.01 fibres/mL.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

477. Removing friable asbestos

(1) A licensed asbestos removalist removing friable asbestos must ensure, so far as is reasonably practicable, the following —

(a) the asbestos removal area is enclosed to prevent the release of respirable asbestos fibres;

(b) subject to subregulation (3), negative pressure is used;

(c) the wet method of asbestos removal is used;

(d) subject to subregulation (3), the asbestos removal work does not commence until the air monitoring is commenced by an independent competent person;

(e) air monitoring is undertaken during the asbestos removal work, at times decided by the independent competent person undertaking the monitoring;

(f) any glove bag used to enclose the asbestos removal area is dismantled and disposed of safely.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(1A) For the purposes of subregulation (1)(e), if the asbestos removal work must be carried out by the holder of a Class A asbestos removal licence, the independent competent person must be a licensed asbestos assessor.

(2) A licensed asbestos removalist must ensure that any enclosure used in removing friable asbestos is tested for leaks.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) Subregulation (1)(b) and (d) do not apply if glove bags are used in the Class A asbestos removal work.

(4) The licensed removalist must not dismantle an enclosure for a friable asbestos removal area until the removalist receives results of air monitoring, showing that the recorded respirable asbestos fibre level within the enclosure is below 0.01 fibres/mL, from —

(a) if the friable asbestos is removed from residential premises — the independent competent person who undertook the air monitoring; or

(b) in any other case — the person who commissioned the Class A asbestos removal work.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(5) The licensed removalist must ensure that an enclosure for a friable asbestos removal area is dismantled in a way that, so far as is reasonably practicable, eliminates the release of respirable asbestos fibre.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(6) The person who commissioned the removal of the friable asbestos must obtain a clearance certificate from an independent competent person after the enclosure for the friable asbestos removal area has been dismantled.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Part 8.9 — Asbestos-related work

478. Application of Part

This Part applies in relation to asbestos-related work.

479. Uncertainty as to presence of asbestos

(1) If there is uncertainty (based on reasonable grounds) as to whether work to be carried out for a business or undertaking is asbestos-related work, the person conducting the business or undertaking must ensure that analysis of a sample is undertaken to determine if asbestos or ACM is present.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) For the purposes of subregulation (1), the person must ensure that the sample is analysed only by a NATA-accredited laboratory accredited for the relevant test method.

(3) Subregulation (1) does not apply if the person assumes that asbestos is present.

480. Duty to give information about health risks of asbestos-related work

A person conducting a business or undertaking must give the following information to a person likely to be engaged to carry out asbestos-related work for the business or undertaking before the person is engaged to carry out the work —

(a) the health risks and health effects associated with exposure to asbestos;

(b) the need for, and details of, health monitoring of a worker carrying out asbestos-related work.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

481. Asbestos-related work to be in separate area

A person conducting a business or undertaking that involves the carrying out of asbestos-related work must ensure that —

(a) the asbestos-related work area is separated from other work areas at the workplace; and

(b) signs alerting persons to the presence of asbestos are placed to indicate where the asbestos-related work is being carried out; and

(c) barricades are erected to delineate the asbestos-related work area.

Penalty:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

482. Air monitoring

(1) A person conducting a business or undertaking at a workplace must ensure that a competent person carries out air monitoring of the work area where asbestos-related work is being carried out if there is uncertainty as to whether the exposure standard is likely to be exceeded.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) If the competent person determines that the exposure standard has been exceeded at any time in a work area, the person conducting the business or undertaking must, so far as is reasonably practicable —

(a) determine the workers and other persons who were in the work area during that time: and

(b) warn those workers about possible exposure to respirable asbestos fibres; and

(c) warn the other persons about possible exposure to respirable asbestos fibres.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(3) The person conducting the business or undertaking must ensure that information about exposure to respirable asbestos fibres, including the determination made by the competent person and the results of the air monitoring, is readily accessible to the workers and other persons referred to in subregulation (2).

Penalty for this subregulation:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

483. Decontamination facilities

(1) A person conducting a business or undertaking for which asbestos-related work is carried out must ensure that facilities are available to decontaminate the following —

(a) the asbestos-related work area;

(b) any plant used in the asbestos-related work area;

(c) workers carrying out the asbestos-related work.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The person must ensure that nothing that is likely to be contaminated with asbestos is removed from the asbestos-related work area unless the thing —

(a) is decontaminated before being removed; or

(b) is sealed in a container, and the exterior of the container is, before being removed —

(i) decontaminated; and

(ii) labelled in accordance with Schedule 9 clause 8.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

484. Disposing of asbestos waste and contaminated personal protective equipment

(1) Subject to subregulation (2), a person conducting a business or undertaking for which asbestos-related work is carried out must ensure that asbestos waste —

(a) is contained and labelled in accordance with Schedule 9 clause 8 before the waste is removed from an asbestos-related work area; and

(b) is disposed of as soon as practicable at a site authorised to accept asbestos waste.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

(2) The person must ensure that personal protective equipment used in asbestos-related work and contaminated with asbestos —

(a) is sealed in a container, and that the exterior of the container is decontaminated and labelled in accordance with Schedule 9 clause 8 to indicate the presence of asbestos before being removed; and

(b) so far as is reasonably practicable, is disposed of on the completion of the asbestos-related work at a site authorised to accept asbestos waste; and

(c) if it is not reasonably practicable to dispose of the personal protective equipment that is clothing —

(i) is laundered at a laundry equipped to launder asbestos-contaminated clothing; or

(ii) if it is not practicable to launder the clothing — is kept in the sealed container until it is re-used for the purposes of asbestos-related work;

and

(d) if it is not reasonably practicable to dispose of the personal protective equipment that is not clothing —

(i) is decontaminated before it is removed from the asbestos removal area; or

(ii) if it is not practicable to decontaminate the equipment in the asbestos removal area — is kept in the sealed container until it is re-used for the purposes of asbestos-related work.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Example for this subregulation:

Work boots.

(3) The person must ensure that a sealed container referred to in subregulation (2) is decontaminated and labelled in accordance with Schedule 9 clause 8 to indicate the presence of asbestos before being removed from the asbestos-related work area.

Penalty for this subregulation:

(a) for an individual, a fine of $7 000;

(b) for a body corporate, a fine of $35 000.

Part 8.10 — Licensing of asbestos removalists and asbestos assessors

Division 1 — Asbestos removalists: requirement to be licensed

485. Requirement to hold Class A asbestos removal licence

(1) A person must not carry out the removal of the following at a workplace unless the person, or the person on whose behalf the work is carried out, holds a Class A asbestos removal licence —

(a) friable asbestos;

(b) except as provided in regulation 486, ACD.

Note for this subregulation:

See section 43(1) of the Act.

(2) A person who conducts a business or undertaking must not direct or allow a worker to carry out the removal of the following unless the person holds a Class A asbestos removal licence —

(a) friable asbestos;

(b) except as provided in regulation 486, ACD.

Note for this subregulation:

See section 43(2) of the Act.

486. Exception to requirement to hold Class A asbestos removal licence

A Class A asbestos removal licence is not required for the removal of ACD that —

(a) is associated with the removal of non-friable asbestos; or

(b) is not associated with the removal of friable or non-friable asbestos and is only a minor contamination.

487. Requirement to hold Class B asbestos removal licence

(1) A person must not carry out the removal of the following at a workplace unless the person, or the person on whose behalf the work is carried out, holds a Class B asbestos removal licence or a Class A asbestos removal licence —

(a) more than 10 square metres of non-friable asbestos or ACM;

(b) ACD associated with the removal of more than 10 square metres of non-friable asbestos or ACM.

Note for this subregulation:

See section 43(1) of the Act.

(2) A person who conducts a business or undertaking must not direct or allow a worker to carry out the removal of the following unless the person holds a Class B asbestos removal licence or a Class A asbestos removal licence —

(a) more than 10 square metres of non-friable asbestos or ACM;

(b) ACD associated with the removal of more than 10 square metres of non-friable asbestos or ACM.

Note for this subregulation:

See section 43(2) of the Act.

488. Recognition of asbestos removal licences in other jurisdictions

(1) In this Division, a reference to an asbestos removal licence includes a reference to an equivalent licence —

(a) granted under a corresponding WHS law; and

(b) that is being used in accordance with the terms and conditions under which it was granted.

(2) Subregulation (1) does not apply to a licence that is suspended or cancelled or has expired in the corresponding jurisdiction.

Division 2 — Asbestos assessors: requirement to be licensed

489. Requirement to hold asbestos assessor licence

(1) A person must not carry out air monitoring during Class A asbestos removal work at a workplace unless the person holds an asbestos assessor licence.

(2) Furthermore, a person must not carry out the following at a workplace unless the person holds an asbestos assessor licence —

(a) clearance inspections for Class A asbestos removal work;

(b) issuing clearance certificates in relation to Class A asbestos removal work.

Note for this regulation:

See section 43(1) of the Act.

490. Recognition of asbestos assessor licences in other jurisdictions

(1) In this Division, a reference to an asbestos assessor licence includes a reference to an equivalent licence —

(a) granted under a corresponding WHS law; and

(b) that is being used in accordance with the terms and conditions under which it was granted.

(2) Subregulation (1) does not apply to a licence that is suspended or cancelled or has expired in the corresponding jurisdiction.

Division 3 — Licensing process

491. Who may apply for a licence

(1) Only a person who conducts, or proposes to conduct, a business or undertaking may apply for an asbestos removal licence.

(2) Only an individual who holds the qualifications set out in regulation 495 may apply for an asbestos assessor licence.

492. Application for asbestos removal licence or asbestos assessor licence

(1) An application for an asbestos removal licence or asbestos assessor licence must be made in the manner and form required by the regulator.

(2) The application must include the following information —

(a) the name and address of the applicant;

(b) if required by the regulator of an applicant who is an individual, a photograph of the applicant in the form required by the regulator;

(c) any other evidence of the applicant's identity required by the regulator;

(d) the class of licence to which the application relates;

(e) if, in the case of an asbestos removal licence, the applicant conducts the business or undertaking under a business name — that business name and a certificate or other written evidence of the registration of the business name;

(f) a declaration that the applicant does not hold an equivalent licence under a corresponding WHS law;

(g) if the applicant is an individual —

(i) a declaration as to whether or not the applicant has ever been convicted or found guilty of any offence under the Act or these regulations or under any corresponding WHS law; and

(ii) details of any conviction or finding of guilt declared under subparagraph (i); and

(iii) a declaration as to whether or not the applicant has been convicted or found guilty of any offence in relation to the unlawful disposal of

hazardous waste under the *Environmental Protection Act 1986*; and

(iv) details of any conviction or finding of guilt declared under subparagraph (iii); and

(v) a declaration as to whether or not the applicant has ever entered into an enforceable undertaking under the Act or under any corresponding WHS law; and

(vi) details of any enforceable undertaking declared under subparagraph (v);

(h) if the applicant is an individual who has previously been refused an equivalent licence under a corresponding WHS law, a declaration giving details of that refusal;

(i) if the applicant is an individual who has previously held an equivalent licence under a corresponding WHS law, a declaration —

(i) describing any condition imposed on that licence; and

(ii) stating whether or not that licence had been suspended or cancelled and, if so, whether or not the applicant had been disqualified from applying for any licence; and

(iii) giving details of any suspension, cancellation or disqualification;

(j) if the applicant is a body corporate, the information referred to in paragraphs (g) to (i) in relation to —

(i) the body corporate; and

(ii) each officer of the body corporate;

(k) in the case of an application for an asbestos removal licence — the additional information referred to in regulation 493 or 494, as applicable;

(l) in the case of an asbestos assessor licence — the additional information referred to in regulation 495.

Note for this subregulation:

See section 268 of the Act for offences relating to the giving of false or misleading information under the Act, including these regulations.

(3) The application must be accompanied by the relevant fee.

493. Content of application: Class A asbestos removal licence

(1) For the purposes of regulation 492(2)(k), an application for a Class A asbestos removal licence must include the following —

(a) the names of 1 or more competent persons who have been engaged by the applicant to supervise the asbestos removal work to be authorised by the licence;

(b) evidence, as required by the regulator, that each nominated supervisor is at least 18 years of age;

(c) a copy of a certification issued to each nominated supervisor for the specified VET course for the supervision of asbestos removal work;

(d) evidence that each nominated supervisor has at least 3 years of relevant industry experience;

(e) evidence that the applicant has a certified safety management system in place.

(2) If the applicant is an individual who proposes to supervise the carrying out of the Class A asbestos removal work, the statement and information referred to in subregulation (1)(b), (c) and (d) must relate to the applicant.

494. Content of application: Class B asbestos removal licence

(1) For the purposes of regulation 492(2)(k), an application for a Class B asbestos removal licence must include the following —

(a) the name of 1 or more competent persons who have been engaged by the applicant to supervise the asbestos removal work to be authorised by the licence;

(b) evidence, as required by the regulator, that each nominated supervisor is at least 18 years of age;

(c) a copy of a certification issued to each nominated supervisor for the specified VET course for the supervision of asbestos removal work;

(d) evidence that each nominated supervisor has at least 1 year of relevant industry experience.

(2) If the applicant is an individual who proposes to supervise the carrying out of the Class B asbestos removal work, the statement and information referred to in subregulation (1)(b), (c) and (d) must relate to the applicant.

495. Content of application: asbestos assessor licence

For the purposes of regulation 492(2)(l), an application for an asbestos assessor licence must include —

(a) evidence that the applicant has acquired through training or experience the knowledge and skills of relevant asbestos removal industry practice; and

(b) either —

(i) a copy of a certification held by the applicant in relation to the specified VET course for asbestos assessor work; or

(ii) evidence that the applicant holds a tertiary qualification in occupational health and safety, industrial hygiene, science, building construction or environmental health.

496. Additional information

(1) If an application for a licence does not contain sufficient information to enable the regulator to make a decision whether or not to grant the licence, the regulator may ask the applicant to provide additional information.

(2) A request for additional information must —

(a) specify the date (not being less than 28 days after the request) by which the additional information must be given; and

(b) be confirmed in writing.

(3) If an applicant does not provide the additional information by the date specified, the application is taken to have been withdrawn.

(4) The regulator may make more than 1 request for additional information.

497. Decision on application

(1) Subject to subregulation (3), the regulator must grant an asbestos removal licence or asbestos assessor licence if satisfied about —

(a) the matters referred to in subregulation (2); and

(b) the additional matters referred to in regulation 498 or 499, as applicable.

(2) The regulator must be satisfied about the following —

(a) the application has been made in accordance with these regulations;

(b) the applicant does not hold an equivalent licence under a corresponding WHS law unless that licence is due for renewal;

(c) if the applicant is an individual, the applicant —

(i) resides in the State; or

(ii) resides outside the State and circumstances exist that justify the grant of the licence;

(d) if the applicant is a body corporate, the applicant's registered office —

(i) is located in the State; or

(ii) is located outside the State and circumstances exist that justify the grant of the licence;

(e) the applicant is able to ensure that the work or other activities to which the licence relates are carried out safely and competently;

(f) the applicant is able to ensure compliance with any conditions that will apply to the licence.

(3) The regulator must refuse to grant a licence if satisfied that —

(a) the applicant is disqualified under a corresponding WHS law from holding an equivalent licence; or

(b) the applicant, in making the application, has —

(i) given information that is false or misleading in a material particular; or

(ii) failed to give any material information that should have been given.

(4) If the regulator decides to grant the licence, it must notify the applicant within 14 days after making the decision.

(5) If the regulator does not make a decision within 120 days after receiving the application or the additional information requested under regulation 496, the regulator is taken to have refused to grant the licence applied for.

Note for this regulation:

A refusal to grant a licence (including under subregulation (5)) is a reviewable decision (see regulation 676).

498. Class A asbestos removal licence: regulator to be satisfied about additional matters

For the purposes of regulation 497(1)(b), in relation to a Class A asbestos removal licence, the regulator must be satisfied that —

(a) each supervisor nominated by the applicant is at least 18 years of age; and

(b) each supervisor nominated by the applicant holds a certification for —

(i) the specified VET course for the supervision of asbestos removal work; and

(ii) the specified VET course for the Class A asbestos removal work; and

(c) each supervisor nominated by the applicant has at least 3 years of relevant industry experience; and

(d) the applicant has a certified safety management system in place.

499. Class B asbestos removal licence: regulator to be satisfied about additional matters

For the purposes of regulation 497(1)(b), in relation to a Class B asbestos removal licence the regulator must be satisfied that each supervisor nominated by the applicant —

(a) is at least 18 years of age; and

(b) holds a certification for —

(i) the specified VET course for the supervision of asbestos removal work; and

(ii) the specified VET course for the Class B asbestos removal work;

and

(c) has at least 1 year of relevant industry experience.

500. Matters to be taken into account

(1) For the purposes of regulation 497(2)(e) and (f), the regulator must have regard to all relevant matters, including the following —

(a) any offence under the Act or these regulations or under a corresponding WHS law of which the applicant has been convicted or found guilty;

(b) any offence in relation to the unlawful disposal of hazardous waste under the *Environmental Protection Act 1986* of which the applicant has been convicted or found guilty;

(c) any enforceable undertaking the applicant has entered into under the Act or a corresponding WHS law;

(d) in relation to any equivalent licence applied for or held by the applicant under the Act or these regulations or under a corresponding WHS law —

(i) any refusal to grant the licence; and

(ii) any condition imposed on the licence, if granted; and

(iii) any suspension or cancellation of the licence, if granted, including any disqualification from applying for any licence;

(e) the record of the applicant in relation to any matters arising under the Act or these regulations or under a corresponding WHS law.

(2) For the purposes of regulation 497(2)(e) and (f), if the applicant is a body corporate, the regulator must have regard to all relevant matters, including the matters referred to in subregulation (1), in relation to —

(a) the body corporate; and

(b) each officer of the body corporate.

501. Refusal to grant licence: process

(1) If the regulator proposes to refuse to grant a licence, the regulator must give the applicant a written notice —

(a) informing the applicant of the reasons for the proposed refusal; and

(b) advising the applicant that the applicant may, by a specified date (being not less than 28 days after giving

the notice), make a submission to the regulator in relation to the proposed refusal.

(2) After the date specified in a notice under subregulation (1), the regulator must —

(a) if the applicant has made a submission in relation to the proposed refusal to grant the licence — consider that submission; and

(b) whether or not the applicant has made a submission — decide whether to grant or refuse to grant the licence; and

(c) within 14 days after making the decision, give the applicant written notice of the decision, including the reasons for the decision.

Note for this regulation:

A refusal to grant a licence is a reviewable decision (see regulation 676).

502. Conditions of licence

(1) The regulator may impose any conditions it considers appropriate on an asbestos removal licence or asbestos assessor licence.

(2) Without limiting subregulation (1), the regulator may impose conditions in relation to 1 or more of the following —

(a) control measures which must be implemented in relation to the carrying out of work or activities under the licence;

(b) the recording or keeping of information;

(c) requiring the licence holder, or a nominated supervisor of the licence holder, to undergo retraining or reassessment during the term of the licence;

(d) the provision of information to the regulator;

(e) the nature of work or activities authorised by the licence;

(f) the circumstances in which work or activities authorised by the licence may be carried out.

Notes for this regulation:

1. A person must comply with the conditions of a licence (see section 45 of the Act).
2. A decision to impose a condition on a licence is a reviewable decision (see regulation 676).

503. Duration of licence

Subject to this Part, an asbestos removal licence or asbestos assessor licence takes effect on the day it is granted and, unless cancelled earlier, expires 5 years after that day.

504. Licence document

(1) If the regulator grants an asbestos removal licence or asbestos assessor licence, the regulator must issue to the applicant a licence document in the form determined by the regulator.

(2) The licence document must include the following —

(a) the name of the licence holder;

(b) if the licence holder conducts the business or undertaking under a business name — that business name;

(c) in the case of an asbestos removal licence — the class of asbestos removal licence and a description of the work within the scope of the licence;

(d) any conditions imposed on the licence by the regulator;

(e) the date on which the licence was granted;

(f) the expiry date of the licence.

505. Licence document to be available

(1) A licence holder must keep the licence document available for inspection under the Act.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) Subregulation (1) does not apply if the licence document is not in the licence holder's possession because —

(a) it has been returned to the regulator under regulation 512; and

(b) the licence holder has applied for, but has not received, a replacement licence document under regulation 513.

Division 4 — Amendment of licence and licence document

506. Changes to information

(1) The licence holder of an asbestos removal licence or asbestos assessor licence must give the regulator written notice of any change to any material particular in any information given at any time by the licence holder to the regulator in relation to the licence within 14 days after the licence holder becomes aware of the change.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) Subregulation (1) applies whether the information was given in the application for grant or renewal of the licence or in any other circumstance.

507. Change to nominated supervisor

(1) If there is a change in relation to a supervisor nominated to the regulator by the holder of an asbestos removal licence (other

than a licence holder who is an individual), the licence holder must —

(a) if the change is to remove a supervisor — within 14 days after the change, ask the regulator to amend the licence under regulation 509 to make that change; and

(b) if the change is to add a supervisor — give the regulator the information about the supervisor referred to in regulation 498 or 499.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) If the change referred to in subregulation (1) is to add a supervisor, that supervisor is not a nominated supervisor for the purposes of these regulations until the regulator has approved the nomination.

(3) The request for amendment under subregulation (1)(a) or the giving of information under subregulation (1)(b) must be accompanied by the relevant fee.

508. Amendment imposed by regulator

(1) The regulator may, on its own initiative, amend an asbestos removal licence or asbestos assessor licence, including by amending the licence to —

(a) vary or delete a condition of the licence; or

(b) impose a new condition on the licence.

(2) If the regulator proposes to amend a licence, the regulator must give the licence holder written notice —

(a) setting out the proposed amendment and the reasons for it; and

(b) advising the licence holder that the licence holder may, by a specified date (being not less than 28 days after

giving the notice), make a submission to the regulator in relation to the proposed amendment.

(3) After the date specified in a notice under subregulation (2), the regulator must —

(a) if the licence holder has made a submission in relation to the proposed amendment — consider that submission; and

(b) whether or not the licence holder has made a submission, decide —

(i) to make the proposed amendment; or

(ii) not to make any amendment; or

(iii) to make a different amendment that results from consideration of any submission made by the licence holder;

and

(c) within 14 days after making that decision, give the licence holder written notice that —

(i) sets out the amendment, if any, or states that no amendment is to be made; and

(ii) if a submission was made in relation to the proposed amendment — sets out the regulator's reasons for making the amendment; and

(iii) specifies the date (being not less than 28 days after the licence holder is given the notice) on which the amendment, if any, takes effect.

Note for this regulation:

A decision to amend a licence is a reviewable decision (see regulation 676).

509. Amendment on application by licence holder

(1) The regulator, on application by the licence holder, may amend an asbestos removal licence or asbestos assessor licence,

including by amending the licence to vary or delete a condition of the licence.

(2) If the regulator proposes to refuse to amend the licence, the regulator must give the licence holder a written notice —

(a) informing the licence holder of the proposed refusal to amend the licence and the reasons for the proposed refusal; and

(b) advising the licence holder that the licence holder may, by a specified date (being not less than 28 days after giving the notice), make a submission to the regulator in relation to the proposed refusal.

(3) After the date specified in a notice under subregulation (2), the regulator must —

(a) if the licence holder has made a submission in relation to the proposed refusal — consider that submission; and

(b) whether or not the licence holder has made a submission, decide —

(i) to make the amendment applied for; or

(ii) not to make any amendment; or

(iii) to make a different amendment that results from consideration of any submission made by the licence holder;

and

(c) within 14 days after making that decision, give the licence holder written notice of the decision in accordance with this regulation.

(4) If the regulator makes the amendment applied for, the notice under subregulation (3)(c) must specify the date (being not less than 28 days after the licence holder is given the notice) on which the amendment takes effect.

(5) If the regulator refuses to make the amendment applied for or makes a different amendment, the notice under subregulation (3)(c) must —

(a) if a submission was made in relation to the proposed refusal of the amendment applied for — set out the reasons for the regulator's decision; and

(b) if the regulator makes a different amendment —

(i) set out the amendment; and

(ii) specify the date (being not less than 28 days after the licence holder is given the notice) on which the amendment takes effect.

Note for this regulation:

A refusal to make the amendment applied for, or a decision to make a different amendment, is a reviewable decision (see regulation 676).

510. Minor corrections to licence

The regulator may make minor amendments to a licence, including an amendment —

(a) to correct an obvious error; or

(b) to change an address; or

(c) that does not impose a significant burden on the licence holder.

511. Regulator to give amended licence to the holder

If the regulator amends an asbestos removal licence or asbestos assessor licence and considers that the licence document requires amendment, the regulator must give the licence holder an amended licence document within 14 days after making the decision to amend the licence.

512. Licence holder to return licence

The holder of an asbestos removal licence or asbestos assessor licence that has been amended must return the licence document

to the regulator for amendment at the written request of the regulator and within the time specified in the request.

Penalty:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

513. Replacement licence document

(1) A licence holder of an asbestos removal licence or an asbestos assessor licence must notify the regulator as soon as practicable if the licence document is lost, stolen or destroyed.

Penalty for this subregulation:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

(2) If a licence document is lost, stolen or destroyed, the licence holder may apply to the regulator for a replacement document.

Note for this subregulation:

A licence holder is required to keep the licence document available for inspection (see regulation 505).

(3) An application for a replacement licence document must be made in the manner and form required by the regulator.

(4) The application must —

(a) include a declaration describing the circumstances in which the original document was lost, stolen or destroyed; and

Note for this paragraph:

See section 268 of the Act for offences relating to the giving of false or misleading information under the Act, including these regulations.

(b) be accompanied by the relevant fee.

(5) The regulator must issue a replacement licence document if satisfied that the original document was lost, stolen or destroyed.

(6) If the regulator refuses to issue a replacement licence document, it must give the licence holder written notice of this decision, including the reasons for the decision, within 14 days after making the decision.

Note for this subregulation:

A refusal to issue a replacement licence document is a reviewable decision (see regulation 676).

514. Voluntary surrender of licence

(1) A licence holder may voluntarily surrender the licence document to the regulator.

(2) The licence expires on the surrender of the licence document.

Division 5 — Renewal of licence

515. Regulator may renew licence

The regulator may renew an asbestos removal licence or asbestos assessor licence on application by the licence holder.

516. Application for renewal

(1) An application for renewal of an asbestos removal licence or asbestos assessor licence must be made in the manner and form required by the regulator.

(2) The application must include the following information —

(a) the name and address of the applicant;

(b) if required by the regulator of an applicant who is an individual, a photograph of the applicant in the form required by the regulator;

(c) any other evidence of the applicant's identity required by the regulator;

(d) written evidence that the applicant has obtained any retraining or reassessment or taken any other action required under regulation 502;

(e) a declaration by the applicant that the applicant or a supervisor nominated by the applicant, as applicable, has maintained the competency required to carry out the work covered by the licence.

Note for this subregulation:

See section 268 of the Act for offences relating to the giving of false or misleading information under the Act, including these regulations.

(3) The application must be accompanied by the relevant fee.

(4) The application must be made before the expiry of the licence.

517. Provisions relating to renewal of licence

(1) For the purposes of this Division —

(a) regulation 496 applies as if a reference in that regulation to an application for a licence were a reference to an application to renew a licence; and

(b) regulations 497 (except subregulation (5)), 500, 502 and 503 apply as if a reference in those regulations to the grant of a licence were a reference to the renewal of a licence; and

(c) regulation 501 applies as if a reference in that regulation to a refusal to grant a licence were a reference to a refusal to renew a licence.

(2) The regulator must not renew an asbestos removal licence unless the regulator is satisfied about the matters referred to in regulation 518.

(3) The regulator must not renew an asbestos removal licence or asbestos assessor licence granted to a person under a corresponding WHS law if that licence is renewed under that law.

(4) If a licence holder applies under regulation 516 for the renewal of an asbestos removal licence or asbestos assessor licence, the licence is taken to continue in force from the day it would, apart

from this subregulation, have expired until the licence holder is given notice of the decision on the application.

Note for this regulation:

A refusal to renew a licence is a reviewable decision (see regulation 676).

518. Renewal of asbestos removal licence: regulator to be satisfied about certain matters

For the purposes of regulation 517, the regulator must not renew an asbestos removal licence unless satisfied that —

(a) each supervisor nominated by the applicant —

(i) holds a certification for the specified VET course for supervision of the asbestos removal work to be authorised by the licence; and

(ii) has appropriate experience in the asbestos removal work to be authorised by the licence;

and

(b) asbestos removal work of the type authorised by the licence has been carried out on behalf of the applicant during the term of the licence.

519. Status of licence during review

(1) This regulation applies if the regulator gives a licence holder written notice of its decision to refuse to renew the licence.

(2) If the licence holder does not apply for internal review of the decision, the licence continues to have effect until the last of the following events —

(a) the expiry of the licence;

(b) the end of the time for applying for an internal review.

(3) If the licence holder applies for an internal review of the decision, the licence continues to have effect until the earlier of the following events —

(a) the licence holder withdraws the application for review;

(b) the regulator makes a decision on the review.

(4) If the licence holder does not apply for an external review, the licence continues to have effect until the end of the time for applying for an external review.

(5) If the licence holder applies for an external review, the licence continues to have effect until the earlier of the following events —

(a) the licence holder withdraws the application for review;

(b) the Tribunal makes a decision on the review.

(6) The licence continues to have effect under this regulation even if its expiry date passes.

Division 6 — Suspension and cancellation of licence

520. Suspension or cancellation of licence

(1) The regulator may suspend or cancel an asbestos removal licence or asbestos assessor licence if satisfied about 1 or more of the following —

(a) the licence holder has failed to ensure that the work or other activities authorised by the licence are carried out safely and competently;

(b) the licence holder has failed to ensure compliance with a condition of the licence, including a condition requiring the licence holder, or a nominated supervisor of the licence holder, to undergo retraining or reassessment during the term of the licence;

(c) the licence holder, in the application for the grant or renewal of the licence or on request by the regulator for additional information —

(i) gave information that was false or misleading in a material particular; or

(ii) failed to give any material information that should have been given in that application or on that request;

(d) in relation to an asbestos removal licence — the licence was granted or renewed on the basis of a certification that was obtained on the basis of the giving of false or misleading information by any person or body;

(e) in relation to a Class A asbestos removal licence — the licence holder has failed to have a certified safety management system in place.

(2) It is a ground for the suspension or cancellation of an asbestos removal licence if the licence holder does not have a qualified nominated asbestos removal supervisor.

Note for this subregulation:

Regulation 507 provides for a licence holder to notify the regulator of any change in a nominated supervisor.

(3) For the purposes of subregulation (1)(b), a licence holder complies with a condition on the licence that requires the licence holder or a nominated supervisor of the licence holder to undergo retraining or reassessment during the term of the licence if the licence holder provides a certification in relation to that retraining or reassessment.

(4) If the regulator suspends or cancels a licence, the regulator may disqualify the licence holder from applying for —

(a) a further licence of the same type; or

(b) another licence under these regulations to carry out work which requires skills that are the same as or similar to

those required for the work authorised by the licence that has been suspended or cancelled.

Note for this regulation:

A decision to suspend a licence, to cancel a licence or to disqualify the licence holder from applying for a further licence is a reviewable decision (see regulation 676).

521. Matters taken into account

(1) In making a decision under regulation 520, the regulator must have regard to —

(a) any submissions made by the licence holder under regulation 522; and

(b) any advice received from a corresponding regulator.

(2) For the purposes of regulation 520(1)(a) and (b), if the licence holder is an individual, the regulator must have regard to all relevant matters, including the following —

(a) any offence under the Act or these regulations or under a corresponding WHS law, of which the licence holder has been convicted or found guilty;

(b) any enforceable undertaking the licence holder has entered into under the Act or a corresponding WHS law;

(c) in relation to any equivalent licence applied for or held by the licence holder under the Act or these regulations or under a corresponding WHS law —

(i) any refusal to grant the licence; and

(ii) any condition imposed on the licence, if granted; and

(iii) any suspension or cancellation of the licence, if granted, including any disqualification from applying for any licence;

(d) the record of the licence holder in relation to any matters arising under the Act or these regulations or under a corresponding WHS law.

(3) For the purposes of regulation 520(1)(a) and (b), if the licence holder is a body corporate, the regulator must have regard to all relevant matters, including the matters referred to in subregulation (2), in relation to —

(a) the body corporate; and

(b) each officer of the body corporate.

522. Notice to and submissions by licence holder

Before suspending or cancelling an asbestos removal licence or asbestos assessor licence, the regulator must give the licence holder a written notice of the proposed suspension or cancellation and any proposed disqualification —

(a) outlining all relevant allegations, facts and circumstances known to the regulator; and

(b) advising the licence holder that the licence holder may, by a specified date (being not less than 28 days after giving the notice), make a submission in relation to the proposed suspension or cancellation and any proposed disqualification.

523. Notice of decision

(1) The regulator must give the licence holder written notice of a decision under regulation 520 to suspend or cancel an asbestos removal licence or asbestos assessor licence within 14 days after making the decision.

(2) The notice must —

(a) state that the licence is to be suspended or cancelled; and

(b) if the licence is to be suspended, state —

(i) when the suspension begins and ends; and

(ii) the reasons for the suspension; and

(iii) whether the licence holder is required to undergo retraining or reassessment or take any other action before the suspension ends; and

(iv) whether or not the licence holder is disqualified from applying for a further licence during the suspension;

and

(c) if the licence is to be cancelled, state —

(i) when the cancellation takes effect; and

(ii) the reasons for the cancellation; and

(iii) whether or not the licence holder is disqualified from applying for a further licence;

and

(d) if the licence holder is disqualified from applying for a further licence, state —

(i) when the disqualification begins and ends; and

(ii) the reasons for the disqualification; and

(iii) whether or not the licence holder is required to undergo retraining or reassessment or take any other action before the disqualification ends; and

(iv) any other class of licence under these regulations that the licence holder is disqualified from applying for;

and

(e) state when the licence document must be returned to the regulator.

524. Immediate suspension

(1) The regulator may suspend an asbestos removal licence or asbestos assessor licence on a ground referred to in regulation 520 without giving notice under regulation 522, if satisfied that —

(a) work carried out under the licence should cease because the work may involve an imminent serious risk to the health or safety of any person; or

(b) a corresponding regulator has suspended an equivalent licence held by the licence holder under this regulation as applying in the corresponding jurisdiction.

(2) If the regulator decides to suspend a licence under this regulation —

(a) the regulator must give the licence holder written notice of the suspension and the reasons for the suspension; and

(b) the suspension of the licence takes effect on the giving of the notice.

(3) The regulator must then —

(a) give notice under regulation 522 within 14 days after giving the notice under subregulation (2); and

(b) make its decision under regulation 520.

(4) If the regulator does not give notice under subregulation (3), the suspension ends at the end of the 14-day period.

(5) If the regulator gives notice under subregulation (3), the licence remains suspended until the decision is made under regulation 520.

525. Licence holder to return licence document

A licence holder, on receiving a notice under regulation 523, must return the licence document to the regulator in accordance with the notice.

Penalty:

(a) for an individual, a fine of $1 450;

(b) for a body corporate, a fine of $7 000.

526. Regulator to return licence document after suspension

The regulator must return the licence document to the licence holder within 14 days after the licence suspension ends.

Division 7 — General

527. Asbestos removal licence register

The regulator must keep a register of —

(a) each person holding an asbestos removal licence; and

(b) each supervisor nominated to the regulator in relation to an asbestos removal licence.

528. Asbestos assessors register

The regulator must keep a publicly available register of each person holding an asbestos assessor licence.

529. Work must be supervised by nominated supervisor

A person who holds an asbestos removal licence must ensure that asbestos removal work authorised by the licence is supervised by a supervisor nominated to the regulator by the licence holder.

Penalty:

(a) for an individual, a fine of $4 200;

(b) for a body corporate, a fine of $21 000.

Chapter 9 — Not used

Note for this Chapter:

Chapter 9 of the Model Work Health and Safety Regulations (see notes for regulations 3 and 4) deals with major hazard facilities. In this State, major hazard facilities are regulated by the *Dangerous Goods Safety (Major Hazard Facilities) Regulations 2007*.

530. Not used

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Chapter 10 — Not used

Note for this Chapter:

Chapter 10 of the Model Work Health and Safety Regulations (see notes for regulations 3 and 4) deals with mines. In this State, mines are regulated by the *Work Health and Safety (Mines) Regulations 2022*.

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654. Not used

655. Not used

656. Not used

657. Not used

658. Not used

659. Not used

660. Not used

661. Not used

662. Not used

663. Not used

664. Not used

665. Not used

666. Not used

667. Not used

668. Not used

669. Not used

670. Not used

671. Not used

672. Not used

673. Not used

674. Not used

675. Not used

Chapter 11 — General

Part 11.1 — Review of decisions under these regulations

Division 1 — Reviewable decisions

676. Which decisions under these regulations are reviewable

(1) The following Table sets out —

(a) decisions made under these regulations that are reviewable under this Part (***reviewable decisions***); and

(b) who is eligible to apply for review of a reviewable decision (the ***eligible person***).

Table

Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
Directed medical examinations		
1A.	r. 55F — Issue of medical examination notice	The person conducting a business or undertaking to whom the notice is issued
High risk work licences		
1.	r. 89 — Refusal to grant licence	Applicant
2.	r. 91 — Refusal to grant licence	Applicant
2A.	r. 91A — Imposition of a condition when granting licence	Applicant

Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
2B.	r. 91A — Imposition of a condition when renewing licence	Applicant
3.	r. 98 — Refusal to issue replacement licence document	Licence holder
4.	r. 104 — Refusal to renew licence	Applicant
5.	r. 106 — Suspension of licence	Licence holder
6.	r. 106 — Cancellation of licence	Licence holder
7.	r. 106 — Disqualification of licence holder from applying for another licence	Licence holder
7A.	r. 106 — Variation of licence conditions	Licence holder
Accreditation of assessors		
8.	r. 118 — Refusal to grant accreditation	Applicant An RTO that engages the applicant

Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
9.	r. 120 — Refusal to grant accreditation	Applicant An RTO that engages the applicant
10.	r. 121 — Imposition of a condition when granting accreditation	Applicant An RTO that engages the applicant
11.	r. 121 — Imposition of a condition when renewing accreditation	Applicant An RTO that engages the applicant
12.	r. 127 — Refusal to issue replacement accreditation document	Accredited assessor An RTO that engages the accredited assessor
13.	r. 132 — Refusal to renew accreditation	Applicant An RTO that engages the applicant
14.	r. 133 — Suspension of accreditation	Accredited assessor An RTO that engages the accredited assessor
15.	r. 133 — Cancellation of accreditation	Accredited assessor An RTO that engages the accredited assessor

Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
16.	r. 133 — Disqualification of assessor from applying for a further accreditation	Accredited assessor An RTO that engages the accredited assessor
Demolition work		
16A.	r. 142H — Approval of demolition work subject to conditions	Applicant
16B.	r. 142H — Refusal to approve demolition work not compliant with AS 2601	Applicant
16C.	r. 142R — Refusal to grant licence	Applicant
16D.	r. 142T — Refusal to grant licence	Applicant
16E.	r. 142U — Imposition of a condition when granting or renewing licence	Applicant
16F.	r. 143B — Amendment of licence, on regulator's initiative	Licence holder

Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
16G.	r. 143C — Refusal to amend licence on application (or a decision to make a different amendment)	Licence holder
16H.	r. 143G — Refusal to issue replacement licence document	Licence holder
16I.	r. 143K — Refusal to renew licence	Applicant
16J.	r. 143N — Suspension of licence	Licence holder
16K.	r. 143N — Cancellation of licence	Licence holder
16L.	r. 143N — Disqualification of licence holder from applying for another licence	Licence holder
Registration of plant designs		
17.	r. 256 — Refusal to register plant design	Applicant
18.	r. 257 — Refusal to register plant design	Applicant

Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
19.	r. 258 — Imposition of a condition when granting registration of plant design	Applicant
Registration of plant		
20.	r. 269 — Refusal to register item of plant	Applicant The person with management or control of the item of plant
21.	r. 270 — Refusal to register item of plant	Applicant The person with management or control of the item of plant
22.	r. 271 — Imposition of a condition when granting registration of item of plant	Applicant The person with management or control of the item of plant
23.	*[not used]*	
24.	*[not used]*	
25.	r. 283 — Amendment of registration, on regulator's initiative	Registration holder The person with management or control of the item of plant

Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
26.	r. 284 — Refusal to amend registration on application (or a decision to make a different amendment)	Registration holder The person with management or control of the item of plant
27.	r. 288 — Refusal to issue replacement registration document	Registration holder The person with management or control of the item of plant
27A.	r. 288B — Decision to cancel registration	Registration holder The person with management or control of the item of plant
General construction induction training		
28.	*[not used]*	
29.	*[not used]*	
30.	r. 323 — Cancellation of general construction induction training card	Card holder

Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
Hazardous chemicals and lead		
31.	r. 384 — Refusal to grant authorisation to use, handle or store a prohibited or restricted carcinogen	Applicant
32.	r. 386 — Cancellation of authorisation to use, handle or store a prohibited or restricted carcinogen	Authorisation holder
33.	r. 393 — Deciding a process is a lead process	A person conducting a business or undertaking that carries out the lead process A worker whose interests are affected by the decision
34.	r. 407 — Determining a different frequency for biological monitoring of workers at a workplace, or a class of workers, carrying out lead risk work	A person conducting a business or undertaking that carries out lead risk work A worker whose interests are affected by the decision

Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
Asbestos removal licences and asbestos assessor licences		
35.	r. 497 — Refusal to grant licence	Applicant
36.	r. 501 — Refusal to grant licence	Applicant
37.	r. 502 — Imposition of a condition when granting licence	Applicant
38.	r. 502 — Imposition of a condition when renewing licence	Applicant
39.	r. 508 — Amendment of licence, on regulator's initiative	Licence holder
40.	r. 509 — Refusal to amend licence on application (or a decision to make a different amendment)	Licence holder
41.	r. 513 — Refusal to issue replacement licence document	Licence holder
42.	r. 517 — Refusal to renew licence	Applicant

Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
43.	r. 520 — Suspension of licence	Licence holder
44.	r. 520 — Cancellation of licence	Licence holder
45.	r. 520 — Disqualification of licence holder from applying for another licence	Licence holder
46.	*[not used]*	
47.	*[not used]*	
48.	*[not used]*	
49.	*[not used]*	
50.	*[not used]*	
51.	*[not used]*	
52.	*[not used]*	
53.	*[not used]*	
54.	*[not used]*	
55.	*[not used]*	
56.	*[not used]*	

Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
57.	*[not used]*	
58.	*[not used]*	
59.	*[not used]*	
60.	*[not used]*	
61.	*[not used]*	
62.	*[not used]*	
Exemptions		
63.	r. 684 — Refusal to exempt person (or a class of persons) from compliance with any of these regulations on application	Applicant
64.	r. 686 — Refusal to exempt person from requirement to hold a high risk work licence	Applicant
65.	*[not used]*	
66.	r. 691 — Imposition of a condition on an exemption granted on application under Part 11.2	Applicant

Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
67.	r. 696 — Refusal to grant exemption	Applicant
68.	r. 697 — Amendment of an exemption granted on application under Part 11.2	Applicant
69.	r. 697 — Cancellation of an exemption granted on application under Part 11.2	Applicant

(2) Unless the contrary intention appears, a reference in this Part to a decision includes a reference to —

(a) making, suspending, revoking or refusing to make an order, determination or decision; or

(b) giving, suspending, revoking or refusing to give a direction, approval, consent or permission; or

(c) granting, issuing, amending, renewing, suspending, cancelling, revoking or refusing to grant, issue, amend or renew an authorisation; or

(d) imposing or varying a condition; or

(e) making a declaration, demand or requirement; or

(f) retaining, or refusing to deliver up, a thing; or

(g) doing or refusing to do any other act or thing; or

(h) being taken to refuse or do any act or thing.

[Regulation 676 amended: SL 2022/214 r. 6.]

Division 2 — Internal review

677. Application

This Division does not apply to a reviewable decision made under Part 11.2.

678. Application for internal review

(1) Subject to subregulation (2), an eligible person in relation to a reviewable decision may apply to the regulator for review (an ***internal review***) of the decision within —

(a) 28 days after the day on which the decision first came to the eligible person's notice; or

(b) any longer time the regulator allows.

(2) An eligible person in relation to a reviewable decision under regulation 89(5), 118(5), 142H(5), 142R(4), 256(5), 269(5) or 497(5) may apply to the regulator for review (an ***internal review***) of the decision within —

(a) 28 days after the day on which the 120 day period referred to in that provision expires; or

(b) any longer time the regulator allows.

(3) The application must be made in the manner and form required by the regulator.

679. Internal reviewer

(1) The regulator may appoint a person or body to review decisions on applications under this Division.

(2) The person who made the reviewable decision cannot be an internal reviewer in relation to that decision.

680. Decision of internal reviewer

(1) The internal reviewer must review the reviewable decision and make a decision as soon as practicable and within 14 days after

the application for internal review, or the additional information requested under subregulation (3), is received.

(2) The decision may be —

(a) to confirm or vary the reviewable decision; or

(b) to set aside the reviewable decision and substitute another decision that the internal reviewer considers appropriate.

(3) The internal reviewer may ask the applicant to provide additional information in support of the application for review.

(4) The applicant must provide the additional information within the time (being not less than 7 days) specified by the internal reviewer in the request for information.

(5) If the applicant does not provide the additional information within the required time, the reviewable decision is taken to have been confirmed by the internal reviewer at the end of that time.

(6) If the reviewable decision is not varied or set aside within the 14 day period referred to in subregulation (1), the reviewable decision is taken to have been confirmed by the internal reviewer.

681. Decision on internal review

Within 14 days of making the decision on the internal review, the internal reviewer must give the applicant written notice of —

(a) the decision on the internal review; and

(b) the reasons for the decision.

682. Internal review: reviewable decision continues

Subject to any provision to the contrary in relation to a particular decision, an application for an internal review does not affect the operation of the reviewable decision or prevent

the taking of any lawful action to implement or enforce the decision.

Division 3 — External review

683. Application for external review

(1) An eligible person may apply to the Tribunal for review (an ***external review***) of —

(a) a reviewable decision made by the regulator under Part 11.2; or

(b) a decision made, or taken to have been made, on an internal review.

(2) The application must be made within —

(a) 28 days after the day on which the decision first came to the eligible person's notice; or

(b) any longer time the Tribunal allows.

Part 11.2 — Exemptions

Division 1 — General

684. General power to grant exemptions

(1) The regulator may exempt a person or class of persons from compliance with any of these regulations.

(2) The exemption may be granted on the regulator's own initiative or on the written application of 1 or more persons.

(3) This regulation is subject to the limitations set out in this Part.

(4) This regulation does not apply to an exemption from a provision requiring a person to hold a high risk work licence.

Note for this regulation:

A decision to refuse to grant an exemption is a reviewable decision (see regulation 676).

685. Matters to be considered in granting exemptions

In deciding whether or not to grant an exemption under regulation 684 the regulator must have regard to all relevant matters, including the following —

(a) whether the granting of the exemption will result in a standard of health and safety at the relevant workplace, or in relation to the relevant undertaking, that is at least equivalent to the standard that would be achieved by compliance with the relevant provision or provisions;

(b) whether the requirements of paragraph (a) will be met if the regulator imposes certain conditions in granting the exemption and those conditions are complied with;

(c) whether exceptional circumstances justify the grant of the exemption;

(d) if the proposed exemption relates to a particular thing — whether the regulator is satisfied that the risk associated with the thing is not significant if the exemption is granted;

(e) whether the applicant has carried out consultation in relation to the proposed exemption in accordance with Part 5 Divisions 1 and 2 of the Act.

Division 2 — High risk work licences

686. High risk work licence: exemption

(1) The regulator may exempt a person or class of persons from compliance with a provision of these regulations requiring the person or class of persons to hold a high risk work licence.

(2) The exemption may be granted on the written application of any person concerned.

Note for this regulation:

A decision to refuse to grant an exemption is a reviewable decision (see regulation 676).

687. High risk work licence: regulator to be satisfied about certain matters

(1) The regulator must not grant an exemption under regulation 686 unless satisfied that granting the exemption will result in a standard of health and safety that is at least equivalent to the standard that would have been achieved without that exemption.

(2) For the purposes of subregulation (1), the regulator must have regard to all relevant matters, including whether or not —

(a) the obtaining of the high risk work licence would be impractical; and

(b) the competencies of the person to be exempted exceed those required for a high risk work licence; and

(c) any plant used by the person can be modified in a way that reduces the risk associated with using that plant.

Division 3 — Not used

688. Not used

689. Not used

Division 4 — Exemption process

690. Application for exemption

An application for an exemption must be made in the manner and form required by the regulator.

Notes for this regulation:

1. The application must be in writing (see regulation 684(2)).
2. The regulator may grant an exemption on its own initiative (see regulation 684(2)).
3. See section 268 of the Act for offences relating to the giving of false or misleading information under the Act, including these regulations.

691. Conditions of exemption

(1) The regulator may impose any conditions it considers appropriate on an exemption granted under this Part.

(2) Without limiting subregulation (1), conditions may require the applicant to do 1 or more of the following —

(a) monitor risks;

(b) monitor the health of persons at the workplace who may be affected by the exemption;

(c) keep certain records;

(d) use a stated system of work;

(e) report certain matters to the regulator;

(f) give notice of the exemption to persons who may be affected by the exemption.

Note for this regulation:

A decision to impose a condition is a reviewable decision (see regulation 676).

692. Form of exemption document

The regulator must prepare an exemption document that states the following —

(a) the name of the applicant for the exemption (if any);

(b) the person or class of persons to whom the exemption will apply;

(c) the work or thing to which the exemption relates, if applicable;

(d) the circumstances in which the exemption will apply;

(e) the provisions of these regulations to which the exemption applies;

(f) any conditions on the exemption;

(g) the date on which the exemption takes effect;

(h) the duration of the exemption.

693. Compliance with conditions of exemption

A person to whom the exemption is granted must —

(a) comply with the conditions of the exemption; and

(b) ensure that any person under the management or control of that person complies with the conditions of the exemption.

694. Notice of decision in relation to exemption

The regulator must give a copy of the exemption document referred to in regulation 692, within 14 days after making the decision to grant the exemption, to —

(a) if a person applied for the exemption — the applicant; or

(b) if the regulator granted the exemption on its own initiative — each person (other than persons to whom regulation 695 applies) to whom the exemption will apply.

695. Publication of notice of exemption

(1) This regulation applies to an exemption that applies to a class of persons.

(2) The regulator must publish a copy of the exemption on the WHS department's website.

696. Notice of refusal of exemption

(1) If the regulator refuses to grant an exemption on an application, the regulator must give the applicant for the exemption written notice of the refusal within 14 days after making that decision.

(2) The notice must state the regulator's reasons for the refusal.

Note for this regulation:

A refusal to grant an exemption is a reviewable decision (see regulation 676).

697. Amendment or cancellation of exemption

The regulator may at any time amend or cancel an exemption.

Note for this regulation:

A decision to amend or cancel an exemption is a reviewable decision (see regulation 676).

698. Notice of amendment or cancellation

(1) The regulator must give written notice of the amendment or cancellation of an exemption, within 14 days after making the decision to amend or cancel the exemption, to —

(a) if a person applied for the exemption — the applicant; or

(b) if the regulator granted the exemption on its own initiative — each person (other than persons to whom subregulation (2) applies) to whom the exemption applies.

(2) If the exemption affects a class of persons, the regulator must publish notice of the amendment or cancellation of the exemption on the WHS department's website.

(3) The notice must state the regulator's reasons for the amendment or cancellation.

(4) The amendment or cancellation takes effect —

(a) on the publication of the notice on the WHS department's website, or on a later date specified in the notice; or

(b) if the notice is not required to be published on the WHS department's website, on the giving of the notice to the applicant under subregulation (1) or on a later date specified in the notice.

Part 11.3 — Miscellaneous

699. Incident notification: prescribed serious illnesses

For the purposes of section 36 of the Act, each of the following conditions is a serious illness —

(a) any infection to which the carrying out of work is a significant contributing factor, including any infection that is reliably attributable to carrying out work —

(i) with micro-organisms; or

(ii) that involves providing treatment or care to a person; or

(iii) that involves contact with human blood or bodily substances; or

(iv) that involves handling or contact with animals, animal hides, skins, wool or hair, animal carcasses or animal waste products;

(b) the following occupational zoonoses contracted in the course of work involving handling or contact with animals, animal hides, skins, wool or hair, animal carcasses or animal waste products —

(i) Q fever;

(ii) Anthrax;

(iii) Leptospirosis;

(iv) Brucellosis;

(v) Hendra Virus;

(vi) Avian Influenza;

(vii) Psittacosis.

Note for this regulation:

The *Public Health Act 2016* contains notification requirements in relation to certain infectious diseases.

700. Inspectors' identity cards

(1) For the purposes of section 157(1) of the Act, an identity card given by the regulator to an inspector must include the following —

(a) a recent photograph of the inspector in the form specified by the regulator;

(b) the inspector's signature;

(c) the date (if any) on which the inspector's appointment ends;

(d) any conditions to which the inspector's appointment is subject, including the kinds of workplaces in relation to which the inspector may exercise the inspector's compliance powers.

(2) For the purposes of sections 157(2)(b) and 173(1)(a) of the Act, another way an inspector may provide identification is by providing the inspector's full name —

(a) if the identification is provided in writing — on the letterhead of the WHS department;

(b) if the identification is provided by email — using an email address under the control of the WHS department;

(c) if the identification is provided by telephone — together with information on how to contact the WHS department to verify the identity of the inspector.

701. Entry warrant

For the purposes of section 167(6) of the Act, the prescribed form for an entry warrant is Schedule 18A Form 1.

702. Refund, waiver or reduction of relevant fees

The regulator may decide to refund, waive or reduce a relevant fee.

Note for this regulation:

A decision under this regulation is not a reviewable decision (see regulation 676).

703. Review of decisions under the Act: stay of decision

For the purposes of section 228(6)(a) of the Act, the prescribed period is the relevant period within which an application for an external review must be made under section 229(2) of the Act.

704. Confidentiality of information: exception relating to administration or enforcement of other laws

An Act listed in the Table is prescribed for the purposes of section 271(3)(c)(ii) of the Act.

Table

Building Act 2011
Coroners Act 1996
The Criminal Code
Dangerous Goods Safety Act 2004
Electricity Act 1945
Emergency Management Act 2005
Fire and Emergency Services Act 1998
Industrial Relations Act 1979
Mines Safety and Inspection Act 1994

Rail Safety National Law (WA) Act 2015
Road Traffic (Vehicles) Act 2012
Transport (Road Passenger Services) Act 2018
Vocational Education and Training Act 1996
Western Australian Marine Act 1982
Workers' Compensation and Injury Management Act 1981

Part 11.4 — Transitional and savings provisions for *Work Health and Safety (General) Regulations 2022*

[Heading amended: SL 2023/134 r. 8.]

705. Terms used

In this Part —

commencement day means the day on which the *Work Health and Safety Act 2020* section 3 comes into operation;

longer transitional period means the period of 2 years beginning on commencement day;

OSHR means the *Occupational Safety and Health Regulations 1996* as in force immediately before commencement day;

shorter transitional period means the period of 12 months beginning on commencement day.

706. Applications pending determination

An application under OSHR pending determination immediately before commencement day is, on and after commencement day, to be determined as if section 279 of the Act had not come into operation.

Note for this regulation:

Once the application is determined, this Part provides for the transition or saving of the matter being applied for (see for example regulation 720).

707. References to convictions or findings of guilt

A reference in these regulations to a conviction or finding of guilt of any offence under the Act or these regulations includes a reference to any conviction or finding of guilt of any offence under the *Occupational Safety and Health Act 1984* or OSHR.

708. Safe work method statements

A safe work method statement prepared under OSHR regulation 3.143 is, on and after commencement day, taken to be a safe work method statement in relation to high risk construction work under these regulations until the earlier of the following —

(a) the statement is required to be reviewed under these regulations;

(b) the end of the shorter transitional period.

709. Risk assessments

A risk assessment that has been undertaken in accordance with OSHR regulation 3.1 is, on and after commencement day, taken to be a risk assessment under regulation 12 of these regulations until the earlier of the following —

(a) a control measure relating to the risk assessment is required to be reviewed under regulation 38;

(b) the end of the shorter transitional period.

710. Evacuation procedures

An evacuation procedure under OSHR regulation 3.10 is, on and after commencement day, taken to be an emergency plan under regulation 43 of these regulations until the end of the shorter transitional period.

711. Registers relating to asbestos

(1) A register relating to asbestos kept for the purposes of OSHR regulation 5.43 is, on and after commencement day, taken to be an asbestos register under these regulations until the earlier of the following —

(a) a control measure relating to the risk assessment is required to be reviewed under regulation 426 or 448;

(b) the end of the shorter transitional period.

(2) Subregulation (3) applies if a person was not, immediately before commencement day —

(a) required to keep a register in relation to asbestos under OSHR regulation 5.13; or

(b) otherwise required to ensure that the presence and location of asbestos at a workplace is identified under OSHR regulation 5.43.

(3) During the shorter transitional period —

(a) regulation 425 does not apply to the person; and

(b) OSHR regulation 5.13 continues to apply to the person as if section 279 of the Act had not come into operation.

712. Approved use of carcinogens

An approval under OSHR regulation 5.31, 5.32 or 5.32A that was in effect immediately before commencement day is, on and after commencement day, taken to be an authorisation under regulation 384 of these regulations.

713. Exemptions

An exemption under OSHR regulation 2.12 or 2.13 that was in effect immediately before commencement day is, on and after commencement day, taken to be an exemption under Part 11.2 of these regulations.

714. Falls from height

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

715. Accredited safety and health representative training courses

A training course to which OSHR regulation 2.2 applied immediately before commencement day is, on and after commencement day, taken to be a work health and safety representative training course accredited by the Work Health and Safety Commission under Schedule 1 clause 18(1)(h) of the Act.

716. Class 1 or 2 demolition work approvals

An approval under OSHR regulation 3.121 that was in effect immediately before commencement day is, on and after commencement day, taken to be an approval under regulation 142H of these regulations.

717. References to GHS

During the shorter transitional period, a reference in these regulations to the GHS is a reference to —

(a) the GHS as defined in regulation 5; or

(b) the *Globally Harmonised System of Classification and Labelling of Chemicals*, 3rd revised edition, published by the United Nations; or

(c) the *Approved Criteria for Classifying Hazardous Substances [3rd Edition: NOHSC: 1008(2004)]*.

718. Residual current devices

During the shorter transitional period, regulation 164 applies only in relation to a workplace where construction work is being carried out.

719. Roll-over protection on tractors

(1) This regulation applies to a tractor that —

(a) was manufactured before or during the longer transition period; and

(b) has a mass of at least 560 kilograms but not more than 800 kilograms.

(2) Regulation 216 does not apply to the tractor.

(3) OSHR regulation 4.45 continues to apply to the tractor as if section 279 of the Act had not come into operation.

720. Demolition licences

(1) In this regulation —

OSHR licence means a licence —

(a) granted under OSHR regulation 3.116(2); and

(b) in force immediately before commencement day.

(2) An OSHR licence to do class 1 demolition work is, on and after commencement day, taken to be a Class 1 demolition licence under these regulations.

(3) An OSHR licence to do class 2 demolition work is, on and after commencement day, taken to be a Class 2 demolition licence under these regulations.

(4) If the OSHR licence was issued subject to a condition under OSHR regulation 3.116(3), the condition is taken to be imposed under regulation 142U of these regulations.

(5) The regulator must, as soon as reasonably practicable after commencement day, refund the relevant proportion of a fee paid for an OSHR licence to do class 3 demolition work.

721. High risk work licences

(1) In this regulation —

OSH HRWL means a high risk work licence as defined in OSHR regulation 6.1(1);

WHS HRWL means a high risk work licence as defined in regulation 5 of these regulations.

(2) Subregulation (3) applies if an OSH HRWL of a class (a ***former class***) specified in column 1 of the Table is in force immediately before commencement day.

(3) The OSH HRWL is, on and after commencement day, taken to be a WHS HRWL of a class (the ***current class***) specified in column 2 of the Table corresponding to the former class.

Table

Column 1 **OSH HRWL**	**Column 2** **WHS HRWL**
Scaffolding work, basic	Basic scaffolding
Scaffolding work, intermediate	Intermediate scaffolding
Scaffolding work, advanced	Advanced scaffolding
Dogging work	Dogging
Dogging work and rigging work, basic	Basic rigging
Dogging work and rigging work, intermediate	Intermediate rigging
Dogging work and rigging work, advanced	Advanced rigging

Column 1 **OSH HRWL**	**Column 2** **WHS HRWL**
Crane and hoist operation, tower crane	Tower crane
Crane and hoist operation, self-erecting tower crane	Self-erecting tower crane
Crane and hoist operation, derrick crane	Derrick crane
Crane and hoist operation, portal boom crane	Portal boom crane
Crane and hoist operation, bridge crane/gantry crane	Bridge and gantry crane
Crane and hoist operation, vehicle loading crane	Vehicle loading crane
Crane and hoist operation, non-slewing mobile crane	Non-slewing mobile crane
Crane and hoist operation, mobile crane, basic	Slewing mobile crane — with a capacity up to 20 tonnes
Crane and hoist operation, mobile crane, intermediate	Slewing mobile crane — with a capacity up to 60 tonnes
Crane and hoist operation, mobile crane, advanced	Slewing mobile crane — with a capacity up to 100 tonnes

Column 1 OSH HRWL	Column 2 WHS HRWL
Crane and hoist operation, mobile crane, open class	Slewing mobile crane — with a capacity over 100 tonnes
Crane and hoist operation, materials hoist	Materials hoist
Crane and hoist operation, personnel and materials hoist	Personnel and materials hoist
Crane and hoist operation, boom-type elevating work platform	Boom-type elevating work platform
Crane and hoist operation, vehicle-mounted concrete placing boom	Concrete placing boom
Forklift operation, forklift truck	Forklift truck
Forklift operation, order-picking forklift truck	Order-picking forklift truck
Pressure equipment operation, basic	Standard boiler operation
Pressure equipment operation, intermediate	Standard boiler operation
Pressure equipment operation, advanced	Advanced boiler operation

Column 1 OSH HRWL	Column 2 WHS HRWL
Pressure equipment operation, turbine	Steam turbine operation
Pressure equipment operation, reciprocating steam engine	Reciprocating steam engine

(4) Subregulation (5) applies to the holder of an OSH HRWL of a former class if the licence expired no more than 2 years before commencement day.

(5) The holder of the OSH HRWL may, at any time no later than 2 years after it expires, apply for its renewal under Part 4.5 Division 1 Subdivision 4 of these regulations as if it were a WHS HRWL of the current class.

(6) An OSH HRWL of a former class renewed under subregulation (5) becomes a WHS HRWL of the current class.

(7) In addition to subregulation (3), an OSH HRWL of the class "Pressure equipment operation, intermediate" that is in force immediately before commencement day continues in force on and after commencement day until it expires or is cancelled, as if section 279 of the Act had not come into operation.

722. Requirements to minimise risk of fall in high risk construction work

During the period of 3 years beginning on commencement day, regulation 79 does not apply to high risk construction work.

[Regulation 722 amended: SL 2023/22 r. 5.]

723. Materials hoists

During the longer transitional period, regulation 81 does not apply to work of a class specified in Schedule 3 item 19 if the vertical movement of the materials hoist's car, bucket or platform is 11 metres or less.

[Regulation 723 amended: SL 2023/22 r. 6.]

724. Concrete placing booms

During the longer transitional period, regulation 81 does not apply to work of a class specified in Schedule 3 item 22 if the concrete placing boom is not mounted on a vehicle.

[Regulation 724 amended: SL 2023/22 r. 7.]

725. Reach stackers

During the period of 3 years beginning on commencement day, regulation 81 does not apply to work of a class specified in Schedule 3 item 23.

[Regulation 725 amended: SL 2023/22 r. 8.]

726. Accreditation of assessors

A person who was, immediately before commencement day, an assessor registered under OSHR regulation 6.22 is, on and after commencement day, taken to be accredited under regulation 118 of these regulations.

727. Plant designs and items of plant registered under OSHR

(1) This regulation applies to the design of plant or an item of plant that —

(a) immediately before commencement day, was registered under OSHR Part 4 Division 2; and

(b) on and after commencement day, is required to be registered under Part 5.3 of these regulations.

(2) On and after commencement day, the plant or plant design is taken to be registered under Part 5.3 of these regulations.

728. Plant designs and items of plant not registered under OSHR

(1) This regulation applies to —

(a) the design of plant, or an item of plant, that immediately before commencement day —

(i) was completed or manufactured (as the case requires); and

(ii) was not required to be registered under OSHR Part 4 Division 2;

or

(b) the design of plant or an item of plant that —

(i) on and after commencement day, is completed or manufactured (as the case requires) before the end of the longer transitional period; and

(ii) immediately before commencement day, was not required to be registered under OSHR Part 4 Division 2.

(2) Part 5.3 of these regulations does not apply to the plant or plant design.

729. Unrestricted asbestos removal licences

(1) This regulation applies to an unrestricted licence as defined in OSHR regulation 5.42(1) as in force immediately before commencement day.

(2) On and after commencement day, the licence is taken to —

(a) be a Class A asbestos removal licence until it expires; and

(b) have an expiry day that is 12 months after the day on which it would have expired but for this regulation.

730. Restricted asbestos removal licences

(1) This regulation applies to a restricted licence as defined in OSHR regulation 5.42(1) as in force immediately before commencement day.

(2) On and after commencement day, the licence is taken to —

(a) be a Class B asbestos removal licence until it expires; and

(b) have an expiry day that is 12 months after the day on which it would have expired but for this regulation.

731. Construction induction training

A construction induction training certificate as defined in OSHR regulation 3.135 is, on and after commencement day, taken to be a general construction induction training card under these regulations.

732. General diving work: qualifications

(1) During the shorter transitional period regulation 171 applies as if amended as set out in subregulation (2).

(2) Delete regulation 171(1A) and (1) and insert:

(1) A person must not carry out any type of general diving work unless the person has acquired the knowledge and skills specified in regulation 171A(1) for that type of general diving work.

Part 11.5 — Transitional and savings provisions for *Work Health and Safety Regulations Amendment Regulations (No. 2) 2023*

[Heading inserted: SL 2023/134 r. 9.]

733. Delayed application of Schedule 3 items 14A and 15A

During the period of 2 years beginning on the day on which the *Work Health and Safety Regulations Amendment Regulations (No. 2) 2023* regulation 9 comes into operation, Schedule 3 items 14A and 15A do not apply.

[Regulation 733 inserted: SL 2023/134 r. 9.]

Schedule 1 — Not used

Schedule 2 — Fees

[r. 5]

[Heading inserted: SL 2023/42 r. 4.]

1. Purpose of Schedule

Table 2.1 specifies fees to be paid under these regulations.

Note for this clause:

See the definition of ***relevant fee*** in regulation 5.

Table 2.1

Regulation	Nature of fee	Fee
Determinations by regulator		
r. 6(4)	Determination of safety management system	$357
r. 235(7)	Determination of competent person for major inspection of registered mobile cranes and tower cranes	$325
r. 241(8)	Determination of competent person for annual inspection of amusement devices and passenger ropeways	$325
High risk work licences		
r. 87(3)	Application for licence	$86
r. 87(3)	Application to add a class to the licence	$43
r. 98(4)(b)	Application for replacement licence document	$29
r. 101(3)	Application for renewal of licence	$44
Accreditation of high risk work licence assessors		

Regulation	Nature of fee	Fee
r. 116(3)	Application for accreditation	$1 762
r. 116(3)	Application to add a class to the accreditation	$504
r. 127(4)(b)	Application for replacement accreditation document	$39
r. 130(2)(b)	Application for renewal of accreditation	$467
Registration of plant designs and items of plant (except mines)		
r. 250(4)	Application for registration (design of item of plant)	$669
r. 266(3)	Application for registration (item of plant)	$691
r. 288(4)(b)	Application for replacement registration document	$105
Registration of plant designs and items of plant (mines)		
r. 250(4)	Application for registration (design of item of plant)	$580
r. 266(3)	Application for registration (item of plant)	$64
r. 288(4)(b)	Application for replacement registration document	$105
Demolition licences		
r. 142N(4)	Application for licence — Class 1	$15 376
r. 142N(4)	Application for licence — Class 2	$12 019
r. 143A(3)	Change to nominated supervisor	$4 145

Regulation	Nature of fee	Fee
r. 143G(4)(b)	Application for replacement licence document	$39
r. 143J(3)	Application for renewal of licence — Class 1	$13 132
r. 143J(3)	Application for renewal of licence — Class 2	$11 419
Asbestos removal and asbestos assessor licences		
r. 492(3)	Application for asbestos removal licence — Class A	$5 716
r. 492(3)	Application for asbestos removal licence — Class B	$1 416
r. 492(3)	Application for asbestos assessor licence	$8 159
r. 507(3)	Change to nominated supervisor	$5 245
r. 513(4)(b)	Application for replacement asbestos removal licence document	$36
r. 513(4)(b)	Application for replacement asbestos assessor licence document	$39
r. 516(3)	Application for renewal of asbestos removal licence — Class A	$4 822
r. 516(3)	Application for renewal of asbestos removal licence — Class B	$1 310
r. 516(3)	Application for renewal of asbestos assessor licence	$8 239

[Schedule 2 inserted: SL 2023/42 r. 4.]

Schedule 3 — High risk work licences and classes of high risk work

[r. 81]

Table 3.1

Item	High risk work licence	Description of class of high risk work
Scaffolding work		
1.	Basic scaffolding	Scaffolding work (excluding scaffolding work involving equipment, loads or tasks listed in items 2(2)(a) to (g) and 3(2)(a) to (c)) involving any of the following — (a) modular or pre-fabricated scaffolds; (b) cantilevered materials hoists with a maximum working load of 500 kilograms; (c) ropes; (d) gin wheels; (e) safety nets and static lines; (f) bracket scaffolds (tank and formwork)
2.	Intermediate scaffolding	(1) Scaffolding work included in the class of basic scaffolding (2) Scaffolding work (excluding scaffolding work involving equipment, loads or tasks listed in item 3(2)(a) to (c)) involving any of the following — (a) cantilevered crane loading platforms;

Item	High risk work licence	Description of class of high risk work
		(b) cantilevered scaffolds; (c) spur scaffolds; (d) barrow ramps and sloping platforms; (e) scaffolding associated with perimeter safety screens and shutters; (f) mast climbing work platforms; (g) tube and coupler scaffolds (including tube and coupler covered ways and gantries)
3.	Advanced scaffolding	(1) Scaffolding work included in the class of intermediate scaffolding (2) Scaffolding work involving any of the following — (a) cantilevered hoists; (b) hung scaffolds, including scaffolds hung from tubes, wire ropes or chains; (c) suspended scaffolds
Dogging and rigging work		
4.	Dogging	Dogging work
5.	Basic rigging	(1) Dogging work (2) Rigging work (excluding rigging work involving equipment, loads or tasks listed in items 6(b) to (f)

Item	High risk work licence	Description of class of high risk work
		and 7(b) to (e)) involving any of the following — (a) structural steel erection; (b) hoists; (c) pre-cast concrete members of a structure; (d) safety nets and static lines; (e) mast climbing work platforms; (f) perimeter safety screens and shutters; (g) cantilevered crane loading platforms
6.	Intermediate rigging	Rigging work (excluding rigging work involving equipment listed in item 7(b) to (e)) involving any of the following — (a) rigging work in the class basic rigging; (b) hoists with jibs and self-climbing hoists; (c) cranes, conveyors, dredges and excavators; (d) tilt slabs; (e) demolition of structures or plant; (f) dual lifts

Item	High risk work licence	Description of class of high risk work
7.	Advanced rigging	Rigging work involving any of the following — (a) rigging work in the class intermediate rigging; (b) gin poles and shear legs; (c) flying foxes and cable ways; (d) guyed derricks and structures; (e) suspended scaffolds and fabricated hung scaffolds
Crane and hoist operation		
8.	Tower crane	Use of a tower crane
9.	Self-erecting tower crane	Use of a self-erecting tower crane
10.	Derrick crane	Use of a derrick crane
11.	Portal boom crane	Use of a portal boom crane
12.	Bridge and gantry crane	(1) Use of a bridge crane or gantry crane that is — (a) controlled from a permanent cabin or control station on the crane; or (b) remotely controlled and having more than 3 powered operations (2) Subitem (1) includes the application of load estimation and slinging techniques to move a load

Item	High risk work licence	Description of class of high risk work
13.	Vehicle loading crane	Use of a vehicle loading crane with a capacity of 10 metre tonnes or more, including the application of load estimation and slinging techniques to move a load
14.	Non-slewing mobile crane	Use of a non-slewing mobile crane with a capacity exceeding 3 tonnes
14A.	Non-slewing mobile crane	Use of non-slewing earthmoving machinery with a safe working load greater than 3 tonnes as a crane
15.	Slewing mobile crane — with a capacity up to 20 tonnes	Use of a slewing mobile crane with a capacity of 20 tonnes or less Use of a vehicle loading crane with a capacity of 10 metre tonnes or more, excluding the application of load estimation and slinging techniques to move a load Use of a non-slewing mobile crane with a capacity exceeding 3 tonnes Use of a reach stacker
15A.	Slewing mobile crane — with a capacity up to 20 tonnes	Use of slewing earthmoving machinery with a safe working load greater than 3 tonnes as a crane
16.	Slewing mobile crane — with a capacity up to 60 tonnes	Use of a slewing mobile crane with a capacity of 60 tonnes or less Use of a vehicle loading crane with a capacity of 10 metre tonnes or more, excluding the application of load

Item	High risk work licence	Description of class of high risk work
		estimation and slinging techniques to move a load Use of a non-slewing mobile crane with a capacity exceeding 3 tonnes Use of a reach stacker
17.	Slewing mobile crane — with a capacity up to 100 tonnes	Use of a slewing mobile crane with a capacity of 100 tonnes or less Use of a vehicle loading crane with a capacity of 10 metre tonnes or more, excluding the application of load estimation and slinging techniques to move a load Use of a non-slewing mobile crane with a capacity exceeding 3 tonnes Use of a reach stacker
18.	Slewing mobile crane — with a capacity over 100 tonnes	Use of a slewing mobile crane Use of a vehicle loading crane with a capacity of 10 metre tonnes or more, excluding the application of load estimation and slinging techniques to move a load Use of a non-slewing mobile crane with a capacity exceeding 3 tonnes Use of a reach stacker
19.	Materials hoist	Use of a materials hoist
20.	Personnel and materials hoist	Use of a personnel and materials hoist Use of a materials hoist

Item	High risk work licence	Description of class of high risk work
21.	Boom-type elevating work platform	Use of a boom-type elevating work platform where the length of the boom is 11 metres or more
22.	Concrete placing boom	Use of a concrete placing boom
Reach stackers		
23.	Reach stacker	Operation of a reach stacker of greater than 3 tonnes capacity that incorporates an attachment for lifting, moving and travelling with a shipping container, but does not include a portainer crane
Forklift operation		
24.	Forklift truck	Use of a forklift truck other than an order-picking forklift truck
25.	Order-picking forklift truck	Use of an order-picking forklift truck
Pressure equipment operation		
26.	Standard boiler operation	Operation of a boiler with a single fuel source that does not have a pre-heater, superheater or economiser attached
27.	Advanced boiler operation	Operation of a boiler, including a standard boiler, which may have 1 or more of the following — (a) multiple fuel sources; (b) pre-heater; (c) superheater; (d) economiser

Item	High risk work licence	Description of class of high risk work
28.	Steam turbine operation	Operation of a steam turbine that has an output of 500 kilowatts or more and — (a) is multi-wheeled; or (b) is capable of a speed greater than 3 600 revolutions per minute; or (c) has attached condensers; or (d) has a multi-staged heat exchange extraction process
29.	Reciprocating steam engine	Operation of a reciprocating steam engine where the diameter of any piston exceeds 250 mm

[Table 3.1 amended: SL 2023/134 r. 10(1) and (2).]

1. Boom-type elevating work platform

For the purposes of Table 3.1 item 21, the length of a boom is the greater of the following —

(a) the vertical distance from the surface supporting the boom-type elevating work platform to the floor of the platform, with the platform extended to its maximum height;

(b) the horizontal distance from the centre point of the boom's rotation to the outer edge of the platform, with the platform extended to its maximum distance.

*[**2.** Deleted: SL 2023/134 r. 10(3).]*

Schedule 4 — High risk work licences: competency requirements

[r. 81]

1. Purpose of Schedule

This Schedule sets out the qualifications for high risk work licences.

Table 4.1

Item	Licence class	VET course
1.	Basic scaffolding	Licence to erect, alter and dismantle scaffolding basic level
2.	Intermediate scaffolding	Licence to erect, alter and dismantle scaffolding basic level; and Licence to erect, alter and dismantle scaffolding intermediate level
3.	Advanced scaffolding	Licence to erect, alter and dismantle scaffolding basic level; and Licence to erect, alter and dismantle scaffolding intermediate level; and Licence to erect, alter and dismantle scaffolding advanced level
4.	Dogging	Licence to perform dogging
5.	Basic rigging	Licence to perform dogging; and Licence to perform rigging basic level
6.	Intermediate rigging	Licence to perform dogging; and Licence to perform rigging basic level; and Licence to perform rigging intermediate level

Item	Licence class	VET course
7.	Advanced rigging	Licence to perform dogging; and Licence to perform rigging basic level; and Licence to perform rigging intermediate level; and Licence to perform rigging advanced level
8.	Tower crane	Licence to operate a tower crane
9.	Self-erecting tower crane	Licence to operate a self-erecting tower crane
10.	Derrick crane	Licence to operate a derrick crane
11.	Portal boom crane	Licence to operate a portal boom crane
12.	Bridge and gantry crane	Licence to operate a bridge and gantry crane
13.	Vehicle loading crane	Licence to operate a vehicle loading crane (capacity 10 metre tonnes and above)
14.	Non-slewing mobile crane	Licence to operate a non-slewing mobile crane (greater than 3 tonnes capacity)
15.	Slewing mobile crane — with a capacity up to 20 tonnes	Licence to operate a slewing mobile crane (up to 20 tonnes)

Item	Licence class	VET course
16.	Slewing mobile crane — with a capacity up to 60 tonnes	Licence to operate a slewing mobile crane (up to 60 tonnes)
17.	Slewing mobile crane —with a capacity up to 100 tonnes	Licence to operate a slewing mobile crane (up to 100 tonnes)
18.	Slewing mobile crane — with a capacity over 100 tonnes	Licence to operate a slewing mobile crane (over 100 tonnes)
19.	Materials hoist	Licence to operate a materials hoist
20.	Personnel and materials hoist	Licence to operate a personnel and materials hoist
21.	Boom-type elevating work platform	Licence to operate a boom-type elevating work platform (boom length 11 metres or more)
22.	Concrete placing boom	Licence to operate a concrete placing boom
23.	Reach stacker	Licence to operate a reach stacker of greater than 3 tonnes capacity
24.	Forklift truck	Licence to operate a forklift truck
25.	Order-picking forklift truck	Licence to operate an order-picking forklift truck
26.	Standard boiler operation	Licence to operate a standard boiler

Item	Licence class	VET course
27.	Advanced boiler operation	Licence to operate a standard boiler; and Licence to operate an advanced boiler
28.	Steam turbine operation	Licence to operate a steam turbine
29.	Reciprocating steam engine operation	Licence to operate a reciprocating steam engine

Schedule 5 — Registration of plant and plant designs

[r. 243 and 246]

Division 1 — Plant requiring registration of design

1. Items of plant requiring registration of design

(1) Pressure equipment, other than pressure piping, and categorised as hazard level A, B, C or D according to the criteria in Section 2.1 of AS 4343:2014 (Pressure equipment — Hazard levels).

(2) Gas cylinders covered by Section 1 of AS 2030.1:2009 (Gas cylinders — General requirements).

(3) Tower cranes including self-erecting tower cranes.

(4) Lifts and escalators and moving walkways.

(5) Building maintenance units.

(6) Hoists with a platform movement exceeding 2.4 metres, designed to lift people.

(7) Work boxes designed to be suspended from cranes.

(8) Amusement devices classified by Section 2.1 of AS 3533.1:2009 (Amusement rides and devices — Design and construction), except devices specified in clause 2(2).

(8A) Passenger ropeways.

(9) Concrete placing booms.

(10) Prefabricated scaffolding.

(11) Boom-type elevating work platforms.

(12) Gantry cranes with a safe working load greater than 5 tonnes or bridge cranes with a safe working load of greater than 10 tonnes, and any gantry crane or bridge crane which is designed to handle molten metal or dangerous goods.

(13) Vehicle hoists.

(14) Mast climbing work platforms.

(15) Mobile cranes with a rated capacity of greater than 10 tonnes.

2. Exceptions

(1) The items of plant listed in clause 1 do not include —

(a) a heritage boiler; or

(ab) any pressure equipment (other than a gas cylinder) excluded from the scope of AS/NZS 1200:2015 (Pressure equipment); or

Note for this paragraph:

See paragraph A3 of Appendix A to AS/NZS 1200:2015.

(b) a crane or hoist that is manually powered; or

(ba) a reach stacker; or

(c) an elevating work platform that is a scissor lift or a vertically moving platform; or

(d) a tow truck.

(2) The following devices are excluded from clause 1(8) —

(a) class 1 devices;

(b) playground devices;

(c) water slides where water facilitates patrons to slide easily, predominantly under gravity, along a static structure;

(d) wave generators where patrons do not come into contact with the parts of machinery used for generating water waves;

(e) inflatable devices, other than inflatable devices (continuously blown) with a platform height of 3 metres or more.

Division 2 — Items of plant requiring registration

3. Items of plant requiring registration

(1) Boilers categorised as hazard level A, B or C according to criteria in Section 2.1 of AS 4343:2014 (Pressure equipment — Hazard levels).

(2) Pressure vessels categorised as hazard level A, B or C according to the criteria in Section 2.1 of AS 4343:2014 (Pressure equipment — Hazard levels), except —

(a) gas cylinders; and

(b) LP Gas fuel vessels for automotive use; and

(c) serially produced vessels.

(3) Tower cranes including self-erecting tower cranes.

(4) Lifts and escalators and moving walkways.

(5) Building maintenance units.

(6) Amusement devices classified by Section 2.1 of AS 3533.1:2009 (Amusement rides and devices — Design and construction), except devices specified in clause 4(2).

(7) Concrete placing booms.

(8) Mobile cranes with a rated capacity of greater than 10 tonnes.

4. Exceptions

(1) The items of plant listed in clause 3 do not include —

(a) any pressure equipment (other than a gas cylinder) excluded from the scope of AS/NZS 1200:2015 (Pressure equipment); or

Note for this paragraph:

See paragraph A3 of Appendix A to AS/NZS 1200:2015.

(b) a crane or hoist that is manually powered; or

(c) a reach stacker.

(2) The following devices are excluded from clause 3(6) —

(a) class 1 devices;

(b) playground devices;

(c) water slides where water facilitates patrons to slide easily, predominantly under gravity, along a static structure;

(d) wave generators where patrons do not come into contact with the parts of machinery used for generating water waves;

(e) inflatable devices, other than inflatable devices (continuously blown) with a platform height of 3 metres or more.

Schedule 6 — Classification of mixtures

[r. 5]

1. Purpose of Schedule

The Tables in this Schedule replace some of the tables in the GHS.

Note for this clause:

See the definition of ***GHS*** in regulation 5.

Table 6.1 Classification of mixtures containing respiratory or skin sensitisers

Cut-off values/concentration limits of ingredients of a mixture classified as either a respiratory sensitiser or a skin sensitiser that would trigger classification of the mixture.

Item	Ingredient classification	Mixture classification		
		Skin sensitiser Category 1	Respiratory sensitiser Category 1	
		All physical states	Solid/liquid	Gas
1.	Skin sensitiser Category 1	≥ 1.0%		
2.	Skin sensitiser Sub category 1A	≥ 0.1%		
3.	Skin sensitiser Sub-category 1B	≥ 1.0%		
4.	Respiratory sensitiser Category 1		≥ 1.0%	≥ 0.2%

Item	Ingredient classification	Mixture classification		
		Skin sensitiser Category 1	**Respiratory sensitiser Category 1**	
		All physical states	**Solid/liquid**	**Gas**
5.	Respiratory sensitiser Sub-category 1A		≥ 0.1%	≥ 0.1%
6.	Respiratory sensitiser Sub-category 1B		≥ 1.0%	≥ 0.2%

Note for this Table:

Table 6.1 replaces Table 3.4.5 in the GHS, p. 159.

Table 6.2 Classification of mixtures containing carcinogens

Cut-off values/concentration limits of ingredients of a mixture classified as a carcinogen that would trigger classification of the mixture.

Item	Ingredient classification	Mixture classification	
		Category 1 carcinogen	**Category 2 carcinogen**
1.	Category 1 carcinogen	≥ 0.1%	
2.	Category 2 carcinogen		≥ 1.0%

Notes for this Table:

1. The concentration limits in Table 6.2 apply to solids and liquids (w/w units) and gases (v/v units).
2. Table 6.2 replaces Table 3.6.1 in the GHS, p. 174.

Table 6.3 Classification of mixtures containing reproductive toxicants

Cut-off values/concentration limits of ingredients of a mixture classified as a reproductive toxicant or for effects on or via lactation that would trigger classification of the mixture.

Item	Ingredient classification	Mixture classification		
		Category 1 reproductive toxicant	**Category 2 reproductive toxicant**	**Additional category for effects on or via lactation**
1.	Category 1 reproductive toxicant	≥ 0.3%		
2.	Category 2 reproductive toxicant		≥ 3.0%	
3.	Additional category for effects on or via lactation			≥ 0.3%

Notes for this Table:

1. The concentration limits in Table 6.3 apply to solids and liquids (w/w units) and gases (v/v units).
2. Table 6.3 replaces Table 3.7.1 in the GHS, p. 187.

Table 6.4 Classification of mixtures containing specific target organ toxicants (single exposure)

Cut-off values/concentration limits of ingredients of a mixture classified as a specific target organ toxicant that would trigger classification of the mixture.

Item	Ingredient classification	Mixture classification	
		Category 1	**Category 2**
1.	Category 1 specific target organ toxicant	Concentration ≥ 10%	1.0% ≤ concentration < 10%
2.	Category 2 specific target organ toxicant		Concentration ≥ 10%

Notes for this Table:

1. The concentration limits in Table 6.4 apply to solids and liquids (w/w units) and gases (v/v units).
2. Table 6.4 replaces Table 3.8.2 in the GHS, p. 197.

Table 6.5 Classification of mixtures containing specific target organ toxicants (repeated exposure)

Cut-off values/concentration limits of ingredients of a mixture classified as a specific target organ toxicant that would trigger classification of the mixture.

Item	Ingredient classification	Mixture classification	
		Category 1	**Category 2**
1.	Category 1 specific target organ toxicant	Concentration ≥ 10%	1.0% ≤ concentration < 10%

Item	Ingredient classification	Mixture classification	
		Category 1	**Category 2**
2.	Category 2 specific target organ toxicant		Concentration ≥ 10%

Notes for this Table:

1. The concentration limits in Table 6.5 apply to solids and liquids (w/w units) and gases (v/v units).
2. Table 6.5 replaces Table 3.9.3 in the GHS, p. 207.

Schedule 7 — Safety data sheets

[r. 330 and 331]

1. Safety data sheets: content

(1) A safety data sheet for a hazardous chemical must —

(a) contain unit measures expressed in Australian legal units of measurement under the *National Measurement Act 1960* (Commonwealth); and

(b) state the date it was last reviewed or, if it has not been reviewed, the date it was prepared; and

(c) state the name, and the Australian address and business telephone number of —

(i) the manufacturer; or

(ii) the importer;

and

(d) state an Australian business telephone number from which information about the chemical can be obtained in an emergency; and

(e) be in English.

(2) A safety data sheet for a hazardous chemical must state the following information about the chemical —

(a) Section 1: Identification;

(b) Section 2: Hazard(s) identification;

(c) Section 3: Composition and information on ingredients, in accordance with Schedule 8;

(d) Section 4: First aid measures;

(e) Section 5: Firefighting measures;

(f) Section 6: Accidental release measures;

(g) Section 7: Handling and storage;

(h) Section 8: Exposure controls and personal protection;

(i) Section 9: Physical and chemical properties;

(j) Section 10: Stability and reactivity;

(k) Section 11: Toxicological information;

(l) Section 12: Ecological information;

(m) Section 13: Disposal considerations;

(n) Section 14: Transport information;

(o) Section 15: Regulatory information;

(p) Section 16: Any other relevant information.

(3) The safety data sheet must use the headings and be set out in the order set out in subclause (2).

(4) The safety data sheet must be in English.

Note for this clause:

Regulations 330 and 331 provide that clause 2 will apply instead of clause 1 in certain cases.

2. Safety data sheets: research chemical, waste product or sample for analysis

For the purposes of regulation 331, a safety data sheet for a hazardous chemical that is a research chemical, waste product or sample for analysis must —

(a) be in English; and

(b) state the name, Australian address and business telephone number of —

(i) the manufacturer; or

(ii) the importer;

and

(c) state that full identification or hazard information is not available for the chemical, and in the absence of full identification or hazard information, a precautionary approach must be taken by a person using, handling or storing the chemical; and

(d) state the chemical identity or structure of the chemical or chemical composition, as far as is reasonably practicable; and

(e) state any known or suspected hazards; and

(f) state any precautions that a person using, handling or storing the chemical must take to the extent that the precautions have been identified.

Schedule 8 — Disclosure of ingredients in safety data sheet

[Sch. 7 cl. 1(2)(c) and Sch. 9 cl. 3(1)(c)]

1. Purpose of Schedule

This Schedule sets out the way in which the ingredients of a hazardous chemical must be disclosed in Section 3 of a safety data sheet prepared under these regulations.

Note for this clause:

See Schedule 7 clause 1(2)(c).

2. Identity of ingredients to be disclosed

(1) This clause applies if an ingredient in a hazardous chemical causes the correct classification of the chemical to include a hazard class and hazard category referred to in Table 8.1.

(2) The identity of the ingredient must be disclosed in English on the label and safety data sheet of the hazardous chemical.

Table 8.1

Item	GHS hazard class	GHS hazard category
1.	Acute toxicity — oral	Category 1 Category 2 Category 3 Category 4
2.	Acute toxicity — dermal	Category 1 Category 2 Category 3 Category 4

Item	GHS hazard class	GHS hazard category
3.	Acute toxicity — inhalation	Category 1 Category 2 Category 3 Category 4
4.	Respiratory sensitiser	Category 1
5.	Skin sensitiser	Category 1
6.	Mutagenicity	Category 1A Category 1B Category 2
7.	Carcinogenicity	Category 1A Category 1B Category 2
8.	Toxic to reproduction	Category 1A Category 1B Category 2 Additional category for effects on or via lactation
9.	Target organ toxicity — single exposure	Category 1 Category 2 Category 3
10.	Target organ toxicity — repeat exposure	Category 1 Category 2
11.	Aspiration hazards	Category 1

Item	GHS hazard class	GHS hazard category
12.	Skin corrosion or irritation	Category 1A Category 1B Category 1C Category 2
13.	Serious eye damage or eye irritation	Category 1 Category 2

3. Generic names used to disclose identity of ingredients

(1) This clause applies if an ingredient of a hazardous chemical must be disclosed under clause 2.

(2) The ingredient —

(a) may be disclosed by its generic name if —

(i) the ingredient causes the correct classification of the hazardous chemical to include a hazard class and hazard category referred to in Table 8.2; and

(ii) the ingredient does not cause the correct classification of the hazardous chemical to include any other hazard class and hazard category in Table 8.1; and

(iii) the identity of the ingredient is commercially confidential; and

(iv) an exposure standard for the ingredient has not been established;

or

(b) in any other case — must be disclosed by its chemical identity.

Table 8.2

Item	Hazard class and hazard category
1.	Acute toxicity (category 4)
2.	Aspiration hazard (category 1)
3.	Serious eye damage or eye irritation (category 2)
4.	Skin corrosion or irritation (category 2)
5.	Specific target organ toxicity (single exposure) (category 3)

4. Disclosing proportions of ingredients

(1) This clause applies if an ingredient of a hazardous chemical must be disclosed under clause 2.

(2) The proportion of the ingredient to the hazardous chemical must be disclosed —

(a) if the exact proportion of the ingredient is not commercially confidential — as the exact proportion of the chemical, expressed as a percentage by weight or volume; or

(b) if the exact proportion of the ingredient is commercially confidential — as 1 of the following ranges within which the exact proportion fits, expressed as a percentage by weight or volume —

(i) <10%;

(ii) 10 – 30%;

(iii) 30 – 60%;

(iv) > 60%;

(v) a range that is narrower than the range set out in subparagraph (i), (ii), (iii) or (iv).

Schedule 9 — Classification, packaging and labelling requirements

[r. 329, 334 and 335]

Division 1 — Correct classification

1. Correct classification of a substance, mixture or article

(1) A substance or mixture (other than a research chemical, sample for analysis or waste product) is ***correctly classified*** if a determination is made about whether the substance or mixture can be classified into a hazard class under the GHS including a mixture classification referred to in Schedule 6.

Note for this subclause:

The Schedule 6 Tables replace some tables in the GHS.

(2) A substance or mixture that is a research chemical, sample for analysis or waste product is ***correctly classified*** if, so far as is reasonably practicable having regard to the known or suspected properties of the substance or mixture —

(a) a determination is made about the identity of the substance or mixture; and

(b) a determination is made about whether the substance or mixture can be classified into a hazard class under the GHS.

(3) An article that contains a substance or mixture that may be released during the use, handling or storage of the article is ***correctly classified*** if the substance or mixture is correctly classified.

Division 2 — Correct packing

2. Correctly packing hazardous chemicals

(1) A hazardous chemical is ***correctly packed*** if the chemical is packed in a container that —

(a) is in sound condition; and

(b) will safely contain the chemical for the time the chemical is likely to be packed; and

(c) is made of material that is compatible with, and will not be adversely affected by, the chemical; and

(d) does not usually contain food or beverages and cannot be mistakenly identified as containing food or beverages.

(2) Despite subclause (1), a hazardous chemical supplied by a retailer to a person, in a container provided by the person, is only ***correctly packed*** if —

(a) for a hazardous chemical with a classification that includes flammable gases or gases under pressure — the container complies with the ADG Code; and

(b) in any other case — the container —

(i) is clearly marked with the product identifier or chemical identity; and

(ii) complies with subclause (1)(a) to (d).

Division 3 — Correct labelling

Note for this Division:

More than 1 clause of this Division may apply to a hazardous chemical depending on the nature of the hazardous chemical, its container and other matters.

3. Labelling hazardous chemicals: general

(1) A hazardous chemical is ***correctly labelled*** if the chemical is packed in a container that has a label in English including the following —

(a) the product identifier;

(b) the name, and the Australian address and business telephone number of —

(i) the manufacturer; or

(ii) the importer;

(c) for each ingredient of the chemical — the identity and proportion disclosed in accordance with Schedule 8;

(d) any hazard pictogram consistent with the correct classification of the chemical;

(e) any hazard statement, signal word and precautionary statement consistent with the correct classification of the chemical;

(f) any information about the hazards, first aid and emergency procedures relevant to the chemical, not otherwise included in the hazard statement or precautionary statement referred to in paragraph (e);

(g) if the chemical has an expiry date — the expiry date.

(2) The label may include any other information that does not contradict or cast doubt on the matters referred to in subclause (1).

(3) This clause is subject to clauses 4 to 10.

4. Labelling hazardous chemicals: small container

(1) This clause applies if a hazardous chemical is packed in a container that is too small for a label attached to it to include all the information referred to in clause 3(1).

(2) The hazardous chemical is ***correctly labelled*** if the chemical is packed in a container that has a label in English including the following —

(a) the product identifier;

(b) the name, and the Australian address and business telephone number of —

(i) the manufacturer; or

(ii) the importer;

(c) a hazard pictogram or hazard statement consistent with the correct classification of the chemical;

(d) any other information referred to in clause 3(1) that it is reasonably practicable to include.

5. Labelling hazardous chemicals: research chemicals or samples for analysis

(1) This clause applies to a hazardous chemical that is a research chemical or sample for analysis.

(2) The hazardous chemical is ***correctly labelled*** if the chemical is packed in a container that has a label in English including the following —

(a) the product identifier;

(b) a hazard pictogram or hazard statement consistent with the correct classification of the chemical.

6. Labelling hazardous chemicals: decanted or transferred chemicals

(1) This clause applies if —

(a) a hazardous chemical is decanted or transferred from the container in which it is packed; and

(b) either —

(i) will not be used immediately; or

(ii) is supplied to someone else.

(2) The hazardous chemical is ***correctly labelled*** if the chemical is packed in a container that has a label in English including the following —

(a) the product identifier;

(b) a hazard pictogram or hazard statement consistent with the correct classification of the chemical.

7. Labelling hazardous chemicals: known hazards

(1) This clause applies to a hazardous chemical if —

(a) the chemical is not being supplied to another workplace; and

(b) the hazards relating to the chemical are known to the workers involved in using, handling or storing the chemical.

(2) The hazardous chemical is ***correctly labelled*** if the chemical is packed in a container that has a label in English including the following —

(a) the product identifier;

(b) a hazard pictogram or hazard statement consistent with the correct classification of the chemical.

8. Labelling hazardous chemicals: waste products

(1) This clause applies to a waste product if it is reasonably likely that the waste product is a hazardous chemical.

(2) The waste product is ***correctly labelled*** if it is packed in a container that has a label in English including the following for the hazardous chemical —

(a) the product identifier;

(b) the name, and the Australian address and business telephone number of —

(i) the manufacturer; or

(ii) the importer;

(c) a hazard pictogram and hazard statement consistent with the correct classification of the chemical.

9. Labelling hazardous chemicals: explosives

(1) This clause applies to a hazardous chemical that may be classified in the explosives hazard class.

(2) The hazardous chemical is ***correctly labelled*** if the chemical is packed in a container that has a label in English that —

(a) complies with the Australian Code for the Transport of Explosives by Road and Rail; and

(b) includes the following —

(i) the proper shipping name and UN number;

(ii) any hazard pictogram consistent with the correct classification of the chemical in relation to health hazards;

(iii) any hazard statement consistent with the correct classification of the chemical in relation to health hazards;

(iv) any precautionary statement consistent with the correct classification of the chemical in relation to health hazards.

10. Labelling hazardous chemicals: agricultural and veterinary chemicals

(1) A hazardous chemical that is an agricultural or veterinary chemical is ***correctly labelled*** if —

(a) the chemical is labelled in accordance with the requirements of the Australian Pesticides and Veterinary Medicines Authority; and

(b) the label is in English and includes the following —

(i) any hazard statement consistent with the correct classification of the chemical;

(ii) any precautionary statement consistent with the correct classification of the chemical.

(2) In this clause —

agricultural or veterinary chemical means an agricultural chemical product or veterinary chemical product under the *Agricultural and Veterinary Chemicals Code Act 1994* (Commonwealth).

Schedule 10 — Prohibited carcinogens, restricted carcinogens and restricted hazardous chemicals

[r. 340 and 380 to 384]

Note for this Schedule:

The prohibition of the use of carcinogens listed in Table 10.1 column 2 and the restriction of the use of carcinogens listed in Table 10.2 column 2 apply to the pure substance and where the substance is present in a mixture at a concentration greater than 0.1%, unless otherwise specified.

Table 10.1 — Prohibited carcinogens

Column 1 Item	Column 2 Prohibited carcinogen [CAS number]
1.	2-Acetylaminofluorene [53-96-3]
2.	Aflatoxins
3.	4-Aminodiphenyl [92-67-1]
4.	Benzidine [92-87-5] and its salts (including benzidine dihydrochloride [531-85-1])
5.	bis(Chloromethyl) ether [542-88-1]
6.	Chloromethyl methyl ether [107-30-2] (technical grade which contains bis(chloromethyl) ether)
7.	4-Dimethylaminoazobenzene [60-11-7] (Dimethyl Yellow)
8.	2-Naphthylamine [91-59-8] and its salts
9.	4-Nitrodiphenyl [92-93-3]

Table 10.2 — Restricted carcinogens

Column 1 Item	Column 2 Restricted carcinogen [CAS Number]	Column 3 Restricted use
1.	Acrylonitrile [107-13-1]	All
2.	Benzene [71-43-2]	All uses involving benzene as a feedstock containing more than 50% of benzene by volume Genuine research or analysis
3.	Cyclophosphamide [50-18-0]	When used in preparation for therapeutic use in hospitals and oncological treatment facilities, and in manufacturing operations Genuine research or analysis
4.	3,3’-Dichlorobenzidine [91-94-1] and its salts (including 3,3’-Dichlorobenzidine dihydrochloride [612-83-9])	All
5.	Diethyl sulfate [64-67-5]	All
6.	Dimethyl sulfate [77-78-1]	All
7.	Ethylene dibromide [106-93-4]	When used as a fumigant Genuine research or analysis
8.	4,4’-Methylene bis(2-chloroaniline) [101-14-4] MOCA	All

Column 1 Item	Column 2 Restricted carcinogen [CAS Number]	Column 3 Restricted use
9.	3-Propiolactone [57-57-8] (Beta-propiolactone)	All
10.	o-Toluidine [95-53-4] and o-Toluidine hydrochloride [636-21-5]	All
11.	Vinyl chloride monomer [75-01-4]	All

Table 10.3 — Restricted hazardous chemicals

Column 1 Item	Column 2 Restricted hazardous chemical	Column 3 Restricted use
1.	Antimony and its compounds	For abrasive blasting at a concentration of greater than 0.1% as antimony
2.	Arsenic and its compounds	For abrasive blasting at a concentration of greater than 0.1% as arsenic For spray painting
3.	Benzene (benzol), if the substance contains more than 1% by volume	For spray painting
4.	Beryllium and its compounds	For abrasive blasting at a concentration of greater than 0.1% as beryllium

Column 1 Item	Column 2 Restricted hazardous chemical	Column 3 Restricted use
5.	Cadmium and its compounds	For abrasive blasting at a concentration of greater than 0.1% as cadmium
6.	Carbon disulphide (carbon bisulphide)	For spray painting
7.	Chromate	For wet abrasive blasting
8.	Chromium and its compounds	For abrasive blasting at a concentration of greater than 0.5% (except as specified for wet blasting) as chromium
9.	Cobalt and its compounds	For abrasive blasting at a concentration of greater than 0.1% as cobalt
10.	Free silica (crystalline silicon dioxide)	For abrasive blasting at a concentration of greater than 1%
11.	Lead and compounds	For abrasive blasting at a concentration of greater than 0.1% as lead or which would expose the operator to levels in excess of those set in the regulations covering lead
12.	Lead carbonate	For spray painting
13.	Methanol (methyl alcohol), if the substance contains more than 1% by volume	For spray painting

Column 1 Item	Column 2 Restricted hazardous chemical	Column 3 Restricted use
14.	Nickel and its compounds	For abrasive blasting at a concentration of greater than 0.1% as nickel
15.	Nitrates	For wet abrasive blasting
16.	Nitrites	For wet abrasive blasting
17.	Radioactive substance of any kind where the level of radiation exceeds 1 Bq/g	For abrasive blasting, so far as is reasonably practicable
18.	Tetrachloroethane	For spray painting
19.	Tetrachloromethane (carbon tetrachloride)	For spray painting
20.	Tin and its compounds	For abrasive blasting at a concentration of greater than 0.1% as tin
21.	Tributyl tin	For spray painting

Note for this Table:

Regulation 382 deals with polychlorinated biphenyls (PCBs).

Schedule 11 — Not used

Schedule 12 — Not used

Schedule 13 — Not used

Schedule 14 — Requirements for health monitoring

[r. 368, 370 and 406]

Table 14.1 — Hazardous chemicals (other than lead) requiring health monitoring

Column 1 Item	Column 2 Hazardous chemical	Column 3 Type of health monitoring
1.	Acrylonitrile	Demographic, medical and occupational history Records of personal exposure Physical examination
2.	Arsenic (inorganic)	Demographic, medical and occupational history Records of personal exposure Physical examination with emphasis on the peripheral nervous system and skin Urinary inorganic arsenic
3.	Benzene	Demographic, medical and occupational history Records of personal exposure Physical examination Baseline blood sample for haematological profile

Column 1 Item	Column 2 Hazardous chemical	Column 3 Type of health monitoring
4.	Cadmium	Demographic, medical and occupational history Records of personal exposure Physical examination with emphasis on the respiratory system Standard respiratory questionnaire to be completed Standardised respiratory function tests including for example, FEV_1, FVC and FEV_1/FVC Urinary cadmium and β_2-microglobulin Health advice, including counselling on the effect of smoking on cadmium exposure
5.	Chromium (inorganic)	Demographic, medical and occupational history Physical examination with emphasis on the respiratory system and skin Weekly skin inspection of hands and forearms by a competent person

Column 1 Item	Column 2 Hazardous chemical	Column 3 Type of health monitoring
6.	Creosote	Demographic, medical and occupational history Health advice, including recognition of photosensitivity and skin changes Physical examination with emphasis on the neurological system and skin, noting any abnormal lesions and evidence of skin sensitisation Records of personal exposure, including photosensitivity
7.	Crystalline silica	Demographic, medical and occupational history Records of personal exposure Standardised respiratory questionnaire to be completed Standardised respiratory function test, for example, FEV_1, FVC and FEV_1/FVC Low dose high resolution computed tomography of the chest at less than 1 millisievert equivalent dose for the entire study. The study must image the whole of each lung on inspiration at

Column 1 Item	Column 2 Hazardous chemical	Column 3 Type of health monitoring
		1.5 mm slice thickness or less, without an interslice gap, and must include expiratory imaging. The images must be of adequate quality to detect subtle abnormalities, including groundglass opacities and small nodules.
8.	Isocyanates	Demographic, medical and occupational history Completion of a standardised respiratory questionnaire Physical examination of the respiratory system and skin Standardised respiratory function tests, for example, FEV_1, FVC and FEV_1/FVC
9.	Mercury (inorganic)	Demographic, medical and occupational history Physical examination with emphasis on dermatological, gastrointestinal, neurological and renal systems Urinary inorganic mercury
10.	4,4’-Methylene bis (2 chloroaniline) (MOCA)	Demographic, medical and occupational history Physical examination Urinary total MOCA

Column 1 Item	Column 2 Hazardous chemical	Column 3 Type of health monitoring
		Dipstick analysis of urine for haematuria Urine cytology
11.	Organophosphate pesticides	Demographic, medical and occupational history including pattern of use Physical examination Baseline estimation of red cell and plasma cholinesterase activity levels by the Ellman or equivalent method Estimation of red cell and plasma cholinesterase activity towards the end of the working day on which organophosphate pesticides have been used
12.	Pentachlorophenol (PCP)	Demographic, medical and occupational history Records of personal exposure Physical examination with emphasis on the skin, noting any abnormal lesions or effects of irritancy Urinary total pentachlorophenol Dipstick urinalysis for haematuria and proteinuria

Column 1 Item	Column 2 Hazardous chemical	Column 3 Type of health monitoring
13.	Polycyclic aromatic hydrocarbons (PAH)	Demographic, medical and occupational history Physical examination Records of personal exposure, including photosensitivity Health advice, including recognition of photosensitivity and skin changes
14.	Thallium	Demographic, medical and occupational history Physical examination Urinary thallium
15.	Vinyl chloride	Demographic, medical and occupational history Physical examination Records of personal exposure

Table 14.2 — Lead requiring health monitoring

Column 1 Item	Column 2 Lead	Column 3 Type of health monitoring
1.	Lead (inorganic)	Demographic, medical and occupational history Physical examination Biological monitoring

Schedule 15 — Not used

Schedule 16 — Not used

Schedule 17 — Not used

Schedule 18 — Not used

Schedule 18A — Forms

[r. 701]

1. Entry warrant

***Work Health and Safety Act 2020* s. 167**		**Entry warrant**
To[1]	All inspectors under the *Work Health and Safety Act 2020*.	
Application	The applicant has applied under the *Work Health and Safety Act 2020* s. 167(1) to me, a Justice of the Peace, for an entry warrant.	
Applicant's details	Name of inspector	
Purpose for which warrant is issued[2]		
Suspected contravention(s) of Act	Provision(s)	
Warrant	This warrant authorises you to enter the place described below and exercise the powers in the *Work Health and Safety Act 2020* Pt. 9 Div. 3.	

Place to be entered				
Hours during which place may be entered				
Thing, or class of things, to which section 167C(1)(f) applies				
Document, or class of documents, to which section 167C(1)(i) applies				
Execution period[3]	This warrant must be executed within _____ day(s) after the date it is issued.			
Issuing details	Name of JP			
	Date		Time	
JP's signature	Issued by me on the above date and at the above time. Justice of the Peace			
Execution details	Start	Date: Time:	End	Date: Time:
	Occupier present? Yes/No Entry audiovisually recorded? Yes/No			
Person executing this warrant	Name			
	Office held			

Notes to Form 1:

1. An entry warrant may be executed by any inspector (s. 166B of the Act).

2. The grounds on which a JP may issue an entry warrant are set out in s. 167(4) of the Act.
3. The execution period must not exceed 30 days (s. 167(5)(f) of the Act).

Notes

This is a compilation of the *Work Health and Safety (General) Regulations 2022* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table.

Compilation table

Citation	Published	Commencement
Work Health and Safety (General) Regulations 2022	SL 2022/31 11 Mar 2022	Regulations other than r. 49(2), (3) and (4), 58, 460(1), 473(2A), 475(2A), 477(1A) and 489(2): 31 Mar 2022 (see r. 2(a) and SL 2022/18 cl. 2); r. 49(2), (3) and (4), 460(1), 473(2A), 475(2A), 477(1A) and 489(2): 31 Mar 2023 (see r. 2(c)); r. 58: 31 Mar 2024 (see r. 2(b))
Industrial Relations Regulations Amendment (Work Health and Safety) Regulations 2022 Pt. 2	SL 2022/214 23 Dec 2022	24 Dec 2022 (see r. 2(b))
Work Health and Safety Regulations Amendment Regulations 2023 Pt. 2	SL 2023/22 24 Mar 2023	31 Mar 2023 (see r. 2(b))
Work Health and Safety (General) (Fees) Amendment Regulations 2023	SL 2023/42 19 May 2023	r. 1 and 2: 19 May 2023 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2023 (see r. 2(b))
Work Health and Safety Regulations Amendment Regulations (No. 2) 2023 Pt. 2	SL 2023/134 9 Aug 2023	10 Aug 2023 (see r. 2(b))

Defined terms

[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]

Defined term	Provision(s)
8-hour time-weighted average	49(4)
abrasive blasting	5
accredited assessor	5
ACD	5
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ADG Code	5
administrative control	5
agricultural or veterinary chemical	Sch. 9 cl. 10(2)
Agvet Code	5
airborne contaminant	5
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