



Western Australia

Petroleum (Submerged Lands) Act 1982

## **Petroleum (Submerged Lands) (Occupational Safety and Health) Regulations 2007**

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## **Petroleum (Submerged Lands) (Occupational Safety and Health) Regulations 2007**

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## **Petroleum (Submerged Lands) (Occupational Safety and Health) Regulations 2007**

### **Part 1 — Preliminary**

**1. Citation**

These regulations are the *Petroleum (Submerged Lands) (Occupational Safety and Health) Regulations 2007*.

**2. Commencement**

These regulations come into operation on the day on which the *Petroleum Legislation Amendment and Repeal Act 2005* Part 4 comes into operation.

**3. Terms used in these regulations**

In these regulations, unless the contrary intention appears —

***election*** means an election for a safety and health representative or a deputy safety and health representative under clause 25 of Schedule 5 to the Act;

***responsible person*** means a person who is —

- (a) an operator; or
- (b) an employer; or
- (c) any other person in control of —
  - (i) a facility; or
  - (ii) a part of a facility; or

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(iii) particular work carried out at a facility;

***returning officer*** means a person appointed as a returning officer under regulation 7;

***safety and health representative*** means a person selected as a safety and health representative for a designated work group under clause 24 of Schedule 5 to the Act;

***voter***, in relation to an election, means a person who is eligible under clause 25(7) of Schedule 5 to the Act to vote in the election.



## **Part 2 — Matters prescribed for particular provisions of the Act**

### **4. Occupational safety and health laws that do not apply to facilities etc.**

The enactments mentioned in the Table to this regulation are prescribed for the purposes of section 15A of the Act.

**Table**

<b>Enactment</b>
<i>Dangerous Goods Safety Act 2004</i> to the extent that it relates to occupational safety and health
<i>Electricity Act 1945</i> to the extent that it relates to occupational safety and health

*[Regulation 4 amended in Gazette 30 Dec 2011 p. 5552.]*

### **5. Reviewing authority**

The person from time to time holding the office of Director Petroleum Safety in the department of the Public Service principally assisting the Minister in the administration of Schedule 5 to the Act, is the reviewing authority for the purposes of clauses 22 and 65 of that Schedule.

*[Regulation 5 amended in Gazette 30 Dec 2011 p. 5552.]*

### **6. Exemption orders under Sch. 5 cl. 45**

- (1) For the purposes of clause 45(1) of Schedule 5 to the Act, a person may apply in writing to the Minister for an order exempting the person from one or more of the provisions of Division 3 of Schedule 5 to the Act.
- (2) Within 28 days after the Minister receives an application, the Minister must decide whether or not to make the order.
- (3) In making the decision, the Minister must —

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- (a) consult with persons who might be affected by the decision to grant or refuse an exemption; and
  - (b) take into account submissions made by those persons.
- (4) In granting an exemption, the Minister may —
  - (a) impose conditions on the exemption; and
  - (b) specify a period of time during which an exemption is to apply.
- (5) The Minister must give reasons for the decision.

*[Regulation 6 amended in Gazette 30 Dec 2011 p. 5552.]*

## **Part 3 — Election of safety and health representatives**

### **Division 1 — Returning officer**

#### **7. Appointment of returning officer**

- (1) If, under clause 25(3) of Schedule 5 to the Act, an operator is required to conduct, or arrange for the conduct of, an election the operator must nominate a person to act as the returning officer for the election.
- (2) The operator must notify the Minister of the nomination.
- (3) The Minister may —
  - (a) approve the nomination and appoint the nominee as returning officer; or
  - (b) appoint another person as returning officer.

*[Regulation 7 amended in Gazette 30 Dec 2011 p. 5552.]*

### **Division 2 — The poll**

#### **8. Number of votes**

Each voter in relation to an election is entitled to one vote only in the election.

#### **9. Right to secret ballot**

A voter in relation to an election may request the returning officer for the election to conduct the poll for the election by secret ballot.

#### **10. Conduct of poll by secret ballot**

- (1) As soon as practicable after a request under regulation 9, the returning officer must issue ballot papers for the poll to voters.
- (2) The returning officer must conduct the poll in accordance with Divisions 3 and 4.

**11. Conduct of poll if no request made for secret ballot**

Subject to Division 5, if no request is made for a secret ballot, the returning officer for an election may conduct a poll for the election in a manner determined by him or her to produce a fair result.

**12. If no candidate is elected**

An election is to be taken to have failed if no candidate is elected in the election.

**Division 3 — Polling by secret ballot**

**13. Ballot papers**

The returning officer must ensure that the following is specified in a ballot paper —

- (a) the election to which it relates;
- (b) the name of each candidate in alphabetical order;
- (c) the manner of voting.

**14. Distribution of ballot papers**

- (1) As soon as practicable before the close of a poll by secret ballot, the returning officer for an election must give to each voter —
  - (a) a ballot paper that is initialled by the returning officer; and
  - (b) an envelope that —
    - (i) is addressed to the returning officer; and
    - (ii) shows on its face that it relates to the election.
- (2) The envelope given to a voter by a returning officer —
  - (a) may be pre-paid as to postage; and
  - (b) in that case, may include on its face a statement by the returning officer that the envelope may be posted to the returning officer without expense to the voter.

- (3) The returning officer must ensure that the ballot paper and envelope are enclosed in a covering envelope that is sealed and addressed to the voter.

**15. Manner of voting by secret ballot**

- (1) A voter in a poll by secret ballot must mark the ballot paper to indicate his or her preference by placing the number “1” in the box printed opposite the name of the candidate for whom that person wishes to vote.
- (2) After marking the ballot paper, the voter must —
  - (a) fold the ballot paper so as to conceal the marking; and
  - (b) put the ballot paper in the envelope referred to in regulation 14(1)(b) and seal the envelope; and
  - (c) lodge the ballot by —
    - (i) putting the envelope containing the ballot paper in a locked and sealed ballot box, provided for the election by the returning officer, in a secure part of the workplace where the members of the workforce in the designated work group to which the election relates may place envelopes of that kind; or
    - (ii) sending the envelope to the returning officer so as to reach him or her not later than the close of the poll.
- (3) If, before lodging his or her ballot, a voter —
  - (a) claims that he or she has spoilt his or her ballot paper; and
  - (b) returns the ballot paper to the returning officer; and
  - (c) requests a further ballot paper,the returning officer must —
  - (d) give the voter a fresh ballot paper; and

- (e) write the word 'spoilt' across the returned ballot paper and sign and date the writing; and
- (f) retain the spoilt ballot paper until the end of 6 months after notification of the result of the poll is given under regulation 26.

#### **Division 4 — The count**

##### **16. Envelopes given to returning officer**

- (1) A returning officer for an election must —
  - (a) keep secure the ballots received by him or her before the close of the poll; and
  - (b) ensure that the envelopes containing the ballot papers remain unopened until the count.
- (2) The returning officer must not admit to the count ballot papers received by him or her after the close of the poll.

##### **17. Scrutineers**

Each candidate in a poll conducted by secret ballot may appoint one scrutineer to represent the candidate at the count.

##### **18. Returning officer to be advised of scrutineers**

A candidate must tell the returning officer for the election the name of the candidate's scrutineer (if any) before the commencement of the count.

##### **19. Persons present at the count**

- (1) The returning officer for an election may direct a person to leave the place where the count is being conducted if the person —
  - (a) is not entitled to be present, or to remain present, at the count; or
  - (b) being entitled to be present, interrupts the count, except as provided by subregulation (2).

- (2) A candidate's scrutineer may interrupt the count if the scrutineer —
- (a) objects to a decision by the returning officer that a ballot paper is formal or informal, as the case may be; or
  - (b) considers that an error has been made in the conduct of the count,

and if the scrutineer does so, he or she must inform immediately the returning officer of the interruption.

- (3) A person must not, without reasonable excuse, fail to comply with a direction given to the person under subregulation (1).

Penalty: a fine of \$550.

**20. Conduct of the count**

- (1) The returning officer must count the votes for each candidate as soon as practicable after the close of the poll.
- (2) A candidate's scrutineer may be present at the count.
- (3) A returning officer must, as soon as practicable before the count, notify each candidate or the candidate's scrutineer, of the place where, and the time when, the count is to occur.
- (4) The candidate who receives the most votes is the successful candidate.
- (5) If 2 or more candidates receive the same number of votes, the successful candidate is to be determined by lots drawn by the returning officer.

**21. Informal ballot papers**

A ballot paper is informal if —

- (a) it is not initialled by the returning officer; or
- (b) it has no vote marked on it; or
- (c) it is so imperfectly marked that the intention of the person who marked the ballot paper is not clear; or

- (d) it has any mark or writing on it by which the person who marked the ballot paper can be identified.

**22. Completion of the count**

After the count conducted in respect of a poll has been completed, the returning officer must prepare, date and sign a statement setting out —

- (a) the number of valid votes given to each candidate; and
- (b) the number of informal ballot papers.

**23. Destruction of election material**

At the end of 6 months after notification of the result of the poll for an election is given under regulation 26, the returning officer may destroy —

- (a) the nominations for that election; and
- (b) the ballot papers, including any spoilt ballot papers, for the election.

**Division 5 — Result of election**

**24. Request for recount**

- (1) At any time before notification of the result of the poll for an election is given under regulation 26 —
  - (a) the returning officer may, on his or her own initiative, conduct a recount of any ballot papers received in the election; or
  - (b) if a candidate makes a request, either orally or in writing, for a recount of any ballot papers received in the election and gives reasons for the request, the returning officer must conduct a recount of the ballot papers.
- (2) In conducting a recount, the returning officer —



- (a) in the case of a poll by secret ballot, has the same powers for the purposes of the recount as he or she had in the count; and
- (b) in any other case, may make any reasonable decision in respect of the allowance and admission, or disallowance and rejection, of a vote cast in the poll.

**25. Irregularities at election**

- (1) Subject to subregulation (2), if the returning officer has reasonable grounds to believe that there has been an irregularity in the conduct of an election, he or she may, at any time before notification of the result of the poll is given under regulation 26, declare the election to be void.
- (2) An election must not be declared to be void only because of —
  - (a) a defect or irregularity in the conduct of the election that did not affect the result of the election; or
  - (b) an error or defect in an instrument or other document made, or purporting to be made, for the purposes of this Part; or
  - (c) an illegal practice, other than bribery or corruption, or attempted bribery or corruption, having been engaged in by a person, unless —
    - (i) it is likely that the result of the election was affected by the practice; and
    - (ii) it is just that the election be declared void.
- (3) If an election is declared void, regulation 26 applies as if the election had failed.

**26. Result of poll**

- (1) As soon as practicable after the failure of an election, a returning officer must notify in writing —
  - (a) the operator of the facility to which the election relates of the failure of the election; and

***Petroleum (Submerged Lands) (Occupational Safety and Health)  
Regulations 2007***

**Part 3** Election of safety and health representatives

**Division 5** Result of election

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(b) the Minister of the failure of the election.

- (2) As soon as practicable after the close of the poll for an election that has not failed, the returning officer must notify in writing the candidate who is elected and enclose with the notification a copy of the statement prepared under regulation 22.

*[Regulation 26 amended in Gazette 30 Dec 2011 p. 5552-3.]*

## **Part 4 — Matters relating to occupational safety and health generally**

### **27. Avoiding fatigue**

A responsible person must not allow, or require, a member of the workforce who is under the person's control, to work for —

- (a) a continuous period; or
- (b) successive continuous periods,

of a duration that could reasonably be expected to have an adverse effect on the safety or health of the member of the workforce or other persons at or near the facility.

Penalty: a fine of \$1 100.

### **28. Possession or control of drugs or intoxicants**

- (1) In this regulation —

***controlled substance*** means a substance mentioned in —

- (a) the Commonwealth *Customs (Prohibited Exports) Regulations 1958* Schedule 8; or
- (b) the Commonwealth *Customs (Prohibited Imports) Regulations 1956* Schedule 4;

***intoxicant*** means a beverage or other substance for human consumption that contains alcohol but does not include a substance for medical or pharmaceutical use;

***qualified***, in relation to a profession, means qualified and entitled, under a law of a State or Territory, to practise that profession —

- (a) in relation to a nurse, means qualified and entitled, under a law of a State or Territory, to practise as a nurse; and
- (b) in relation to a pharmacist, means qualified and entitled, under a law of a State or Territory, to practise as a pharmacist;

*therapeutic use* has the meaning given to that term in the *Health Act 1911* section 3(1).

- (2) A person on a facility must not have possession or control of —
- (a) a controlled substance; or
  - (b) an intoxicant.

Penalty: a fine of \$1 100.

- (3) It is a defence in a prosecution for an offence under subregulation (2)(a) that the controlled substance has therapeutic use and —
- (a) the person lawfully had the substance in his or her possession or control —
    - (i) in the course of the person's employment; or
    - (ii) in the course of the person's duties or practice as a qualified medical practitioner, nurse, dentist or pharmacist;
  - or
  - (b) the person lawfully had the substance in his or her possession or control for the person's bona fide personal use.

**29. Person must leave the facility when instructed to do so**

- (1) A person on a facility must leave the facility if instructed to do so by a person in command of the facility.

Penalty: a fine of \$1 100.

- (2) An instruction —
- (a) in the case of an emergency, may be given orally; or
  - (b) in any other case, relevant to occupational safety and health on the facility —
    - (i) must be in writing; and
    - (ii) must include the reason for the instruction.

**30. Prohibition on use of certain hazardous substances**

- (1) A responsible person must not allow a hazardous substance of a kind mentioned in an item in Division 2 or 3 of Schedule 2 to be used in any circumstance other than a circumstance specified in the item relating to the substance.

Penalty: a fine of \$2 200.

- (2) It is a defence in a prosecution for an offence under subregulation (1) that the use is in accordance with an exemption granted by the Minister under regulation 33.
- (3) Subregulation (1) does not apply to the use of chrysotile asbestos if the chrysotile asbestos is in a product specified in the National List of Exemptions contained in Schedule 2 to the National Model Regulations for the Control of Workplace Hazardous Substances [NOHSC: 1005 (1994)] published by the National Occupational Health and Safety Commission, as that document is in effect from time to time.

*[Regulation 30 amended in Gazette 30 Dec 2011 p. 5552-3.]*

**31. Limitations on exposure to certain hazardous substances**

- (1) In this regulation —

***appropriate exposure standard*** means an airborne concentration for a substance as set out in the Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational Environment [NOHSC: 1003 (1995)] published by the National Occupational Health and Safety Commission, as that document is in effect from time to time;

***hazardous substance*** means a substance —

- (a) that is described in the List of Designated Hazardous Substances [NOHSC: 10005 (1999)] published by the National Occupational Health and Safety Commission, as that document is in effect from time to time; or
- (b) that has been determined, in writing, to be a hazardous substance by its manufacturer in accordance with the

Approved Criteria for Classifying Hazardous Substances  
[NOHSC: 1008 (1999)] published by the National  
Occupational Health and Safety Commission, as that  
document is in effect from time to time; or

(c) that is mentioned in Schedule 2 Division 3.

- (2) A responsible person must not allow a member of the workforce, under the person's control, to be exposed to an airborne concentration of a hazardous substance in the breathing zone of the member of the workforce at a level that exceeds the appropriate exposure standard for the relevant period of time.

Penalty: a fine of \$2 200.

- (3) It is a defence in a prosecution for an offence under subregulation (2) that the airborne concentration of the hazardous substance in the breathing zone of the member of the workforce is in accordance with an exemption given by the Minister under regulation 33.

*[Regulation 31 amended in Gazette 30 Dec 2011 p. 5552-3.]*

## **32. Exposure to noise**

- (1) In this regulation —

***noise exposure standard*** means the noise exposure standard set out in the National Standard for Occupational Noise [NOHSC: 1007 (2000)] published by the National Occupational Health and Safety Commission, as that document is in effect from time to time.

- (2) A responsible person must not allow a member of the workforce who is under the person's control to be exposed to a level of noise that is in excess of the noise exposure standard.

Penalty: a fine of \$2 200.

- (3) However, it is not an offence for a person to allow a member of the workforce who is under the person's control to be exposed to a level of noise that exceeds the noise exposure standard if —

- (a) noise exposure is managed in a manner consistent with the provisions of the National Code of Practice for Noise Management and Protection of Hearing at Work [NOHSC: 2009 (2004)], as that document is in effect from time to time; and
  - (b) after allowing for the protection offered by hearing protectors, the level of noise exposure is less than —
    - (i) an LAeq,8h, of 85dB(A); or
    - (ii) an LC,peak, of 140dB(C).
- (4) Subregulation (3)(b) applies despite the wording of the noise exposure standard.
- (5) It is a defence in a prosecution for an offence under subregulation (2) that the level of noise to which the member of the workforce is exposed, is in accordance with an exemption given by the Minister under regulation 33.

*[Regulation 32 amended in Gazette 30 Dec 2011 p. 5552-3.]*

**33. Exemptions from hazardous substances and noise requirements**

On the application by a responsible person to the Minister for an exemption from compliance with regulation 30(1), 31(2) or 32(2) the Minister may —

- (a) grant an exemption if the Minister considers that compliance is not practicable in the particular circumstances; and
- (b) impose conditions on the exemption.

*[Regulation 33 amended in Gazette 30 Dec 2011 p. 5552-3 5553.]*

**34. Taking samples for testing etc.**

- (1) If a sample of a substance or thing taken under clause 57(1) of Schedule 5 to the Act is safely and practicably divisible, the inspector who has taken the sample must —

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- (a) divide the sample into 3 parts; and
  - (b) put each part into a container and seal and label the container appropriately; and
  - (c) give one part to the operator or the employer for whom the substance or thing was being used; and
  - (d) provide another part for inspection, examination, measuring or testing for the purposes of the Schedule; and
  - (e) retain the remaining part for any further inspection, examination, measuring or testing that is required.
- (2) If a sample of a substance or thing taken under clause 57(1) of Schedule 5 to the Act is not safely and practicably divisible, the inspector who has taken the sample must provide the whole sample for inspection, examination, measuring or testing for the purposes of the Schedule.
- (3) An inspector who, under clause 57(1) of Schedule 5 to the Act —
  - (a) has taken possession of any plant, substance or thing; or
  - (b) has taken a sample of a substance or thing,and removed the plant, substance or thing or the sample from the workplace must take all reasonable steps to ensure that, while in the inspector's possession or control —
  - (c) the plant, substance or thing is not damaged; or
  - (d) the sample is not contaminated.

*[Regulation 34 amended in Gazette 30 Dec 2011 p. 5553.]*

**35. Form of certain notices**

- (1) A provisional improvement notice issued under clause 37(2) of Schedule 5 to the Act may be in the form of Form 1 in Schedule 1.



- (2) A notice of the taking of possession or the taking of a sample of plant, a substance or a thing, given under clause 57(2) of Schedule 5 to the Act may be in the form of Form 2 in Schedule 1.
- (3) A notice of a direction that a workplace or plant, or substance or thing, not be disturbed, given under clause 58(2) of Schedule 5 to the Act may be in the form of Form 3 in Schedule 1.
- (4) A prohibition notice may be in the form of Form 4 in Schedule 1.
- (5) An improvement notice may be in the form of Form 5 in Schedule 1.

**36. Forms, notices and reports**

- (1) A form must be completed in accordance with a direction specified in, or at the foot of, the form.
- (2) A person who is required for the purposes of the Act —
  - (a) to complete a form; or
  - (b) give notice or make a report,must complete the form, give notice or make the report in sufficient detail to allow proper consideration of the form, notice or report.
- (3) A form, notice or report must be produced clearly and legibly in handwriting or by means of a machine in such a manner as to enable clear and legible reproduction of the contents of the form, notice or report.

**37. Service of Schedule 5 notices**

- (1) A notice that is to be served under Schedule 5 to the Act or regulations made for the purposes of that Schedule on a body corporate may be given to a director, principal executive officer or secretary of the body corporate.

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- (2) A notice that is to be served under Schedule 5 to the Act or regulations made for the purposes of that Schedule on a person may be served —
- (a) by electronic facsimile message transmitted to a facsimile facility that is installed at the address of the person last known to the person transmitting the message; and
  - (b) by a message transmitted to a computer system that is known to be in use by the person and installed at the address of the person last known to the person transmitting the message, being a message that is —
    - (i) in a form compatible with the computer system; and
    - (ii) capable of being recorded by the computer system.
- (3) A person (**person 1**) who, under subregulation (2), serves a notice on another person (**person 2**) —
- (a) must inform person 2 by telephone —
    - (i) before transmission of the message; or
    - (ii) as soon as practicable after transmission of the message,of the fact that the message will be, or has been, transmitted; and
  - (b) must send a copy of the notice by pre-paid post to the address of person 2 last known to person 1.

*[Part 5 (r. 38) deleted in Gazette 30 Dec 2011 p. 5552.]*

## **Schedule 1 — Forms**

[r. 35]

### **Form 1     Provisional improvement notice**

*Petroleum (Submerged Lands) Act 1982*

*Petroleum (Submerged Lands) (Occupational Health and Safety)  
Regulations 2007*

#### **PROVISIONAL IMPROVEMENT NOTICE**

(clause 37 of Schedule 5 to the Act)

To: *(the responsible person within the meaning of clause 37(2) of Schedule 5 to the Act)*

I, *(name of the safety and health representative issuing the notice)*, selected as the safety and health representative under clause 24 of Schedule 5 to the Act for *(description of the designated work group)*, after consultation in accordance with clause 37(1) of that Schedule, believe that a person is contravening the following provision, or provisions, of a listed OSH law (defined in section 4 of the Act) or that a person has contravened the following provision, or provisions, of a listed OSH law, and is likely to contravene that or those provisions again:

The contravention is *(specify the contravention that is occurring or is likely to occur)*:

The contravention is occurring at *(location)*:

The reasons for my opinion are as follows:

In accordance with clause 37(5)(b) of Schedule 5 to the Act, action necessary to prevent the contravention, or the likely contravention, of the provision or provisions referred to above must be taken before *(the date of a day that is:*

- (a) not less than 7 days after the day when the notice is issued; and*
- (b) reasonable in the opinion of the safety and health representative).*

\*In accordance with clause 37(6) of Schedule 5 to the Act, I specify the following action to be taken:

[\* Omit if inapplicable.]

Dated:

*(signature)*

Safety and health representative

NOTES:

1. Under clause 38(1) of Schedule 5 to the Act, a person to whom a provisional improvement notice is given may, within 7 days, request an inspector for an inspection of the subject matter of the notice.
2. Clause 38(5) of Schedule 5 to the Act requires a responsible person to whom a provisional improvement notice is given:
  - to notify each group member affected by the notice of the fact that the notice has been issued; and
  - to display a copy of the notice at or near each workplace at which work that is the subject of the notice is being performed.
3. Under clause 38(6) of Schedule 5 to the Act, a provisional improvement notice ceases to have effect when:
  - it is cancelled by the safety and health representative or an inspector;  
or

- the responsible person takes the action specified in the notice, or if no action is specified, takes the action that is necessary to prevent the contravention, or likely contravention, with which the notice is concerned.
4. Clause 38(7) of Schedule 5 to the Act requires the responsible person:
- to ensure that, to the extent that the notice relates to any matter over which the person has control, a provisional improvement notice is complied with; and
  - to take reasonable steps to inform the safety and health representative who issued the notice of the action taken to comply with the notice.
5. Under clause 65 of Schedule 5 to the Act, if an inspector has confirmed or varied a provisional improvement notice the following persons may apply in writing to the reviewing authority for a review of the inspector's decision:
- the operator of the facility or an employer affected by the decision;
  - the person to whom the notice was issued;
  - the safety and health representative for a designated work group that includes a group member affected by the decision;
  - a workforce representative in relation to the designated work group that includes a group member affected by the decision;
  - if there is no designated work group — a workforce representative in relation to a member of the workforce affected by the decision;
  - the owner of any workplace, plant, substance or thing to which that decision relates.

*[Form 1 amended in Gazette 30 Dec 2011 p. 5552 and 5553.]*

**Form 2      Notice of removal of plant or sample**

*Petroleum (Submerged Lands) Act 1982*

*Petroleum (Submerged Lands) (Occupational Health and Safety)  
Regulations 2007*

**NOTICE OF REMOVAL OF PLANT OR SAMPLE**

(clause 57 of Schedule 5 to the Act)

To: *(name of operator, employer or owner of the plant, substance or thing (if applicable))*

and *(name of safety and health representative for designated workgroup)*

I, *(name of inspector)*, an inspector as defined in section 4 of the Act,  
in the course of conducting an inspection under clause 48 of Schedule 5 to the  
Act, have taken possession of: *(description of item removed)*

from the workplace at: *(address)*

The reason for this action is: *(explanation of why removal of item was necessary)*

Signed: *(Inspector)*

Dated:

**NOTES:**

1. Under clause 57(3) of Schedule 5 to the Act if a notice is given to the operator of the facility, the operator's representative at the facility must cause the notice to be displayed in a prominent place at the workplace from which the item was removed.

2. Under clause 63(1) and (2) of Schedule 5 to the Act, a person who tampers with a notice, or removes a notice before the item has been returned to the workplace, may be liable to a penalty of \$11 000.
3. Under clause 65 of Schedule 5 to the Act, if an inspector decides, under clause 57, to take possession of plant, a substance or a thing at a workplace, the following persons may apply in writing to the reviewing authority in writing for a review of the decision:
  - the operator of the facility or an employer affected by the decision;
  - the person to whom the notice was issued;
  - the safety and health representative for a designated work group that includes a group member affected by the decision;
  - a workforce representative in relation to the designated work group that includes a group member affected by the decision;
  - if there is no designated work group — a workforce representative in relation to a member of the workforce affected by the decision;
  - the owner of any workplace, plant, substance or thing to which that decision relates.

*[Form 2 amended in Gazette 30 Dec 2011 p. 5553.]*

**Form 3      Do not disturb notice**

*Petroleum (Submerged Lands) Act 1982*

*Petroleum (Submerged Lands) (Occupational Health and Safety)  
Regulations 2007*

**DO NOT DISTURB NOTICE**

(clause 58 of Schedule 5 to the Act)

To: *(name of operator's representative at the facility)*

I, *(name of inspector)* an inspector as defined in section 4 of the Act, direct  
that: *(description of the affected workplace or part of workplace, plant,  
substance or thing)*

is not to be disturbed during the period from          a.m./p.m.

to          a.m./p.m.      on          *(date)*.

The reasons for giving this direction are:

Signed: *(Inspector)*

Dated:

NOTES:

1. Under clause 58(7) of Schedule 5 to the Act, an operator of a facility to which a direction concerning a workplace, plant, substance or a thing relates and who does not ensure that the direction is complied with may be liable to a penalty of \$27 500.
2. Under clause 58(5) of Schedule 5 to the Act if a notice is given to the operator's representative at the facility, the representative must cause the notice to be displayed in a prominent place at the workplace that is to be



left undisturbed, or where the plant, substance or thing that is to be left undisturbed is located.

3. Under clause 63(1) and (3) of Schedule 5 to the Act, a person who, without reasonable excuse, tampers with a notice, or removes a notice before it has ceased to have effect, may be liable to a penalty of \$11 000.
4. Under clause 65 of Schedule 5 to the Act, if an inspector decides, under clause 58, to direct that a workplace, a part of a workplace, plant, a substance or a thing at a workplace, not be disturbed, the following persons may apply, in writing to the reviewing authority for a review of the decision:
  - the operator of the facility or an employer affected by the decision;
  - the person to whom the notice was issued;
  - the safety and health representative for a designated work group that includes a group member affected by the decision;
  - a workforce representative in relation to the designated work group that includes a group member affected by the decision;
  - if there is no designated work group — a workforce representative in relation to a member of the workforce affected by the decision;
  - the owner of any workplace, plant, substance or thing to which that decision relates.

*[Form 3 amended in Gazette 30 Dec 2011 p. 5553.]*

**Form 4      Prohibition notice**

*Petroleum (Submerged Lands) Act 1982*

*Petroleum (Submerged Lands) (Occupational Health and Safety)  
Regulations 2007*

**PROHIBITION NOTICE**

(clause 59 of Schedule 5 to the Act)

To:    *(name of operator's representative at the facility)*

I, *(name of inspector)*, an inspector as defined in section 4 of the Act, am satisfied that it is necessary to issue a prohibition notice to the operator of *(name of the facility)* in order to remove an immediate threat to the safety or health of a person.

The activity that is a threat to safety or health is *(specify activity)*:

The reasons for my opinion are as follows:

I THEREFORE DIRECT the operator to ensure that the activity specified above is not engaged in.

OR

I THEREFORE DIRECT the operator to ensure that the activity specified above is NOT engaged in the following manner: *(specify the manner)*

- (a)    at this workplace or part of workplace: *(specify workplace, or part of a workplace at which the activity is not to be engaged in, as the case may be)*
- (b)    using this plant or substance: *(specify plant or substance not to be used, if applicable)*

- 
- (c) following this procedure: *(specify procedure not to be followed, if applicable)*

\*In accordance with clause 59(5) of Schedule 5 to the Act, I specify the following action that may be taken to satisfy me that adequate action has been taken to remove the threat to safety and health: *(if insufficient space, use additional page)*

Signed: *(Inspector)*

Dated:

[\* Omit if inapplicable.]

NOTES:

1. Under clause 60 of Schedule 5 to the Act, an operator who fails to ensure that a prohibition notice issued to the operator is complied with may be liable to a penalty of \$27 500.
2. Under clause 59(6) of Schedule 5 to the Act, the operator's representative at the facility must give a copy of a prohibition notice to each safety and health representative (if any) for any designated work group having group members performing work that is affected by the notice; and cause a copy of the notice to be displayed in a prominent place at or near each workplace at which that work is performed.
3. Under clause 63(1) and (3) of Schedule 5 to the Act, a person who tampers with a prohibition notice, or removes a prohibition notice before it has ceased to have effect, may be liable to a penalty of \$11 000.
4. Under clause 65 of Schedule 5 to the Act, if an inspector decides, under clause 59, to issue a prohibition notice, the following persons may apply, in writing to the reviewing authority for a review of the decision:
  - the operator of the facility or an employer affected by the decision;
  - the person to whom the notice was issued;
  - the safety and health representative for a designated work group that includes a group member affected by the decision;

- a workforce representative in relation to the designated work group that includes a group member affected by the decision;
- if there is no designated work group — a workforce representative in relation to a member of the workforce affected by the decision;
- the owner of any workplace, plant, substance or thing to which that decision relates.

*[Form 4 amended in Gazette 30 Dec 2011 p. 5553.]*

**Form 5 Improvement notice**

*Petroleum (Submerged Lands) Act 1982*

*Petroleum (Submerged Lands) (Occupational Health and Safety)  
Regulations 2007*

**IMPROVEMENT NOTICE**

(clause 61 of Schedule 5 to the Act)

To: *(the responsible person within the meaning of clause 61(1) of Schedule 5 to the Act)*

I, *(name of inspector)*, an inspector as defined in section 4 of the Act, believe that you are contravening the following provision, or provisions, of a listed OSH law (defined in section 4 of the Act) or that you have contravened the following provision, or provisions, of a listed OSH law, and are likely to contravene that or those provisions again:

The contravention is *(specify the contravention that is occurring or is likely to occur)*:

The contravention is occurring at *(location)*:

The reasons for my belief are as follows:

In accordance with clause 61(4)(b) of Schedule 5 to the Act, action necessary to prevent any further contravention or to prevent the likely contravention must be taken before *(specify a reasonable period within which the responsible person is to take the action)*.

\*In accordance with clause 61(4)(c) of Schedule 5 to the Act, I specify the following action that the responsible person is to take: *(If insufficient space, use additional page)*

Signed: *(Inspector)*

Dated:

\*(Omit if inapplicable.)

*(Page 2 of Form 5)*

When the required improvement has been completed, return this part of the notice to the following person at the address below:

Name:

Position:

Address:

Telephone number:

Improvement Notice No.    has been complied with.

Signed:

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This notice was delivered to: *(insert name)*

in the office or position of *(insert office or position)*

at: *(insert time, a.m. or p.m.)*                      on                      *(insert date)*.

*(See notes on page 3.)*

*(Page 3 of Form 5)*

NOTES:

1. Under clause 62 of Schedule 5 to the Act, a person who fails to ensure that an improvement notice is complied with, to the extent that it relates to a matter over which the person has control, may be liable to a penalty of \$11 000.

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2. Under clause 61(7) of Schedule 5 to the Act, the operator's representative at the facility must give a copy of an improvement notice to each safety and health representative for any designated work group having group members performing work that is affected by the notice; and cause a copy of the notice to be displayed in a prominent place at or near each workplace at which that work is performed.
  3. Under clause 63(1) and (3) of Schedule 5 to the Act, a person who tampers with an improvement notice, or removes an improvement notice before it has ceased to have effect, may be liable to a penalty of \$11 000.
  4. Under clause 65 of Schedule 5 to the Act, if an inspector decides, under clause 61, to issue an improvement notice, the following persons may apply, in writing to the reviewing authority for a review of the decision:
    - the operator of the facility or an employer affected by the decision;
    - the person to whom the notice was issued;
    - the safety and health representative for a designated work group that includes a group member affected by the decision;
    - a workforce representative in relation to the designated work group that includes a group member affected by the decision;
    - if there is no designated work group — a workforce representative in relation to a member of the workforce affected by the decision;
    - the owner of any workplace, plant, substance or thing to which that decision relates.

*[Form 5 amended in Gazette 30 Dec 2011 p. 5553.]*

## **Schedule 2 — Hazardous substances**

[r. 30]

### **Division 1 — Preliminary**

#### **1. Terms used in this Schedule**

In this Schedule —

***bona fide research*** means a systematic, investigative or experimental activity conducted for the purpose of —

- (a) acquiring new knowledge; or
- (b) creating new or improved materials, products, devices, processes or services; or
- (c) analysis to identify the kind or quantities of ingredients in a substance;

***in situ***, in relation to a product that contains asbestos, means that, at the time the use of the form of asbestos in the product is prohibited under regulation 30, the product is fixed or installed —

- (a) in —
  - (i) a building or any other structure that forms a workplace; or
  - (ii) a plant, a vehicle or any other thing that is for use at a workplace;
- and
- (b) in a way that does not constitute a risk to users until the asbestos contained in the product is disturbed.



**Division 2 — Permitted circumstances for using certain  
hazardous substances**

**Table**

<b>Item</b>	<b>Substance (identified by substance name)</b>	<b>Permitted circumstance</b>
1.	Polychlorinated biphenyls (also known as PCBs)	<ol style="list-style-type: none"><li>1. Handling for storage prior to removal or disposal.</li><li>2. Storage prior to removal or disposal.</li><li>3. Removal or disposal.</li><li>4. Use when contained in existing electrical equipment or construction material.</li><li>5. Repair of existing electrical equipment or construction material.</li></ol>

**Division 3 — Permitted circumstances for using certain hazardous  
substances with carcinogenic properties**

**Table**

<b>Item</b>	<b>Substance (identified by substance name, with chemical abstract number in square brackets)</b>	<b>Permitted circumstance</b>
1.	2-Acetylaminofluorene [53-96-3]	Bona fide research.
2.	Aflatoxins	Bona fide research.
3.	4-Aminodiphenyl [92-67-1]	Bona fide research.

***Petroleum (Submerged Lands) (Occupational Safety and Health) Regulations 2007***

**Schedule 2** Hazardous substances

**Division 3** Permitted circumstances for using certain hazardous substances with carcinogenic properties

<b>Item</b>	<b>Substance (identified by substance name, with chemical abstract number in square brackets)</b>	<b>Permitted circumstance</b>
4.	Amosite (brown asbestos) [12172-73-5]	<ol style="list-style-type: none"><li>1. Removal or disposal of amosite in accordance with a law of a State or Territory relating to the removal of asbestos.</li><li>2. Dealing with naturally occurring amosite if the amosite is not used in a new application.</li></ol>
5.	Benzidine [92-87-5] and its salts, including benzidine dihydrochloride [531-85-1]	Bona fide research.
6.	bis(Chloromethyl) ether [542-88-1]	Bona fide research.
7.	Chloromethyl methyl ether (technical grade containing bis(chloromethyl) ether) [107-30-2]	Bona fide research.
8.	Crocidolite (blue asbestos) [12001-28-4]	<ol style="list-style-type: none"><li>1. Removal or disposal of crocidolite in accordance with a law of a State or Territory relating to the removal of asbestos.</li><li>2. Dealing with naturally occurring crocidolite if the crocidolite is not used in a new application.</li></ol>
9.	4-Dimethylaminoazo-benzene [60-11-7]	Bona fide research.

***Petroleum (Submerged Lands) (Occupational Safety and Health)  
Regulations 2007***

Hazardous substances **Schedule 2**  
Permitted circumstances for using certain hazardous **Division 3**  
substances with carcinogenic properties

<b>Item</b>	<b>Substance (identified by substance name, with chemical abstract number in square brackets)</b>	<b>Permitted circumstance</b>
10.	2-Naphthylamine [91-59-8] and its salts	Bona fide research.
11.	4-Nitrodiphenyl [92-93-3]	Bona fide research.
12.	Actinolite asbestos [77536-66-4]	<ol style="list-style-type: none"><li>1. Bona fide research.</li><li>2. Handling for storage prior to removal or disposal of actinolite.</li><li>3. Storage prior to removal or disposal of actinolite.</li><li>4. Removal or disposal of actinolite in accordance with a law of a State or Territory relating to the removal of asbestos.</li><li>5. Disturbance of naturally occurring actinolite that is incidental to operations not related to the extraction or processing of actinolite, for example, roadworks.</li><li>6. Use (without disturbance) of actinolite in products that are in situ.</li></ol>
13.	Anthophyllite asbestos [77536-67-5]	<ol style="list-style-type: none"><li>1. Bona fide research.</li><li>2. Handling for storage prior to removal or disposal of anthophyllite.</li><li>3. Storage prior to removal or disposal of anthophyllite.</li></ol>

***Petroleum (Submerged Lands) (Occupational Safety and Health) Regulations 2007***

**Schedule 2** Hazardous substances

**Division 3** Permitted circumstances for using certain hazardous substances with carcinogenic properties

<b>Item</b>	<b>Substance (identified by substance name, with chemical abstract number in square brackets)</b>	<b>Permitted circumstance</b>
14.	Chrysotile (white asbestos) [12001-29-5]	<ol style="list-style-type: none"><li>4. Removal or disposal of anthophyllite in accordance with a law of a State or Territory relating to the removal of asbestos.</li><li>5. Disturbance of naturally occurring anthophyllite that is incidental to operations not related to the extraction or processing of anthophyllite, for example, roadworks.</li><li>6. Use (without disturbance) of anthophyllite in products that are in situ.</li><li>1. Bona fide research.</li><li>2. Handling for storage awaiting disposal of chrysotile.</li><li>3. Removal or disposal of chrysotile in accordance with a law of a State or Territory relating to the removal of asbestos.</li><li>4. Dealing with naturally occurring chrysotile encountered during mining for a mineral other than any kind of asbestos, or encountered during the recovery of petroleum.</li></ol>

***Petroleum (Submerged Lands) (Occupational Safety and Health)  
Regulations 2007***

Hazardous substances **Schedule 2**  
Permitted circumstances for using certain hazardous **Division 3**  
substances with carcinogenic properties

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<b>Item</b>	<b>Substance (identified by substance name, with chemical abstract number in square brackets)</b>	<b>Permitted circumstance</b>
<hr/>		5. Removal (without disturbance) of a product containing chrysotile that is in situ at the commencement of these regulations.
15.	Tremolite asbestos [77536-68-6]	1. Bona fide research.  2. Handling for storage prior to removal or disposal of tremolite.  3. Storage prior to removal or disposal of tremolite.  4. Removal or disposal of tremolite in accordance with a law of a State or Territory relating to the removal of asbestos.  5. Disturbance of naturally occurring tremolite that is incidental to operations not related to the extraction or processing of tremolite, for example, roadworks.  6. Use (without disturbance) of tremolite in products that are in situ.

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### **Notes**

- <sup>1</sup> This is a compilation of the *Petroleum (Submerged Lands) (Occupational Safety and Health) Regulations 2007* and includes the amendments made by the other written laws referred to in the following table.

### **Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Petroleum (Submerged Lands) (Occupational Safety and Health) Regulations 2007</i>	27 Mar 2007 p. 1265-311	28 Mar 2007 (see r. 2 and <i>Gazette</i> 27 Mar 2007 p. 1405)
<i>Petroleum (Submerged Lands) (Occupational Safety and Health) Amendment Regulations 2011</i>	30 Dec 2011 p. 5551-3	r. 1 and 2: 30 Dec 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jan 2012 (see r. 2(b) and <i>Gazette</i> 30 Dec 2011 p. 5537)

## **Defined terms**

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
appropriate exposure standard .....	31(1)
bona fide research .....	Sch. 2 cl. 1
controlled substance .....	28(1)
election .....	3
hazardous substance .....	31(1)
in situ .....	Sch. 2 cl. 1
intoxicant .....	28(1)
noise exposure standard .....	32(1)
person 1 .....	37(3)
person 2 .....	37(3)
qualified .....	28(1)
responsible person .....	3
returning officer .....	3
safety and health representative .....	3
therapeutic use .....	28(1)
voter .....	3