

Western Australia

# **Occupational Safety and Health Regulations 1996**

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# Occupational Safety and Health Regulations 1996

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## **Occupational Safety and Health Regulations 1996**

### **Part 1 — Preliminary and interpretation**

#### **Division 1 — Preliminary and definitions**

##### **1.1. Citation**

These regulations may be cited as the *Occupational Safety and Health Regulations 1996*<sup>1</sup>.

##### **1.2. Commencement**

These regulations come into operation on 1 October 1996.

##### **1.3. Definitions**

In these regulations, unless the contrary intention appears —

**“abrasive blasting”, “abrasive material”, “dry abrasive blasting”** and **“wet abrasive blasting”** have the respective meanings that they have in regulation 3.102;

**“approved”** means approved by the Commissioner;

**“AS”** followed by a designation refers to the Australian Standard having that designation that is published by Standards Australia and that is referred to in Schedule 1 and includes any amendment to the document made before the reference to the document is included in Schedule 1;

**“AS/NZS”** followed by a designation refers to the Australian/New Zealand Standard having that designation that is published by Standards Australia and the Standards

Council of New Zealand under an Active Cooperation Agreement between those 2 bodies and that is referred to in Schedule 1 and includes any amendment to the document made before the reference to the document is included in Schedule 1;

**“asbestos”** has the meaning that it has in regulation 5.42;

**“boiler”** has the meaning that it has in regulation 4.1;

**“Building Code”** means the Building Code of Australia 1990 published by or on behalf of the Australian Building Codes Board as amended from time to time and a reference in these regulations to the class of a building is a reference to the building’s classification under Part A3 of the Building Code;

**“building maintenance unit”** has the meaning that it has in regulation 4.1;

**“building or structure”** includes any erection, edifice, wall, chimney, fence, bridge, dam, reservoir, wharf, jetty, or ship or other floating structure, and includes any part of any of those things;

**“competent person”**, in relation to the doing of anything, means a person who has acquired through training, qualification or experience, or a combination of those things, the knowledge and skills required to do that thing competently;

**“construction site”** means a workplace at which construction work is done and includes any adjoining area where plant or other materials used or to be used in connection with that work are located or kept and over which the main contractor has control for the purpose of doing the construction work;

**“construction work”** means —

- (a) the construction, erection, installation, alteration, repair, maintenance, cleaning, painting, renewal, removal, excavation, dismantling or demolition of, or

addition to, any building or structure, or any work in connection with any of those things, that is done at or adjacent to the place where the building or structure is located;

- (b) work on which a hoisting appliance or any scaffold or shoring is used or intended to be used;
- (c) work in driving or extracting piles, sheet piles or trench sheet;
- (d) work in laying any pipe or work in lining pipe that is done at or adjacent to the place where the pipe is laid or to be laid;
- (e) work in sinking or lining or altering, repairing, maintaining, renewing, removing, or dismantling a well or borehole;
- (f) road works, earthworks or reclamation; or
- (g) work in laying an underground cable or work related to laying an underground cable that is done at or adjacent to the place where the cable is laid or to be laid;

**“crane”** has the meaning that it has in regulation 4.1;

**“danger tag”** means an accident prevention tag as referred to in section 5 of AS 1319 that is in the form of a danger sign within the meaning of that Standard;

**“demolition”** has the meaning that it has in regulation 3.114;

**“earthmoving machinery”** has the meaning it has in regulation 4.1;

**“exhaust system”**, in relation to a workplace, means a system by which dust, fumes, mist, gas, vapour or any other airborne particle is removed from the atmosphere of the workplace and includes —

- (a) a collecting hood, ductwork and fan;
- (b) an air cleaning filtration system; and
- (c) an associated motor, collector bin or receptacle;

**“gas cylinder”** has the meaning that it has in regulation 4.1;

**“gear”** includes a ladder, plank, chain, rope, fastening, coupling, fitting, hoist-block, stay, pulley, hanger, sling, brace or movable contrivance of a similar kind, used or intended for use on or in connection with construction work;

**“hoarding”** has the meaning that it has in regulation 3.66;

**“hoist”** has the meaning that it has in regulation 4.1;

**“main contractor”** means —

- (a) the person for whose direct benefit all the work done at a construction site exists upon its completion; or
- (b) if the person mentioned in paragraph (a) has engaged another person, other than as his or her employee, to do or cause to be done all the work at the construction site, the other person so engaged;

**“manufacturing process”** means a process in or incidental to the making, assembly, altering, repairing, renovating, preparing, ornamenting, finishing, cleaning, washing or adapting of any goods or of any other articles or part thereof for trade, sale or gain or as ancillary to a business;

**“medical practitioner”** means a person who is registered under the *Medical Act 1894* and who has a current entitlement to practise under that Act;

**“person having control of a workplace”** means a person other than an employee who has, to any extent, control of a workplace where persons who are not employees of that person work or are likely to be in the course of that work and where the control is in connection with the carrying on by that person of a trade, business or undertaking (whether for profit or not); and includes a person who has, by virtue of a contract or lease, an obligation of any extent in relation to the maintenance or repair of a workplace;

**“person having control of access to a workplace”** means a person other than an employee who has, to any extent,



control of the means of access to and egress from a workplace where the control is in connection with the carrying on by that person of a trade, business or undertaking (whether for profit or not); and includes a person who has, by virtue of a contract or lease, an obligation of any extent in relation to the maintenance or repair of the means of access to or egress from a workplace;

**“platform”** means the surface of a plank or other material that is used to provide access to, or egress from, a place, or for persons to stand on or load materials or other things onto, or is otherwise used as a working platform;

**“pressure vessel”** has the meaning that it has in regulation 4.1;

**“scaffold”** has the meaning that it has in regulation 3.66;

**“supplied air respirator”** has the meaning that it has in regulation 3.37;

**“the regulation 1.15 penalty”** means the penalty specified in regulation 1.15;

**“the regulation 1.16 penalty”** means the penalty specified in regulation 1.16;

**“welding”** and **“allied process”**, in relation to welding, have the respective meanings that they have in regulation 3.94.

*[Regulation 1.3 amended in Gazette 17 Dec 1999 p. 6228-9; 8 Mar 2002 p. 961-2; 25 Jun 2004 p. 2291; 22 Oct 2004 p. 4834; 14 Dec 2004 p. 6010.]*

## **Division 2 — Interpretation**

### **1.4. Responsibility of employers**

Unless the contrary intention appears, where an employer has a duty under a provision of these regulations to do or not do something in relation to a workplace, the employer’s duty —

- (a) relates only to a matter over which, and the extent to which, the employer has control or can reasonably be

expected to have control having regard to the workplace and the work done or caused to be done by the employer or his or her employee; and

- (b) is limited to himself or herself and to any other person who is —
  - (i) his or her employee; or
  - (ii) any other person who may be affected wholly or in part as a result of the work done or caused to be done by the employer or his or her employee.

### **1.5. Responsibility of self-employed persons**

Unless the contrary intention appears, where a self-employed person has a duty under a provision of these regulations to do or not do something in relation to a workplace, the self-employed person's duty —

- (a) relates only to a matter over which, and the extent to which, the self-employed person has control or can reasonably be expected to have control having regard to the workplace and the work done or caused to be done by the self-employed person; and
- (b) is limited to himself or herself and to any other person who may be affected wholly or in part as a result of the work done or caused to be done by the self-employed person.

### **1.6. Responsibility of main contractors**

Unless the contrary intention appears, where a main contractor has a duty under a provision of these regulations to do or not do something in relation to a construction site, the main contractor's duty —

- (a) relates only to a matter over which, and the extent to which, the main contractor has control or can reasonably be expected to have control at the site; and

- (b) is limited to any person who may be affected wholly or in part as a result of the work done at the site.

**1.7. Responsibility of persons having control of a workplace**

Unless the contrary intention appears, where a person having control of a workplace has a duty under a provision of these regulations to do or not do something in relation to the workplace, the person's duty —

- (a) relates only to a matter over which, and the extent to which, the person has control or can reasonably be expected to have control having regard to the person's interest in the workplace; and
- (b) is limited to persons who are at the workplace.

**1.8. Responsibility of persons having control of access to a workplace**

Unless the contrary intention appears, where a person having control of access to a workplace has a duty under a provision of these regulations to do or not do something in relation to the workplace, the person's duty —

- (a) relates only to a matter over which, and the extent to which, the person has control or can reasonably be expected to have control of the access to and egress from the workplace having regard to the person's interest in the access to and egress from the workplace; and
- (b) is limited to persons who use the access to and egress from the workplace.

**1.9. References to employees**

Unless the contrary intention appears, a reference in a provision of these regulations to an employee is to be treated as a reference to an employee who works at the workplace to which the provision applies but, if used in association with a reference to a workplace or to an employer, the reference is to be treated

as limited to an employee who works at that workplace or to an employee of that employer.

**1.10. References to workplaces**

Unless the contrary intention appears, a reference in a provision of these regulations to a workplace if used in association with a reference to —

- (a) an employer, is to be treated as limited to the workplace in respect of which that person is the employer;
- (b) an employee, is to be treated as limited to the workplace at which that employee works;
- (c) a self-employed person, is to be treated as limited to the workplace at which work is done or caused to be done by that person.

**1.11. References to “NOHSC”**

- (1) A reference in any provision of these regulations to a document which has “NOHSC” in its name or code is a reference to the document of that name or code that is published by the National Occupational Health and Safety Commission and includes, subject to this regulation, any amendment to the document made before that provision comes into operation.
- (2) A reference in any provision of these regulations to the *National Exposure Standards* [NOHSC: 1003 (1995)] is a reference to the *Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational Environment* [NOHSC: 1003 (1995)] and includes any amendment to the document made before 1 September 2005.
- (3) A reference in any provision of these regulations to the *Guidance Note on the Interpretation of Exposure Standards for Atmospheric Contaminants in the Occupational Environment* [NOHSC: 3008 (1995)] includes any amendment to the document made before 4 January 2005.

*[Regulation 1.11 amended in Gazette 12 Sep 1997 p. 5176-7;  
8 Mar 2002 p. 962; 7 Jan 2005 p. 77; 27 Apr 2007 p. 1776.]*

**1.12. Application of Standards etc.**

Where a provision of these regulations requires a person to comply with —

- (a) an Australian Standard published by Standards Australia;
- (b) an Australian/New Zealand Standard published by Standards Australia and the Standards Council of New Zealand under an Active Cooperation Agreement between those 2 bodies; or
- (c) a standard or other document published by the National Occupational Health and Safety Commission,

that provision is to be treated as requiring compliance only to the extent that it is not inconsistent with these regulations.

*[Regulation 1.12 amended in Gazette 22 Oct 2004 p. 4834.]*

**1.13. Technical terms**

In these regulations, unless the contrary intention appears, technical terms not otherwise defined have the respective meanings ordinarily ascribed to them in the industry in relation to which the term is used.

**1.14. AS or AS/NZS reference in Schedule 1**

Failure to include the number of the regulation in which a reference is made to an AS or AS/NZS designation in the regulation reference for that designation in Schedule 1 does not invalidate the reference to that designation in the regulation.

*[Regulation 1.14 inserted in Gazette 17 Dec 1999 p. 6229.]*

**1.15. Penalty for breaches by employees**

- (1) Subregulation (2) applies where “the regulation 1.15 penalty” is specified in a penalty provision at the foot of a regulation or subregulation.
- (2) The applicable penalty is —
  - (a) for a first offence, \$5 000; and
  - (b) for a subsequent offence, \$6 250.

*[Regulation 1.15 inserted in Gazette 14 Dec 2004 p. 6010.]*

**1.16. Penalty for breaches by employers and others**

- (1) Subregulation (2) applies where “the regulation 1.16 penalty” is specified in a penalty provision at the foot of a regulation or subregulation.
- (2) The applicable penalty is —
  - (a) in the case of an individual —
    - (i) for a first offence, \$25 000; and
    - (ii) for a subsequent offence, \$31 250;
  - or
  - (b) in the case of a body corporate —
    - (i) for a first offence, \$50 000; and
    - (ii) for a subsequent offence, \$62 500.

*[Regulation 1.16 inserted in Gazette 14 Dec 2004 p. 6010.]*

## Part 2 — General

### Division 1 — Matters prescribed for purposes of the Act

**2.1. Prescribed laws for the purposes of section 14(1)(b) of the Act**

The laws and provisions of laws relating to occupational safety and health that are set out in the Table to this regulation are prescribed for the purposes of section 14(1)(b) of the Act.

**Table**

Law	Provisions of that law
<i>Mines Safety and Inspection Act 1994</i>	All

**2.2. Introductory and transitional courses for, and entitlements under section 35(3) of, safety and health representatives**

- (1) This regulation applies where, under section 14(1)(h) of the Act, the Commission —
- (a) accredits a training course designed for safety and health representatives to attend, subject to course availability, during the first year of holding office; or
  - (b) accredits a training course designed to update the knowledge of safety and health representatives who have completed an introductory course.
- (2) In this regulation —
- “**introductory course**” means a course of a kind referred to in subregulation (1)(a) accredited as referred to in that provision;
- “**representative**” means a safety and health representative;
- “**transitional course**” means a course of a kind referred to in subregulation (1)(b) accredited as referred to in that provision.

- (3) A representative, subject to the availability of introductory courses, is to endeavour to attend an introductory course within the first 12 months of being elected.
- (4) A representative who has not previously attended an introductory course may give to his or her employer notice in writing in accordance with subregulation (4b) that the representative wishes to attend an introductory course.
- (4a) A representative who has previously attended an introductory course but completed it before March 2005 may, if the representative has not completed a transitional course after February 2005, give to his or her employer notice in writing in accordance with subregulation (4b) that the representative wishes to attend a transitional course.
- (4b) Notice under subregulation (4) or (4a) that a representative wishes to attend a course has to be given not less than 21 days, or a shorter period agreed between the representative and the employer, before the commencement of the course.
- (5) If a representative has given notice under subregulation (4) or (4a) that he or she wishes to attend a course then the employer, subject to subregulation (7), is to permit the representative to take off work, with pay, such time, not exceeding 5 days, as is required for the purpose of attending that course.
- (6) An employer who has been given notice under subregulation (4) or (4a) by a representative wishing to attend a course may consult with the representative or the relevant trade union concerning the attendance of the representative at that course and, in those consultations, due regard is to be given to the need to minimise any adverse effect on the operation of the business of the employer.
- (7) If the employer has consulted under subregulation (6) with the representative or trade union concerned, the employer may decline to permit attendance at the course as wished but instead permit attendance at the next course of the same kind available that the representative wishes to attend.



- (8) The pay to which a representative is entitled in respect of time the representative is permitted to take off work to attend an introductory course or a transitional course must be calculated at the representative's ordinary rate of pay on the time that the representative would ordinarily have worked had the representative worked his or her scheduled work time —
- (a) including —
    - (i) regular over award payments for ordinary hours of work;
    - (ii) shift work premiums according to roster or projected roster including Saturday or public holiday shift;
    - (iii) industry allowances;
    - (iv) climatic, regional, and other like allowances;
    - (v) first aid allowances;
    - (vi) tool allowances;
    - (vii) qualification allowances;
    - (viii) service grants made on a regular basis;
    - (ix) experience allowances; and
    - (x) any penalty rates that are paid in relation to actual hours worked or payment of which are guaranteed by a contract of service whether the hours were required to be worked or not;
  - (b) but not including —
    - (i) overtime payments (except if they form part of the contract of service);
    - (ii) camping allowances;
    - (iii) travelling allowances;
    - (iv) disability rates such as for confined spaces and dirty work;
    - (v) car allowances; or

- (vi) meal allowances,

but nothing in this subregulation excludes an entitlement to additional payments that may be set out in an award or agreed between the employer and the representative as being applicable.

- (9) An employer must not alter the conditions or remuneration of a person who is a representative to the detriment of that person unless the alteration is in accordance with this regulation.

Penalty:

- (a) in the case of an individual —
  - (i) for a first offence, \$10 000; and
  - (ii) for a subsequent offence, \$12 500;
- or
- (b) in the case of a body corporate —
  - (i) for a first offence, \$20 000; and
  - (ii) for a subsequent offence, \$25 000.

- (10) Attendance at an introductory course or a transitional course is to be regarded as service for the purposes of ascertaining any entitlement under an award.

- (11) In subregulation (8) —

**“award”** means —

- (a) an award under the *Industrial Relations Act 1979*, and includes any industrial agreement or order under that Act;
- (b) an award or order that has been reduced to writing under section 143(1) of the *Industrial Relations Act 1988* of the Commonwealth;
- (c) an enterprise flexibility agreement within the meaning of the *Industrial Relations Act 1988* of the Commonwealth; or

- (d) an award under the *Coal Industry Tribunal of Western Australia Act 1992*, and includes any order under that Act and any agreement that comes within section 12(4) or 17(1) of that Act.

*[Regulation 2.2 amended in Gazette 15 Aug 2003 p. 3689; amended in Gazette 14 Dec 2004 p. 6016; 4 Mar 2005 p. 881-3.]*

**2.3. Subsequent courses for, and entitlements under section 35(3) of, safety and health representatives**

- (1) This regulation applies where, under section 14(1)(h) of the Act, the Commission accredits a training course suitable for attendance by safety and health representatives, subject to course availability, during each 2 year term of holding office following the first 2 year term.
- (2) In this regulation —  
“**post-introductory course**” means a course of a kind referred to in subregulation (1);  
“**representative**” means a safety and health representative.
- (3) A representative may take such time (with or without pay as is agreed between the representative and his or her employer) off work for the purpose of attending a post-introductory course as is agreed with his or her employer.
- (4) Attendance at a post-introductory course is to be regarded as service for the purposes of ascertaining any entitlement under an award.

**2.4. Notification under section 23I of certain injuries**

- (1) For the purposes of section 23I(2)(a) of the Act, the kinds of injury incurred by an employee to be notified by an employer to the Commissioner are —  
(a) a fracture of the skull, spine or pelvis;

- (b) a fracture of any bone —
    - (i) in the arm, other than in the wrists or hand;
    - (ii) in the leg, other than a bone in the ankle or foot;
  - (c) an amputation of an arm, a hand, finger, finger joint, leg, foot, toe or toe joint;
  - (d) the loss of sight of an eye;
  - (e) any injury other than an injury of a kind referred to in paragraphs (a) to (d) which, in the opinion of a medical practitioner, is likely to prevent the employee from being able to work within 10 days of the day on which the injury occurred.
- (2) For the purposes of section 23I(3) of the Act, notification of an injury to which section 23I(2)(a) of the Act applies is to be made —
- (a) in the form of Form 1 in Schedule 2; or
  - (b) by telephone.
- (3) The prescribed particulars for the purposes of the notification of an injury to which section 23I(2)(a) of the Act applies are —
- (a) name and business address of the employer;
  - (b) name, sex and occupation of the employee;
  - (c) address of the place at which the injury was incurred;
  - (d) date and time the injury was incurred;
  - (e) brief description of how the injury was incurred and the type of machine or equipment, if any, involved;
  - (f) nature of the injury or, where applicable, report of death; and
  - (g) the place to which the employee has been taken.

*[Regulation 2.4 amended in Gazette 14 Dec 2004 p. 6011.]*

**2.5. Notification under section 23I of certain diseases**

- (1) For the purposes of section 23I(2)(a) of the Act, the kinds of disease affecting an employee to be notified by an employer to the Commissioner are the diseases set out in column 1 of the Table to this regulation that have been contracted in the course of the kind of work set out opposite that disease in column 2 of the Table.

**Table**

<b>Disease</b>	<b>Work</b>
<b>1. Infectious diseases:</b>	Work involving exposure to
tuberculosis	human blood products, body
viral hepatitis	secretions, excretions or other
legionnaires' disease	material which may be a
HIV	source of infection
<b>2. Occupational zoonoses:</b>	Work involving the handling
Q fever	of or contact with animals,
Anthrax	animal hides, skins, wool,
Leptospiroses	hair, carcasses or animal waste
Brucellosis	products

- (2) For the purposes of section 23I(3) of the Act, notification of a disease to which section 23I(2)(a) of the Act applies is to be made —
- (a) in the form of Form 2 in Schedule 2; or
  - (b) by telephone.
- (3) The prescribed particulars for the purposes of the notification of a disease to which section 23I(2)(a) of the Act applies are —
- (a) name and business address of the employer;
  - (b) name, sex and occupation of the employee;
  - (c) name and address of the workplace where the employee works;
  - (d) name of the disease; and
  - (e) date of diagnosis of the disease.

*[Regulation 2.5 amended in Gazette 14 Dec 2004 p. 6011.]*

**2.6. Default procedure for resolution of issues**

- (1) If no procedure has been agreed between an employer and employees for the resolution of issues relating to occupational safety and health arising at the workplace then this regulation applies for the purposes of section 24(2) of the Act.
- (2) Subject to subregulation (3), where there is a safety and health representative in respect of the workplace the employer is to arrange to meet with the employees and that representative at a time that is as soon after the issue arises as is mutually convenient.
- (3) Where there is a safety and health representative in respect of the workplace but it is not practicable for the employer to meet with the employees and that representative within a reasonable time, the employer is to communicate orally with the employees and that representative at a time that is as soon after the issue arises as is mutually convenient.
- (4) Where there is not a safety and health representative in respect of the workplace concerned, the employer is to arrange to meet with the employees or a person authorised by them to represent them at that meeting at a time that is as soon after the issue arises as is mutually convenient.

*[2.7. Repealed in Gazette 6 Jan 2006 p. 11.]*

**2.8. References of improvement notice or prohibition notice for review and further review**

- (1) A reference under section 51(1) of the Act of an improvement notice issued under section 48 of the Act for review is to be made in the form of Form 4 in Schedule 2.
- (2) A reference under section 51(1) of the Act of a prohibition notice issued under section 49 of the Act for review is to be made in the form of Form 5 in Schedule 2.

- (3) Form 7 in Schedule 1 to the *Industrial Relations Commission Regulations 2005* in the form in which it is in force on 1 September 2005 is prescribed as the form to be used for a reference under section 51A(1) of the Act of a matter to the Tribunal for further review.

*[Regulation 2.8 amended in Gazette 1 Apr 2005 p. 1067;  
9 Dec 2005 p. 5898.]*

**2.8A. Persons who are trainees for the purposes of the Act**

- (1) This regulation relates to the definition of “trainee” in section 3(1) of the Act.
- (2) The class of persons who are trainees for the purposes of the Act are persons who are taking part in a traineeship scheme within the meaning of that term in the *Industrial Training Act 1975*.

*[Regulation 2.8A inserted in Gazette 14 Dec 2004 p. 6011.]*

**2.8B. Training courses for “qualified representative” under section 51AB**

- (1) Each course of training described in subregulation (2) is prescribed for the purposes of the definition of “qualified representative” in section 51AB.
- (2) The prescribed courses are —
- (a) a course that was an introductory course, as defined in regulation 2.2(2), and that the safety and health representative completed after February 2005; and
  - (b) a course that was a transitional course, as defined in regulation 2.2(2), and that the safety and health representative completed after February 2005 after having, before March 2005, completed a course that was an introductory course, as defined in regulation 2.2(2).

*[Regulation 2.8B inserted in Gazette 4 Mar 2005 p. 883.]*

## **Division 2 — Administrative provisions**

### **2.9. Marking of plant**

If an inspector issues an improvement notice or a prohibition notice that relates to any plant at a workplace then the inspector may mark the plant, or any part of it, to indicate that it is not to be used and a person must not —

- (a) use, or cause to be used, any plant, or any part of it, that is marked to indicate that it is not to be used; or
- (b) without the authority of an inspector to do so, remove, obliterate, or otherwise interfere with the mark.

Penalty for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 2.9 amended in Gazette 14 Dec 2004 p. 6017.]*

### **2.10. Local government to notify Commissioner of construction work permits**

Each local government is to notify the Commissioner, in an approved form and 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.

### **2.11. Medical examinations**

- (1) The Commissioner may, by written notice, direct an employer to arrange at the expense of the employer and within the time specified in the notice a medical examination of an employee whose name is specified in the notice.
- (2) The Commissioner is to set out in any notice under subregulation (1) the purpose of the proposed medical examination.
- (3) The Commissioner is to ensure that, before the medical examination is conducted, the employee is advised of the nature



of, and the reasons for, the medical examination so that the employee is sufficiently informed for the purposes of making a choice in the selection of a medical practitioner.

- (4) For the purposes of selecting a medical practitioner to conduct a medical examination under this regulation, an employer must consult with the employee to be examined and give the employee a reasonable choice in the selection of the medical practitioner.
- (5) An employer must comply with a notice under subregulation (1) unless the employee does not agree to the selection of the medical practitioner or consent to undergoing the examination, proof of which is on the employer.
- (6) A medical practitioner who conducts an examination under this regulation must —
  - (a) explain any test results to the employee and give the employee a copy of any test results;
  - (b) give to the employee a copy of any medical report based on the test results or medical examination;
  - (c) give a copy of the test results to the Commissioner; and
  - (d) on the written request of the person examined, supply the medical practitioner's findings on the examination to another medical practitioner who has been nominated by the person examined.
- (7) The Commissioner is to inform the employer of —
  - (a) the outcome of the medical examination; and
  - (b) any need for remedial action.
- (8) The employer must ensure that the results of a medical examination under this section are treated as confidential records.

Penalty applicable to subregulations (4), (5), (6) and (8):

  - (a) in the case of an individual —
    - (i) for a first offence, \$10 000; and

(ii) for a subsequent offence, \$12 500;

or

(b) in the case of a body corporate —

(i) for a first offence, \$20 000; and

(ii) for a subsequent offence, \$25 000.

*[Regulation 2.11 amended in Gazette 14 Dec 2004 p. 6012.]*

**2.12. Exemption where substantial compliance**

- (1) A person may apply to the Commissioner for a person who, or a workplace which, does not fully comply with a requirement of these regulations to be exempted from the requirement and the application is to be in an approved form.
- (2) If, on an application under subregulation (1), the Commissioner is satisfied that there is substantial compliance with the relevant requirements of these regulations then the Commissioner may exempt the person or workplace from the requirement and the exemption is to be in writing and may be made subject to such conditions as are specified by the Commissioner.
- (3) If the Commissioner imposes a condition in relation to an exemption granted under subregulation (2) then a person having the benefit of the exemption must comply with the condition.  
Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.  
Penalty in any other case: the regulation 1.16 penalty.
- (4) The Commissioner may, at any time, revoke an exemption granted under subregulation (2) and the revocation takes effect on the day on which notice of the revocation posted to the person's last known address would have been delivered in the ordinary course of post.

*[Regulation 2.12 amended in Gazette 14 Dec 2004 p. 6017.]*

**2.13. Exemption where compliance unnecessary or impracticable**

- (1) A person may apply to the Commissioner for a person or a workplace to be exempted from complying with a requirement of these regulations and the application is to be in an approved form.
- (2) If, on an application under subregulation (1), the Commissioner is satisfied that compliance with any requirement of these regulations would be unnecessary or impracticable then the Commissioner may exempt the person or workplace from the requirement and the exemption is to be in writing and may be made subject to such conditions as are specified by the Commissioner.
- (3) If the Commissioner imposes a condition in relation to an exemption granted under subregulation (2), a person having the benefit of the exemption must comply with the condition.  
Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.  
Penalty in any other case: the regulation 1.16 penalty.
- (4) The Commissioner may, at any time, revoke an exemption granted under subregulation (2) and the revocation takes effect on the day on which notice of the revocation posted to the person's last known address would have been delivered in the ordinary course of post.

*[Regulation 2.13 amended in Gazette 14 Dec 2004 p. 6017.]*

**2.14. Exemption from fees**

If the Commissioner is satisfied that plant —

- (a) is owned by a charitable non-profit making institution or organisation; or
- (b) is used solely for the purpose of education or instruction,

then the Commissioner may, by notice in the *Government Gazette*, exempt a person who would otherwise be liable to pay

a fee under these regulations in relation to that plant from that liability.

### **Division 3 — Review of decisions under these regulations**

#### **2.15. Review of decisions by persons other than Commissioner**

- (1) This regulation applies in respect of a decision made under these regulations by a person other than the Commissioner, whether or not the decision was made by that person as a delegate of the Commissioner.
- (2) A person who is not satisfied with a decision referred to in subregulation (1) may, within 14 days of receiving notice of the decision, refer the decision to the Commissioner for review setting out the grounds upon which a review of the decision is sought.
- (3) On reference of a decision to the Commissioner for review under this regulation the Commissioner is to inquire into the circumstances relevant to the decision and may —
  - (a) affirm the decision;
  - (b) set aside the decision; or
  - (c) substitute for the decision any decision that the Commissioner considers should have been made in the first instance,

and the determination of the matter by the Commissioner is to have effect according to its tenor.

#### **2.16. Review of Commissioner's decisions**

- (1) In this regulation —

**“decision”** means —

  - (a) a decision made under these regulations by the Commissioner himself or herself; and
  - (b) a determination of the Commissioner under regulation 2.15(3),

but does not include a decision made by a person acting as a delegate of the Commissioner.

- (2) A person who is not satisfied with a decision may, within 14 days of receiving notice of the decision and in the form of Form 6 in Schedule 2 refer the decision to a safety and health magistrate for review setting out the grounds upon which a review of the decision is sought and giving to the Commissioner a copy of the reference.
- (3) On reference of a decision to a safety and health magistrate for review under this regulation, the safety and health magistrate is to inquire into the circumstances relevant to the decision and may —
- (a) affirm the decision;
  - (b) set aside the decision; or
  - (c) substitute for the decision any decision that the safety and health magistrate considers the Commissioner should have made in the first instance,

and the determination of the matter by the safety and health magistrate is to be final.

## **Part 3 — Workplace safety requirements**

### **Division 1 — General duties applying to workplaces**

#### **3.1. Identification of hazards, and assessing and addressing risks, at workplaces**

A person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must, as far as practicable —

- (a) identify each hazard to which a person at the workplace is likely to be exposed;
- (b) assess the risk of injury or harm to a person resulting from each hazard, if any, identified under paragraph (a); and
- (c) consider the means by which the risk may be reduced.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.1 amended in Gazette 14 Dec 2004 p. 6018.]*

#### **3.2. Persons at workplaces to have access to Act etc.**

A person who, at a workplace, is an employer or the main contractor must ensure that, as soon as practicable following a request from a person who works at the workplace, there is available for that person's perusal an up to date copy of —

- (a) the Act;
- (b) these regulations;
- (c) all Australian Standards, Australian/New Zealand Standards and NOHSC documents or parts of those Standards or documents referred to in these regulations that apply to that workplace;
- (d) all codes of practice approved under section 57 of the Act that apply to that workplace; and

- (e) guidelines or forms of guidance referred to in section 14 of the Act —
  - (i) the titles of which have been published in the *Government Gazette* and which are set out in Schedule 3.1; and
  - (ii) which apply to that workplace.

Penalty:

- (a) in the case of an individual —
  - (i) for a first offence, \$2 000; and
  - (ii) for a subsequent offence, \$2 500;
- or
- (b) in the case of a body corporate —
  - (i) for a first offence, \$4 000; and
  - (ii) for a subsequent offence, \$5 000.

*[Regulation 3.2 amended in Gazette 14 Dec 2004 p. 6012.]*

### **3.3. Communication with isolated employees**

If an employee is isolated from other persons because of the time, location or nature of the work then the employer must ensure that —

- (a) there is a means of communication available which will enable the employee to call for help in the event of an emergency; and
- (b) there is a procedure for regular contact to be made with the employee and the employee is trained in the procedure.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.3 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.4. Manual handling**

- (1) In this regulation —

**“manual handling”** means any activity requiring the use of force exerted by a person to lift, lower, push, pull, carry or otherwise move, hold or restrain a person, animal or thing.

- (2) Without limiting regulation 3.1, a person who, at a workplace, is an employer, the main contractor or a self-employed person must, as far as practicable —

- (a) identify each hazard that is likely to arise from manual handling at the workplace;
- (b) assess the risk of injury or harm to a person resulting from each hazard, if any, identified under paragraph (a); and
- (c) consider the means by which the risk may be reduced.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.4 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.5. Reports of hazards etc. to be investigated**

If an employer receives from an employee a report of a kind described in section 20(2)(d) of the Act or from a safety and health representative under section 33(1)(d) of the Act then the employer must, within a reasonable time, investigate the situation that has been reported.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.5 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.6. Movement around workplaces**

A person who, at a workplace, is an employer, the main contractor, a self-employed person or a person having control of the workplace must, where practicable, ensure that the workplace is arranged so that —

- (a) persons are able to move safely within the workplace; and



- (b) passages for the purpose of enabling persons to move within the workplace are at all times kept free of obstructions.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.6 amended in Gazette 14 Dec 2004 p. 6018.]*

### **3.7. Access to and egress from workplaces**

A person who, at a workplace, is an employer, the main contractor, a self-employed person or a person having control of access to the workplace must, where practicable, ensure that the means of access to and egress from the workplace —

- (a) enable persons to move safely to and from the workplace; and
- (b) are at all times kept free of obstructions.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.7 amended in Gazette 14 Dec 2004 p. 6018.]*

### **3.8. Emergency egress from workplaces**

A person who, at a workplace, is an employer, the main contractor, a self-employed person or a person having control of access to the workplace must ensure that the means of emergency egress from the workplace enable safe egress from the workplace in the event of an emergency.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.8 amended in Gazette 14 Dec 2004 p. 6018.]*

### **3.9. Fire precautions**

- (1) If there is a risk of fire at a workplace then a person who, at the workplace, is an employer, the main contractor, a self-employed person or a person having control of the workplace must, as far as practicable —
  - (a) provide regularly maintained and efficient portable fire extinguishers to control any fire likely to arise from the work being done at the workplace; and

- (b) ensure that portable fire extinguishers are located and distributed at the workplace in accordance with AS 2444.

Penalty: the regulation 1.16 penalty.

- (2) If, in any part of a workplace —
  - (a) there are goods or materials which in the event of a fire are likely to burn with extreme rapidity, emit poisonous fumes or cause explosions; and
  - (b) there is a risk of harm or injury to a person at the workplace resulting from the goods or materials being ignited,

then a person who, in the case of a construction site, is the main contractor or who, in the case of any other workplace, is an employer or a self-employed person, must ensure, where practicable, that no person smokes or introduces a naked flame into that part of the workplace.

Penalty: the regulation 1.16 penalty.

- (3) A person must comply with a direction given for the purposes of subregulation (2).

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 3.9 amended in Gazette 14 Dec 2004 p. 6017 and 6018.]*

### **3.10. Evacuation procedures**

A person who, at a workplace, is an employer, the main contractor, a self-employed person or a person having control of the workplace must ensure that —

- (a) there is an evacuation procedure to be followed in the event of fire or other emergency at the workplace;
- (b) where practicable, the evacuation procedure is clearly and prominently displayed at the workplace;

- (c) where practicable, a diagram showing the location of exits and the position of the diagram in relation to the exits is clearly and prominently displayed at the workplace;
- (d) where practicable, the evacuation procedure is practised at the workplace at reasonable intervals; and
- (e) persons at the workplace who would be required to help control or extinguish a fire at the workplace are appropriately trained and provided with appropriate protective clothing and equipment.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.10 amended in Gazette 14 Dec 2004 p. 6018.]*

### **3.11. Warning signs**

Without limiting any other requirement of these regulations for the display of signs, if, in an area of a workplace there is a hazard which may not be readily apparent to a person working in or entering the area then a person who, at the workplace, is an employer, the main contractor, a person having control of the workplace or a person having control of access to the workplace must ensure that —

- (a) a sign relevant to each hazard is displayed to persons in or entering the area; and
- (b) the sign complies, and is used in accordance, with AS 1319.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.11 amended in Gazette 14 Dec 2004 p. 6018.]*

### **3.12. First aid**

- (1) In this regulation —  
    **“first aid”** means the immediate treatment or care of a person who is injured or who becomes ill at a workplace.
- (2) A person who, at a workplace, is an employer, the main contractor or a self-employed person —

- (a) must provide such first aid facilities as are appropriate having regard to —
  - (i) the type of hazards to persons at the workplace and the risk of those hazards; and
  - (ii) the number of persons at the workplace;and
- (b) must ensure that, as far as practicable, persons trained in first aid are available to give first aid at the workplace having regard to —
  - (i) the type of hazards to persons at the workplace and the risk of those hazards; and
  - (ii) the number of persons at the workplace.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.12 amended in Gazette 14 Dec 2004 p. 6018.]*

### **3.13. Lighting**

A person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that lighting for the workplace from natural or artificial sources or both —

- (a) is adequate having regard to the nature and location of the work being done; and
- (b) without limiting regulation 3.6, is adequate for the movement of persons about the workplace.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.13 amended in Gazette 14 Dec 2004 p. 6018.]*

### **3.14. Work space generally**

An employer must, as far as practicable, provide each employee with sufficient space in which to work without risk to the employee's safety and health.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.14 amended in Gazette 14 Dec 2004 p. 6018.]*

### **3.15. Air temperature**

An employer must ensure —

- (a) that work practices are arranged so that employees are protected from extremes of heat and cold; and
- (b) if the workplace is in a building or structure that, as far as practicable, heating and cooling are provided to enable employees to work in a comfortable environment.

Penalty:

- (a) in the case of an individual —
  - (i) for a first offence, \$10 000; and
  - (ii) for a subsequent offence, \$12 500;
- or
- (b) in the case of a body corporate —
  - (i) for a first offence, \$20 000; and
  - (ii) for a subsequent offence, \$25 000.

*[Regulation 3.15 amended in Gazette 14 Dec 2004 p. 6016.]*

### **3.16. Water**

- (1) A person who, at a workplace, is an employer or the main contractor must ensure that a supply of clean, cool, drinking water is provided for, and is readily accessible to, persons working at the workplace, and that the outlet is in a place —
  - (a) where the water supply is unlikely to be contaminated; and
  - (b) other than a place in which a toilet is located.
- (2) If, at a workplace —
  - (a) water is provided for use in industrial processes or for fire protection;

- (b) the water is unfit for drinking; and
- (c) it is not readily apparent that the water is unfit for drinking,

then a person who, at the workplace, is an employer or the main contractor or a person having control of the workplace must ensure that conspicuous notices are posted at points of supply clearly marked “UNFIT FOR DRINKING” or with words having a similar effect.

Penalty applicable to subregulations (1) and (2):

- (a) in the case of an individual —
  - (i) for a first offence, \$10 000; and
  - (ii) for a subsequent offence, \$12 500;
- or
- (b) in the case of a body corporate —
  - (i) for a first offence, \$20 000; and
  - (ii) for a subsequent offence, \$25 000.

*[Regulation 3.16 amended in Gazette 14 Dec 2004 p. 6012.]*

### **3.17. Cleanliness and removal of debris**

- (1) A person who, at a workplace, is an employer, the main contractor, a self-employed person or a person having control of the workplace must ensure that —
  - (a) the workplace and other areas ancillary to the workplace are maintained in such clean condition as is necessary to avoid hazards to persons at the workplace;
  - (b) where practicable, rubbish and debris are removed by mechanical means; and
  - (c) as far as practicable, dust is prevented from being released into the atmosphere.
- (2) A person who, at a construction site, is the main contractor, an employer or a self-employed person must ensure that rubbish,

building material and plant is stored away from footpaths and roadways at the site.

- (3) A person who, at a construction site, is the main contractor, an employer, or a self-employed person must ensure that debris from first and subsequent storeys at the site is removed by means of —
- (a) a hoisting appliance; or
  - (b) a completely enclosed chute discharging either into disposal hoppers or into an area which is completely enclosed by a hoarding that is at least 2 metres in height.

Penalty applicable to subregulations (1), (2) and (3): the regulation 1.16 penalty.

*[Regulation 3.17 amended in Gazette 14 Dec 2004 p. 6018.]*

### **3.18. Surfaces and floors**

- (1) A person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that as far as practicable —
- (a) the floor of the workplace; or
  - (b) any stair or ramp in the workplace,
- has an unbroken and slip resistant surface and is free from any obstruction that may cause a person to trip or fall.
- (2) If, at a workplace, there is a risk of liquids coming into contact with a floor because of the nature of work done at the workplace then a person who, at the workplace, is an employer, the main contractor or a self-employed person must ensure that the floor is designed and constructed to provide adequate drainage.
- (3) This regulation does not apply to a natural ground surface comprising a floor.

Penalty applicable to subregulations (1) and (2): the regulation 1.16 penalty.

*[Regulation 3.18 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.19. Seating**

- (1) If an employee's work is done from a sitting position or is of a kind that can be satisfactorily done from a sitting position then the employer 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;
  - (b) that is strongly constructed, stable, comfortable and of suitable size and height for the employee; and
  - (c) if practicable, has a backrest or is otherwise designed to provide back support.
- (2) If an employee's work is done from a standing position and the employee's work allows the employee to sit from time to time then, to the extent practicable, the employer must provide and maintain seating so that the employee may sit down for the periods when the employee is not working.

Penalty applicable to subregulations (1) and (2):

- (a) in the case of an individual —
  - (i) for a first offence, \$10 000; and
  - (ii) for a subsequent offence, \$12 500;
- or
- (b) in the case of a body corporate —
  - (i) for a first offence, \$20 000; and
  - (ii) for a subsequent offence, \$25 000.

*[Regulation 3.19 amended in Gazette 14 Dec 2004 p. 6013.]*

**3.20. Workplace facilities**

- (1) In this regulation —

**“other facility”** means an area for the changing of clothes, showering, eating, drinking or resting;



**“sanitary facilities”** means toilets (including urinals), hand-wash basins and units for the disposal of sanitary items.

- (2) A person who, at a workplace, is an employer, the main contractor, a self-employed person or a person having control of the workplace must ensure that there are provided at the workplace for the use of persons working at the workplace —
- (a) reasonable sanitary facilities, having regard to the reasonable requirements of the persons working at the workplace;
  - (b) convenient access to sanitary facilities; and
  - (c) any other facility if the safety or health of a person working at the workplace would be at risk if the facility were not provided.

Penalty:

- (a) in the case of an individual —
  - (i) for a first offence, \$10 000; and
  - (ii) for a subsequent offence, \$12 500;
- or
- (b) in the case of a body corporate —
  - (i) for a first offence, \$20 000; and
  - (ii) for a subsequent offence, \$25 000.

*[Regulation 3.20 amended in Gazette 14 Dec 2004 p. 6016.]*

### **3.21. Drawings showing location of certain services**

- (1) If there is a risk that work to be conducted at a workplace might interfere with any gas, water, sewerage or electrical service then a person who, at the workplace, is an employer, the main contractor, a self-employed person or a person having control of the workplace must ensure that —
- (a) the location of the service that might be affected is established; and

- (b) an accurate diagrammatic representation of the service that might be affected is available at the workplace before the work commences.
- (2) If any person causes the location of any gas, water, sewerage or electrical service to a workplace to be changed then a person who, at the workplace, is an employer, the main contractor, a self-employed person or a person having control of the workplace must ensure that an accurate diagrammatic representation of the change to the service is either prepared or amended, as the case requires, to show the change.
- (3) A person who, at a workplace, is an employer, the main contractor, a self-employed person or a person having control of the workplace must ensure, where practicable, that “as constructed” drawings showing the location of gas, water, sewerage and electrical service to the workplace are kept at the workplace.

Penalty applicable to subregulations (1), (2) and (3):

- (a) in the case of an individual —
  - (i) for a first offence, \$10 000; and
  - (ii) for a subsequent offence, \$12 500;
- or
- (b) in the case of a body corporate —
  - (i) for a first offence, \$20 000; and
  - (ii) for a subsequent offence, \$25 000.

*[Regulation 3.21 amended in Gazette 14 Dec 2004 p. 6013.]*

### **3.22. Management of vehicles and moving plant at workplaces**

A person who, at a workplace, is an employer, the main contractor or a person having control of the workplace must ensure that the movement and speed of vehicles and plant at the workplace are managed in a way that minimises the risk of injury to pedestrians and persons operating vehicles.

Penalty:

- (a) in the case of an individual —
  - (i) for a first offence, \$10 000; and
  - (ii) for a subsequent offence, \$12 500;or
- (b) in the case of a body corporate —
  - (i) for a first offence, \$20 000; and
  - (ii) for a subsequent offence, \$25 000.

*[Regulation 3.22 amended in Gazette 14 Dec 2004 p. 6016.]*

**3.23. Protection of persons and property in vicinity of cranes**

- (1) If any material or gear is being lifted, lowered or otherwise moved by a crane at a construction site then the main contractor must ensure that persons and vehicles are prevented from entering any area in or adjacent to the site where there is a risk of injury to persons or damage to property occurring as a result of the movement of the material or gear, and that such prevention is —
  - (a) by means of warning signs, flashing lights, barriers, traffic controllers or other means as would be appropriate to the nature of the load; and
  - (b) with the minimum amount of disruption to persons and traffic in the area.
- (2) If an area of a construction site where any material or gear is being lifted, lowered or otherwise moved from or onto the area is open to the public or if an inspector so requires it then a person who, at the site, is the main contractor, an employer, or a self-employed person must ensure that there is either in place or available in the area a system or device that would prevent persons or vehicles entering the area when the material or gear is being lifted, lowered or otherwise moved.
- (3) A person who, at a construction site, is the main contractor, an employer or a self-employed person must ensure that any material or gear that is being raised or otherwise moved or

suspended or supported at the site is properly secured so as to minimise the risk of injury to persons or damage to property occurring as a result of the movement of the material or gear.

- (4) If a mobile crane, other than a vehicle loading crane or earthmoving machinery, that is a non-slewing crane with a maximum rated capacity of greater than 20 tonnes or a slewing crane, is used at a construction site, a person who at the site, is the main contractor, an employer or a self-employed person, must ensure that the crane is fitted as far as practicable with a system having the following components —
- (a) at least one light source inside the crane that emits green light only if a load being lifted by the crane is less than or equal to 90% of the crane's rated capacity and which light gives the crane operator an effective warning signal of the status of the load in that respect;
  - (b) at least one light source on the outside of the crane that emits a green light only if a load being lifted by the crane is less than or equal to 90% of the crane's rated capacity and which light is visible to a person in the vicinity of the crane;
  - (c) at least one light source inside the crane that emits amber light only if a load being lifted by the crane is greater than 90% and less than 100% of the crane's rated capacity and which light gives the crane operator an effective warning signal of the status of the load in that respect;
  - (d) at least one light source on the outside of the crane that emits an amber light only if a load being lifted by the crane is greater than 90% and less than 100% of the crane's rated capacity and which light is visible to a person in the vicinity of the crane;
  - (e) at least one light source inside the crane that emits a flashing red light only if a load being lifted by the crane is greater than 100% of the crane's rated capacity and

- which light gives the crane operator an effective warning signal of the status of the load in that respect;
- (f) at least one light source on the outside of the crane that emits a flashing red light only if a load being lifted by the crane is greater than 100% of the crane's rated capacity and which light is visible to a person in the vicinity of the crane;
  - (g) an alarm that sounds inside the crane only if a load being lifted by the crane is greater than 100% of the crane's rated capacity, which alarm gives the crane operator an effective warning signal of the status of the load in that respect; and
  - (h) an alarm that sounds outside the crane only if a load being lifted by the crane is greater than 100% of the crane's rated capacity, which sound is audible to a person in the vicinity of the crane.
- (5) A person does not commit an offence under subregulation (4) if the percentage of a crane's rated capacity at which a light is emitted or an alarm sounds differs by no more than 2% from that required under subregulation (4) if, proof of which is on the person —
- (a) only one colour of light is emitted by the inside and outside light sources at a time;
  - (b) the inside and outside alarms sound at the same time as the inside and outside light sources emit red light;
  - (c) the percentage of the crane's rated capacity above which the inside and outside light sources emit red light and the inside and outside alarms sound is not greater than 100%; and
  - (d) the crane is operated in accordance with written instructions developed at the time of design or manufacture by the person who designed or manufactured the crane.

Penalty applicable to subregulations (1), (2), (3) and (4): the regulation 1.16 penalty.

*[Regulation 3.23 amended in Gazette 3 Oct 2003 p. 4356-8; 25 Jun 2004 p. 2292; 14 Dec 2004 p. 6018.]*

**3.24. Lowering gear**

A person working on a construction site who lowers any gear from any building or structure where persons in the vicinity are at risk of injury from the gear being lowered must do so carefully, without throwing or dropping the gear.

Penalty for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty in any other case:

- (a) for a first offence, \$25 000; and
- (b) for a subsequent offence, \$31 250.

*[Regulation 3.24 amended in Gazette 14 Dec 2004 p. 6017.]*

**3.25. Safety in relation to conduit**

A person who, at a construction site, is the main contractor, an employer or a self-employed person must ensure that any conduit crossing a thoroughfare is secured to the ground or protected by a non-slip ramp.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.25 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.26. Portable ladders**

- (1) If, at a workplace, a person uses either a single or extension ladder then the person must ensure that the ladder —
  - (a) is placed so that the distance from the ladder base to the base of the support wall is about  $\frac{1}{4}$  of the working length of the ladder;
  - (b) is located on a firm footing;

- (c) is secured into position so as to prevent slipping or sideways movement;
  - (d) if being used to approach a platform, protrudes at least 900 mm beyond the landing for the platform; and
  - (e) if being used at a workplace that is a construction site, is not suspended from a parapet hook.
- (2) If, at a workplace, a person uses —
- (a) a portable metal ladder then the person must ensure that the ladder is designed and constructed in accordance with the general requirements of AS/NZS 1892.1 and the specific requirements of that Standard in relation to the type of ladder; or
  - (b) a portable wooden ladder then the person must ensure that the ladder is designed and constructed in accordance with the general requirements of AS 1892.2 and the specific requirements of that Standard in relation to the type of ladder.
- (3) A person must not use a ladder-bracket scaffold at a workplace unless the ladder-bracket scaffold is set up and used in accordance with clause 10.2.5 of AS/NZS 4576.

Penalty applicable to subregulations (1), (2) and (3) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulations (1), (2) and (3) in any other case: the regulation 1.16 penalty.

*[Regulation 3.26 amended in Gazette 17 Dec 1999 p. 6229; 14 Dec 2004 p. 6017.]*

### **3.27. Gas cylinders to be secured**

A person who, at a workplace is an employer, the main contractor or a self-employed person must ensure that any gas cylinder at the workplace —

- (a) is appropriately secured and protected from damage or the uncontrolled release of its contents while the cylinder is being used, moved, or stored; and
- (b) is not lifted or lowered by mechanical means unless —
  - (i) it is contained in an appropriate type of box; or
  - (ii) it is lifted or lowered using attachments that are suitable for the task being performed.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.27 amended in Gazette 17 Dec 1999 p. 6229-30; 14 Dec 2004 p. 6018.]*

**3.28. Protection of manifolded cylinder pack**

A person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure, in relation to a manifolded cylinder pack used in welding or in an allied process at the workplace, that at all times —

- (a) each manifolded cylinder pack is so located and guarded to protect it from damage; and
- (b) where 2 or more manifolded cylinder packs are located in the same room, they are located at least 5 metres apart.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.28 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.29. Construction diving work to be in accordance with Standard**

- (1) In this regulation —

**“construction diving work”** means any construction work in which diving is done using either surface supplied breathing apparatus or self-contained underwater breathing apparatus, and includes the work done by the persons who give direct support to the diver.



- (2) If, at a workplace, a person is to do construction diving work the person's employer or the self-employed person, as the case may be, must ensure that —
- (a) each person to do the work is qualified in accordance with AS/NZS 2299; and
  - (b) the work is done in accordance with the relevant requirements of AS/NZS 2299.

Penalty: the regulation 1.16 penalty.

- (3) A person who does construction diving work must, when in the water, use compressed air to breathe in accordance with the requirements of AS/NZS 2299.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case:

- (a) for a first offence, \$25 000; and
- (b) for a subsequent offence, \$31 250.

*[Regulation 3.29 amended in Gazette 10 Jan 2003 p. 63;  
14 Dec 2004 p. 6017 and 6018.]*

### **3.30. Flotation devices where persons working with others**

If, at a workplace —

- (a) there is a risk of a person falling into water or other liquid and drowning at or adjacent to the workplace; and
- (b) persons other than the person referred to in paragraph (a) are likely to be present at the workplace,

then a person who, at the workplace, is an employer, the main contractor, a self-employed person or a person having control of the workplace must provide appropriate flotation devices in a readily accessible position and ensure that rescue equipment is maintained and ready for use.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.30 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.31. Flotation devices where person working alone**

If, at a workplace —

- (a) a person works over water or other liquid and there is a risk of the person drowning if he or she falls into the water or other liquid; and
- (b) the person works alone,

a person who, at the workplace, is an employer, the main contractor, a self-employed person or a person having control of the workplace must, as far as practicable, ensure that the first-mentioned person wears a life jacket to reduce the risk of drowning.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.31 inserted in Gazette 17 Dec 1999 p. 6230;  
amended in Gazette 14 Dec 2004 p. 6018.]*

**Division 2 — General duties in relation to personal protective clothing and equipment**

**3.32. Risks to be reduced in first instance by means other than protective clothing and equipment**

When a person is considering, for the purposes of regulation 3.1(c), the means by which a risk may be reduced, the person is to —

- (a) firstly consider the means other than the use of protective clothing and equipment by which the risk might be reduced; and
- (b) then consider the use of protective clothing and equipment to the extent that it is not practicable to reduce the risk by means other than the use of protective clothing and equipment.

**3.33. Standards relevant to certain protective clothing and equipment**

- (1) If a person —
- (a) is required under any of these regulations to identify a hazard at a workplace and to assess the risk of injury or harm to a person resulting from the hazard; and
  - (b) concludes from the assessment process that a risk might be reduced by any of the personal protective clothing or equipment set out in column 1 of the Table to this regulation,

then the person must ensure that the personal protective clothing or equipment is in accordance, and complies, with the relevant requirements of each Standard set out opposite the clothing or equipment in column 2 of the Table.

**Table**

Column 1	Column 2
Means of protection	Standard
Safety helmet	AS/NZS 1801
Eye protection	AS/NZS 1337 and AS/NZS 1338
Gloves	AS/NZS 2161
Footwear	AS/NZS 2210
Skin protection by way of sunscreen	AS/NZS 2604
Clothing to protect skin against burns by heat or fire	AS 2375
Clothing to protect skin against toxic or volatile chemicals	AS 3765

Penalty: the regulation 1.16 penalty.

- (2) A person does not commit an offence under subregulation (1) if, proof of which is on the person, the protection provided by the person in relation to a particular risk is of an equivalent or higher standard than the means of protection referred to in subregulation (1).

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- (3) Nothing in subregulation (1) affects any requirement in the Act or in these regulations to provide such protection as will protect a person from a risk if the means of protection referred to in subregulation (1) would not provide adequate protection in relation to that risk.

*[Regulation 3.33 amended in Gazette 10 Jan 2003 p. 63;  
14 Dec 2004 p. 6018.]*

**3.34. Responsibilities of persons who require personal protective clothing and equipment to be used**

- (1) If a person is required under any of these regulations to identify a hazard at a workplace and to assess the risk of injury or harm to a person resulting from the hazard and the person concludes from the assessment process that personal protective clothing or equipment should be used at the workplace then the person must ensure that —
- (a) the person who uses the clothing or equipment is instructed in relation to the correct fitting, use, selection, testing, maintenance and storage of the clothing or equipment;
  - (b) the person who uses the clothing or equipment is informed of the limitations in the use of the clothing or equipment;
  - (c) the clothing or equipment is maintained in good working order;
  - (d) the clothing or equipment is replaced —
    - (i) when it no longer provides the level of protection required to protect the wearer or user against the particular hazard;
    - (ii) when the safe working life, as specified by the person who manufactured the clothing or equipment, has expired; or
    - (iii) subject to subregulation (2), when it is damaged and cannot be repaired;

and

- (e) the area of a workplace at which the clothing or equipment is required to be used by a person other than the person who provides the clothing or equipment is identified by signs in accordance, and complying, with AS 1319.

Penalty: the regulation 1.16 penalty.

- (2) A person does not commit an offence under subregulation (1)(d) if, proof of which is on the person, the clothing or equipment is repaired rather than replaced and —
  - (a) the repair is done by a competent person;
  - (b) the repair is done according to the specifications of the manufacturer of the equipment; and
  - (c) any replacement part used in the repair is that which is specified by the manufacturer of the equipment as the correct replacement part.

*[Regulation 3.34 amended in Gazette 14 Dec 2004 p. 6018.]*

### **3.35. Responsibilities of users of personal protective clothing and equipment**

A person to whom personal protective clothing or equipment is provided or made available for use at a workplace —

- (a) must use the protective clothing or equipment in a manner in which he or she has been properly instructed to use it;
- (b) must not misuse or damage the clothing or equipment; and
- (c) must, as soon as practicable after becoming aware of any —
  - (i) damage to;
  - (ii) malfunction of; or
  - (iii) need to clean or sterilize,

the clothing or equipment, notify the person providing the clothing or equipment of the damage, malfunction or need to clean or sterilize the clothing or equipment.

Penalty: the regulation 1.15 penalty.

*[Regulation 3.35 amended in Gazette 14 Dec 2004 p. 6016-17.]*

**3.36. Safety helmets to be worn at construction sites**

If there is a risk of a person being struck on the head by a falling object at a construction site then the main contractor must ensure that —

- (a) at all times when the person is at risk, the person wears a safety helmet complying with the relevant requirements of AS/NZS 1801; and
- (b) there is displayed at each entrance to the site a safety sign bearing the words “SAFETY HELMET AREA — HELMETS MUST BE WORN AT THIS SITE” and that otherwise complies with AS 1319.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.36 amended in Gazette 10 Jan 2003 p. 64; 14 Dec 2004 p. 6018.]*

**Division 3 — Atmosphere and respiratory protection**

**Subdivision 1 — Atmosphere and respiratory protection generally**

*[Heading inserted in Gazette 22 Jul 1997 p. 3839.]*

**3.37. Definitions**

In this Subdivision —

“**filter**” means a filter that complies with the requirements of AS/NZS 1715;

“**oxygen deficient atmosphere**” means an atmosphere containing less than 19.5% oxygen;

**“self-contained breathing apparatus”** means a type of supplied air respirator which is carried by the user and supplies the user with respirable air from a source carried by the user;

**“supplied air respirator”** means a device which, by means of an air line, air hose or apparatus carried by the user, supplies the user with respirable air from a source other than the ambient atmosphere;

**“toxic atmosphere”**, in relation to a workplace, includes —

- (a) an atmosphere in which there is an atmospheric contaminant in a concentration exceeding the exposure standard for the contaminant specified in the *National Exposure Standards* [NOHSC: 1003 (1995)];
- (b) where an inspirable dust or respirable dust is not within the scope of the Exposure Standards referred to in paragraph (a), an atmosphere in which a person at the workplace would be exposed to —
  - (i) the inspirable dust that, when measured in accordance with AS 3640, exceeds 10 milligrams per cubic metre of air; or
  - (ii) the respirable dust that, when measured in accordance with AS 2985, exceeds 5 milligrams per cubic metre of air,as an average over a work period of 8 hours; and
- (c) an atmosphere containing gas, vapour, dust or any other particle which is, or is in a concentration that is, a risk to the safety and health of a person at the workplace.

*[Regulation 3.37 amended in Gazette 22 Jul 1997 p. 3840.]*

**3.38. Identification and assessment of hazards in relation to atmosphere**

Without limiting regulations 3.1 and 3.32, a person who, at a workplace, is an employer, the main contractor or a self-employed person must —

- (a) identify each hazard arising from an oxygen deficient atmosphere or a toxic atmosphere to which a person at the workplace is likely to be exposed;
- (b) assess the risk of injury or harm to a person resulting from each hazard, if any, identified under paragraph (a); and
- (c) consider whether the risk may be reduced by any of the means referred to in regulation 3.39.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.38 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.39. Possible means of reducing risks**

The means referred to in regulation 3.38(c) are —

- (a) the use of an effective ventilation system for the workplace;
- (b) the provision of an exhaust system that effectively extracts any contaminant and which is arranged so as to prevent re-entry of the extracted air into the workplace; and
- (c) such other means as would prevent persons at the workplace from being exposed to an oxygen deficient atmosphere or a toxic atmosphere,

as is appropriate to the particular case.

**3.40. Respiratory protective equipment generally**

- (1) In this regulation —



**“toxic atmosphere”** means any toxic atmosphere that is of a kind other than a kind referred to in any of paragraphs (b) to (f) of regulation 3.41.

- (2) To the extent that it is not practicable to prevent, by any of the means referred to in regulation 3.39, a person at a workplace from being exposed to a toxic atmosphere a person who, at the workplace, is an employer, the main contractor or a self-employed person must ensure that each person who may be so exposed is provided with respiratory protective equipment —
  - (a) selected in accordance with AS/NZS 1715 to suit the circumstances of the case and that is used and maintained in accordance with that Standard; and
  - (b) complying with the relevant requirements of AS/NZS 1716.
- (3) Nothing in regulation 3.41 prevents a person from concluding, for purposes of subregulation (2), that the appropriate respiratory protective equipment in a particular case is equipment of a kind referred to in regulation 3.41.
- (4) A person who, at a workplace, is an employer, the main contractor or a self-employed person and who provides for use at a workplace respiratory protective equipment of any kind must ensure that the equipment is readily accessible to persons at the workplace who may need to use the equipment.  
Penalty applicable to subregulations (2) and (4): the regulation 1.16 penalty.

*[Regulation 3.40 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.41. Supplied air respirators required for certain atmospheres**

To the extent that it is not practicable to prevent, by any of the means referred to in regulation 3.39, a person at a workplace from being exposed to —

- (a) an oxygen deficient atmosphere;

- (b) an atmosphere in which the level of toxic gases or vapours exceeds the capability of an air-purifying device;
- (c) a toxic atmosphere where the level of contamination is not known;
- (d) a toxic atmosphere in which the person is required to remain for a period longer than the estimated life of a filter;
- (e) an atmosphere that presents an immediate danger to life or health; or
- (f) a toxic atmosphere which contains a contaminant against which there is no suitable filter,

a person who, at the workplace, is an employer, the main contractor or a self-employed person must ensure that each person who may be so exposed is provided with a supplied air respirator.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.41 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.42. Duties in relation to provision of supplied air respirators etc.**

If a person is required, under regulation 3.40 or 3.41, to ensure that a supplied air respirator is provided for use at a workplace then the person must —

- (a) assess the number of sets of supplied air respirators that should be provided for regular, emergency or rescue purposes at the workplace;
- (b) assess whether self-contained breathing apparatus should be provided for emergency use and rescue at the workplace and, if so, the number of sets of such apparatus that should be provided;
- (c) ensure that each supplied air respirator provided for use at the workplace —

- (i) has been selected in accordance with AS/NZS 1715 to suit the circumstances of the case and is used and maintained in accordance with that Standard; and
- (ii) complies with relevant requirements of AS/NZS 1716;
- (d) in the case of a supplied air respirator by which air is supplied to the user by means of an air line or air hose, assess whether there should be provided for use at the workplace a device that warns when the air supply is about to fail;
- (e) assess whether there should be provided for use at the workplace a supplied air escape type-respirator in the event that the flow of supplied air fails; and
- (f) ensure that each person required to use a supplied air respirator for emergency or rescue purposes at a workplace is trained in the use of the equipment and in emergency procedures.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.42 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.43. Specifications, maintenance, testing of supplied air respirators**

Without limiting regulation 3.34, if a person is required, under regulation 3.40 or 3.41, to ensure that a supplied air respirator is provided for use at a workplace then the person must also ensure that —

- (a) the compressor, filters and respirator supplying air to breathe —
  - (i) are maintained in efficient working order and in accordance with the manufacturer's instructions; and
  - (ii) are inspected before and after each use and during cleaning;

- (b) the respirator is kept in a place where it will not be contaminated;
- (c) the equipment for the supply of air to breathe or the compressor incorporates a mechanism to cut off the air supply to the respirator in the event that the equipment or compressor heats beyond the manufacturer's specifications for the maximum temperature at which the equipment or compressor will function properly;
- (d) the respirator and air supply have couplings of a type that requires at least 2 deliberate actions to separate the connector or coupling and are of a design that is different from that of other compressed gas and air services, if any, at the workplace;
- (e) the air supply or compressor has a receiver of sufficient capacity to reduce pulsation from compressor action;
- (f) the quality of air supplied to the respirator is tested regularly to ensure that it is in accordance with regulation 3.44; and
- (g) records are kept of —
  - (i) the purchase dates of the respirator and the compressor;
  - (ii) the maintenance of the respirator and compressor;
  - (iii) the date and result of each test conducted on the respirator;
  - (iv) the name and address of the person who conducted each test; and
  - (v) the —
    - (I) volume of air;
    - (II) odour;
    - (III) volume of oxygen, carbon monoxide, carbon dioxide, oil and water in the sample of air tested; and

(IV) temperature of the sample.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.43 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.44. Quality of air in supplied air respirators**

If a person is required, under regulation 3.40 or 3.41, to ensure that a supplied air respirator is provided for use at a workplace then the person must also ensure —

- (a) that air supplied to the supplied air respirator is supplied at a minimum rate of 170 litres per minute per person measured at the respirator;
- (b) that air supplied to the supplied air respirator has passed through an efficient purifying device so that the air —
  - (i) does not have an objectionable or nauseous odour;
  - (ii) contains not less than 19.5% and not more than 22% by volume of oxygen; and
  - (iii) at 15° Celsius and 100 Kpa absolute —
    - (I) contains not more than 11 mg/m<sup>3</sup> (10 ppm by volume) of carbon monoxide;
    - (II) contains not more than 1400 mg/m<sup>3</sup> (800 ppm by volume) of carbon dioxide;
    - (III) contains not more than 1 mg/m<sup>3</sup> (1 ppm) of oil;
    - (IV) if in a cylinder, contains not more than 100 mg/m<sup>3</sup> of water when sampled from the cylinder when it is initially filled to a pressure of at least 12 MPa; and
    - (V) if used for diving, contains not more than 900 mg/m<sup>3</sup> (480 ppm by volume) of carbon dioxide;

and

- (c) where the air is to be supplied from a compressor to a face-piece, hood or helmet, that the air has passed through —
  - (i) a conditioner to ensure that the temperature of the air is not less than 15° Celsius and not more than 25° Celsius;
  - (ii) an efficient condensate trap fitted with a drain cock for the removal of any condensed liquid; and
  - (iii) an efficient ring circuit or controlled leak-off for the elimination of stale air.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.44 amended in Gazette 14 Dec 2004 p. 6018.]*

**Subdivision 2 — Protection from tobacco smoke**

*[Heading inserted in Gazette 22 Jul 1997 p. 3840.]*

**3.44A. Definitions**

- (1) In this Subdivision —

**“designated smoking area”** means an area of a workplace designated under regulation 3.44F(1) to be an area in which persons may smoke;

**“enclosed workplace”** means a workplace that has, whether permanently or temporarily —

- (a) a ceiling or roof; and
- (b) walls, sides or other vertical coverings,

so that when the workplace’s existing closeable openings are closed, the workplace is completely or substantially enclosed;

**“smoke”** means smoke, hold, or otherwise have control over, an ignited tobacco product;

**“tobacco product”** has the definition it has in the *Tobacco Control Act 1990*.

- (2) For the purposes of the definition of “enclosed workplace” in subregulation (1) it is immaterial that an existing closeable opening is open at any particular time.

*[Regulation 3.44A inserted in Gazette 26 Mar 1999 p. 1281-2.]*

**3.44B. Certain persons prohibited from smoking in enclosed workplaces**

A person who, at an enclosed workplace, is an employer, a self-employed person or an employee must not smoke in the enclosed workplace.

Penalty: the regulation 1.15 penalty.

*[Regulation 3.44B inserted in Gazette 26 Mar 1999 p. 1282; amended in Gazette 14 Dec 2004 p. 6016-17.]*

**3.44C. Defence: smoking in a designated area of workplace**

A person does not commit an offence under regulation 3.44B if, proof of which is on the person —

- (a) the person smokes in a designated smoking area;
- (b) the person is not working at the time he or she smokes; and
- (c) in the case of an employer, no employee is working in the designated area when the employer is smoking.

*[Regulation 3.44C inserted in Gazette 26 Mar 1999 p. 1282.]*

**3.44D. Defence: smoking in a private vehicle or residence**

A person does not commit an offence under regulation 3.44B if, proof of which is on the person —

- (a) the enclosed workplace is —
  - (i) a vehicle supplied by the person; or
  - (ii) the person’s residence;

and

- (b) no other person is present —
  - (i) who, in the case of an employer, is that person's employee; or
  - (ii) who, in the case of an employee, is also an employee of that person's employer.

*[Regulation 3.44D inserted in Gazette 26 Mar 1999 p. 1282.]*

**3.44E. Defence: smoking in a performance**

A person does not commit an offence under regulation 3.44B if, proof of which is on the person, the person is an actor, artist or other performer who smokes for the purposes of a performance.

*[Regulation 3.44E inserted in Gazette 26 Mar 1999 p. 1283.]*

**3.44F. Designated smoking areas**

- (1) A person who, at an enclosed workplace, is an employer or a person having control of the workplace may, subject to subregulations (2) and (3), designate an area of the workplace to be an area in which persons may smoke.
- (2) A person who, at an enclosed workplace, is an employer or a person having control of the workplace must not designate an area of the workplace to be an area in which persons may smoke unless —
  - (a) the area is designed or arranged so that tobacco smoke from the area does not enter any other part of the workplace; and
  - (b) there is provided an exhaust system that effectively extracts tobacco smoke from the area and which is arranged so as to prevent circulation of the extracted tobacco smoke into any part of the workplace.
- (3) A person who, at an enclosed workplace, is an employer or a person having control of the workplace must not designate an area of the workplace to be an area in which persons may smoke if it is an offence under the *Health (Smoking in Enclosed Public Places) Regulations 1999*<sup>2</sup> to smoke in that area.



Penalty applicable to subregulations (2) and (3): the regulation 1.16 penalty.

*[Regulation 3.44F inserted in Gazette 26 Mar 1999 p. 1283; amended in Gazette 14 Dec 2004 p. 6018.]*

**3.44G. Notice to be given as to restrictions on smoking**

A person who, at an enclosed workplace, is an employer or a person having control of the workplace must ensure that notice is given or displayed to persons working in the workplace to the effect that smoking by those persons is prohibited in the workplace.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.44G inserted in Gazette 26 Mar 1999 p. 1283; amended in Gazette 14 Dec 2004 p. 6018.]*

**3.44H. Persons not to work in a designated smoking area when persons are smoking in that area**

- (1) A person who, at an enclosed workplace, is an employer must ensure that no employee is required to work in a designated smoking area when a person is smoking in that area.

Penalty: the regulation 1.16 penalty.

- (2) A person who, at an enclosed workplace, is a self-employed person must not work in a designated smoking area when a person is smoking in that area.

Penalty:

- (a) for a first offence, \$25 000; and
- (b) for a subsequent offence, \$31 250.

*[Regulation 3.44H inserted in Gazette 26 Mar 1999 p. 1283-4; amended in Gazette 14 Dec 2004 p. 6013.]*

**3.44I. Inspectors may require certain persons to extinguish tobacco products**

- (1) If an inspector has reasonable cause to believe that a person is smoking in contravention of regulation 3.44B the inspector may

require the person to extinguish the tobacco product that the person is smoking.

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

Penalty: the regulation 1.15 penalty.

*[Regulation 3.44I inserted in Gazette 26 Mar 1999 p. 1284; amended in Gazette 14 Dec 2004 p. 6016-17.]*

## **Division 4 — Noise control and hearing protection**

### **3.45. Interpretation**

In this Division —

**“exposure standard for noise”**, in relation to a person,  
means —

- (a) an  $L_{Aeq,8h}$  of 85 dB(A); or
- (b) an  $L_{C,peak}$  of 140 dB(C),

measured at the position of the person's ear without taking into account any protection which may be provided to the person by personal hearing protectors;

**“ $L_{Aeq,8h}$ ”** means an 8 hour equivalent continuous A-weighted sound pressure level in decibels (dB(A)) referenced to 20 micropascals, that is to say, the steady noise level which would, in the course of an 8 hour period, cause the same A-weighted sound energy that would be caused by the actual noise during an actual working day, determined in accordance with AS/NZS 1269.1;

**“ $L_{C,peak}$ ”** means C-weighted peak noise level, that is to say, the C-weighted peak hold sound pressure level in decibels (dB(C)) referenced to 20 micropascals, determined in accordance with AS/NZS 1269.1;

**“noise”** means any unwanted or damaging sound;

**“personal hearing protectors”** means a device, or pair of devices, worn by a person or inserted in the ears of a person to protect the person’s hearing.

*[Regulation 3.45 amended in Gazette 17 Dec 1999 p. 6230; 8 Mar 2002 p. 962.]*

**3.46. Avoidance of noise above exposure standard**

A person who, at a workplace, is an employer, the main contractor or a self-employed person must, as far as practicable, ensure that noise to which a person is exposed at the workplace does not exceed the exposure standard for noise.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.46 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.47 Standard of personal hearing protectors**

If it is not practicable to avoid exposing a person at a workplace to noise above the exposure standard for noise then a person who, at the workplace, is an employer, the main contractor or a self-employed person must ensure that the first-mentioned person is provided with personal hearing protectors that have been selected in accordance with the procedures specified in AS/NZS 1269.3.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.47 inserted in Gazette 17 Dec 1999 p. 6230-1; amended in Gazette 14 Dec 2004 p. 6018.]*

**Division 5 — Prevention of falls at workplaces**

*[Heading inserted in Gazette 30 Mar 2001 p. 1767.]*

**3.48. Definition**

In this Division —

**“anchorage”** means an anchorage point for a fall injury prevention system;

**“fall injury prevention system”** means a system designed to —

- (a) arrest a person’s fall from one level at a workplace to another; and
- (b) minimise the risk of injury or harm to a person who falls from one level at a workplace to another.

*[Regulation 3.48 inserted in Gazette 30 Mar 2001 p. 1767.]*

**3.49. Identification and assessment of hazards in relation to falling**

Without limiting regulation 3.1, a person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must —

- (a) identify each hazard to which a person at the workplace is likely to be exposed in relation to the person falling from one level at the workplace to another;
- (b) assess the risk of injury or harm to a person resulting from each hazard, if any, identified under paragraph (a); and
- (c) consider the means by which the risk may be reduced.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.49 inserted in Gazette 30 Mar 2001 p. 1768; amended in Gazette 14 Dec 2004 p. 6018.]*

**3.50. Anchorage and fall injury prevention systems to be capable of withstanding forces caused by a fall**

An employer, main contractor, self-employed person or the person having control of the workplace must ensure that an anchorage or a fall injury prevention system at a workplace is designed, manufactured, constructed, selected, or installed so as to be capable of withstanding the force applied to it as a result of a person’s fall at the workplace.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.50 inserted in Gazette 30 Mar 2001 p. 1768;  
amended in Gazette 14 Dec 2004 p. 6018.]*

**3.51. Inspection etc. of fall injury prevention systems**

A person who, at a workplace, is an employer, the main contractor, a self-employed person or the person having control of the workplace must ensure, in relation to each fall injury prevention system provided at the workplace that —

- (a) each component of the system and its means of attachment to an anchorage is inspected by a competent person —
  - (i) after it is installed but before it is used;
  - (ii) at regular intervals; and
  - (iii) immediately after it has operated or should have operated in relation to a person's free fall at the workplace;
- and
- (b) any component of the system or its means of attachment to an anchorage that, on an inspection referred to in paragraph (a), shows wear or weakness is withdrawn from use until it is replaced with a properly functioning component.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.51 inserted in Gazette 30 Mar 2001 p. 1768-9;  
amended in Gazette 14 Dec 2004 p. 6018.]*

**3.52. Fall injury prevention system to be protected where welding etc. being done**

If welding or an allied process is being done at a workplace where a fall injury prevention system is in operation then a person who, at the workplace, is an employer, the main contractor or a self-employed person must ensure that —

- (a) a person using the system is protected from hot particles or sparks resulting from the welding or allied process; and
- (b) the system is protected from hot particles or sparks resulting from the welding or allied process.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.52 inserted in Gazette 30 Mar 2001 p. 1769;  
amended in Gazette 14 Dec 2004 p. 6018.]*

### **3.53. Inspection of anchorages**

A person who, at a workplace, is an employer, the main contractor, a self-employed person or the person having control of the workplace must ensure —

- (a) that an anchorage at the workplace is inspected by a competent person and —
    - (i) in the case of an anchorage that is permanently fixed and in regular use, inspected at intervals not greater than 6 months; and
    - (ii) in the case of an anchorage that is permanently fixed but not in regular use, inspected before it is used;
  - (b) where, in the opinion of the competent person, an anchorage is worn or the load bearing capacity of the anchorage may be impaired —
    - (i) that the anchorage is not used while it is in that condition; and
    - (ii) while the anchorage is in that condition, that it is tagged to indicate that it is not to be used;
- and
- (c) that an anchorage that has been repaired is not used unless it has been inspected by a competent person who is of the opinion that the anchorage can be used again.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.53 inserted in Gazette 30 Mar 2001 p. 1769;  
amended in Gazette 14 Dec 2004 p. 6018.]*

**3.54. Protection in relation to holes and openings**

- (1) A person who, at a workplace, is an employer, the main contractor, a self-employed person or a person having control of the workplace must ensure that any hole or opening (other than a liftwell, 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 building or structure at the workplace is covered with a material that is —
    - (i) strong enough to prevent persons or things entering or falling through or into the hole or opening; and
    - (ii) securely fixed to the floor;
  - or
  - (b) in a concrete floor of a building or structure at the workplace —
    - (i) has, if practicable, wire mesh that meets the requirements of subregulation (2); and
    - (ii) is covered with a material that is —
      - (I) strong enough to prevent persons or things entering or falling through or into the hole or opening; and
      - (II) securely fixed to the floor.
- (2) The wire in the wire mesh referred to in subregulation (1)(b)(i) is required to —
- (a) be at least 4 mm in diameter;
  - (b) have maximum apertures of 75 mm x 75 mm;

- (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 applicable to subregulations (1) and (3): the regulation 1.16 penalty.

*[Regulation 3.54 inserted in Gazette 30 Mar 2001 p. 1770-1; amended in Gazette 14 Dec 2004 p. 6018.]*

### **3.55. Edge protection**

- (1) A person who at a workplace, is an employer, the main contractor, a self-employed person or a person having control of the workplace must ensure that edge protection that complies



with subregulation (5) is provided and kept in place whenever there is a risk that a person could fall 2 or more metres from the edge of —

- (a) a scaffold, fixed stair, landing or suspended slab at the workplace; or
- (b) formwork or falsework at the workplace.

Penalty: the regulation 1.16 penalty.

- (2) A person who, at a workplace, is an employer, the main contractor, a self-employed person or a person having control of the workplace must ensure that either —

- (a) edge protection that complies with subregulation (5) is provided and kept in place whenever there is a risk that a person could fall 3 or more metres from an edge at the workplace other than an edge referred to in subregulation (1); or
- (b) a fall injury prevention system is provided and in operation whenever there is a risk that a person could fall 3 or more metres from an edge at the workplace other than an edge referred to in subregulation (1).

Penalty: the regulation 1.16 penalty.

- (3) When a fall injury prevention system that is designed to be attached to a person is provided in accordance with subregulation (2)(b), a person who is at risk of falling from the structure must use the system.

Penalty: the regulation 1.15 penalty.

- (4) When a fall injury prevention system that is not designed to be attached to a person is provided in accordance with subregulation (2)(b), a person who is at risk of falling from the structure must ensure, before the person ascends the structure, that the system is in operation.

Penalty: the regulation 1.15 penalty.

- (5) Edge protection must have —

- (a) a top rail —
  - (i) positioned not less than 900 mm and not more than 1 100 mm above the working surface; and
  - (ii) that is capable of withstanding a force of 0.55 kN applied to any point of the guard rail system;
- and
- (b) either —
  - (i) a mid rail and a toe board; or
  - (ii) a toe board and a mesh panel that comprises wire that is not less than 3 mm in diameter and apertures not greater than 75 mm x 50 mm and that fills the space between the top rail and the toe board.

*[Regulation 3.55 inserted in Gazette 30 Mar 2001 p. 1771-2; amended in Gazette 14 Dec 2004 p. 6016-17 and 6018.]*

**3.56. Grid mesh and checker plate flooring panels**

A person who, at a workplace that is a construction site, is the main contractor, an employer, or a self-employed person must ensure that if grid mesh or checker plate flooring panels are being installed at the workplace —

- (a) subject to paragraph (b), then each panel is securely fixed, in accordance with the manufacturer's specifications, to a supporting structure before the support structure is placed into position on the building or structure under construction; and
- (b) where it is not practicable to fix the panels to a supporting structure, then each panel is securely fixed to the building or structure under construction immediately after the panel is placed into position.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.56 inserted in Gazette 30 Mar 2001 p. 1772; amended in Gazette 14 Dec 2004 p. 6018.]*

**3.57. Working on or from brittle or fragile roofing**

- (1) A person who, at a workplace, is an employer, the main contractor, a self-employed person or a person having control of the workplace must ensure that if a person is required to work on or from a roof at the workplace where brittle or fragile material forms the whole or any part of the roof then —
- (a) the person to work on or from the roof is informed that the roof is wholly or in part brittle or fragile, as is relevant to the case;
  - (b) the person to work on or from the roof is provided with a safe working platform and safe access way;
  - (c) the person to work on or from the roof is trained and instructed on —
    - (i) the precautions to be taken;
    - (ii) how and where to access the roof; and
    - (iii) how and where to gain access to the working platform or access way referred to in paragraph (b);
- and
- (d) to the extent practicable, a warning notice bearing the words “DANGER — FRAGILE ROOFING — USE WORKING PLATFORM” is placed at each place where a person who is to work on or from the roof is to access the roof.

Penalty: the regulation 1.16 penalty.

- (2) Without limiting regulation 3.1, if at a workplace brittle or fragile material forms the whole or part of a roof that is to be removed, a person who, at the workplace, is an employer, the main contractor, a self-employed person or a person having control of the workplace must before the roof is removed —
- (a) identify which areas of the roof are made of a brittle or fragile material; and

- (b) assess the stability of the structure that supports the roof and the soundness of the roof.

Penalty: the regulation 1.16 penalty.

- (3) A person who, at a workplace, is an employer, the main contractor, a self-employed person or a person having control of the workplace must ensure, if a person is required to work on or from a roof at the workplace where brittle or fragile material forms the whole or any part of the roof and there is a risk that that person might fall through the roof, and if there is no other practicable means of preventing the person falling through the roof, that —

- (a) non-corrosive safety mesh that is capable of preventing a person falling through the roof is securely fixed directly over the top of, or directly underneath, the brittle or fragile areas; or
- (b) barriers are securely fixed and adequately maintained around the brittle or fragile areas.

Penalty: the regulation 1.16 penalty.

- (4) A person must not remove a notice referred to in subregulation (1) without the authority of the person who caused the notice to be placed.

Penalty for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 3.57 inserted in Gazette 30 Mar 2001 p. 1772-4; amended in Gazette 14 Dec 2004 p. 6017 and 6018.]*

## **Division 6 — Electricity**

### **3.58. Definition**

In this Division —

**“supply authority”** has the meaning that it has in the *Electricity Act 1945*,

and, for the purposes of this Division, a reference in AS/NZS 3012 to a supply authority is to be treated as a reference to a supply authority as defined in this regulation.

**3.59. Electrical installations at workplaces**

A person who, at a workplace, is an employer, the main contractor, a self-employed person or a person having control of the workplace must ensure that —

- (a) all electrical installations at the workplace are designed, constructed, installed, protected, maintained and tested so as to minimise the risk of electrical shock or fire; and
- (b) each connection on a flexible cord that is installed or renewed at the workplace after 1 October 1996 is of either the moulded one part non-rewireable or transparent type.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.59 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.60. Protection against earth leakage current when portable equipment in use**

- (1) This regulation applies to a workplace other than one to which AS/NZS 3012 applies but does not apply to a workplace at which the supply of electricity —
  - (a) does not exceed 32 volts alternating current;
  - (b) is direct current;
  - (c) is provided through an isolating transformer complying with AS/NZS 3108; or
  - (d) is provided from the unearthed outlet of a portable generator.
- (2) In this regulation —
  - “**hand-held equipment**” means portable equipment —
    - (a) of a kind that is intended to be held in the hand during normal use; and

- (b) the motor, if any, of which forms an integral part of the equipment;

**“portable equipment”** means equipment that is —

- (a) connected to an electricity supply; and
  - (b) intended to be moved when it is in use,
- and includes, but is not limited to, hand-held equipment;

**“workplace”** means a workplace to which this regulation applies.

- (3) A person having control of a workplace —

- (a) must ensure that each non-portable residual current device installed at the workplace is kept in a safe working condition and tested on a regular basis to ensure its continued effective operation;
- (b) must provide, where electricity is supplied to portable equipment through a fixed socket at the workplace, protection against earth leakage current by means of —
  - (i) a non-portable residual current device installed at the switchboard; or
  - (ii) by a non-portable residual current device built into a fixed socket which, having regard to the primary use of the socket and its location, is likely to be used by a person operating portable equipment;

and

- (c) must ensure where a non-portable residual current device has been —
  - (i) installed at a switchboard, that a notice is displayed in a prominent place at or near the switchboard indicating that a non-portable residual current device has been installed at the switchboard; or

- (ii) built into a fixed socket, that the socket can be identified as providing protection against earth leakage current.

Penalty: the regulation 1.16 penalty.

- (4) A person who is an employer or a self-employed person at a workplace —
  - (a) must ensure that each portable residual current device used at the workplace by the person or an employee of the person is kept in a safe working condition and tested on a regular basis to ensure its continued effective operation; and
  - (b) where the employer or a self-employed person is not satisfied that protection against earth leakage current has been provided by means of a non-portable residual current device —
    - (i) must provide a portable residual current device for use with each item of portable equipment used by the person or an employee of the person at the workplace; and
    - (ii) must ensure that a portable residual current device is directly connected to the output side of a fixed socket and that an item of portable equipment being used by the person or an employee of the person is directly connected to the output side of that portable residual current device.

Penalty: the regulation 1.16 penalty.

- (5) An employee who is provided with a portable residual current device for use with an item of portable equipment at a workplace must not use the portable equipment unless the portable residual current device is directly connected to the output side of a fixed socket and the item of portable equipment is directly connected to the output side of that portable residual current device.

Penalty: the regulation 1.15 penalty.

*[Regulation 3.60 inserted in Gazette 12 Sep 1997 p. 5177-8;  
amended in Gazette 6 Feb 1998 p. 665; 17 Dec 1999 p. 6231-2;  
14 Dec 2004 p. 6016-17 and 6018.]*

**3.61. Electrical installations on construction sites etc.**

If work of a type referred to in clause 1.2 of AS/NZS 3012 is to be done then a person who, in relation to the workplace is an employer, the main contractor or a self-employed person must ensure that —

- (a) the requirements of AS/NZS 3012 are complied with in relation to matters within the scope of AS/NZS 3012 except clause 2.3.5 of that Standard;
- (b) each socket outlet provided on a switchboard for the connection of portable appliances and equipment is individually controlled by a double pole switch or other device that provides the same level of safety as a double pole switch; and
- (c) no aerial cable is fixed onto, or attached to, a scaffold.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.61 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.62. Tester to record licence number on tag**

A person who conducts under clause 3.6, 3.7 or 3.8 of AS/NZS 3012 a test on an item of portable electrical equipment or a portable residual current device that is intended for use at a workplace must ensure that, in addition to the information referred to in clause 3.9.2 of that Standard, the tag bears the person's licence number as an electrical worker under the *Electricity Act 1945*.

Penalty:

- (a) for a first offence, \$2 000; and
- (b) for a subsequent offence, \$2 500.



*[Regulation 3.62 amended in Gazette 14 Dec 2004 p. 6014.]*

**3.63. Records of electrical equipment test results to be provided**

If a person brings to a workplace to which regulation 3.61 applies an item of portable electrical equipment or a portable residual current device required under AS/NZS 3012 to be tested then that person must, before the thing is used at the workplace —

- (a) provide the main contractor with a record of the relevant testing data under that Standard for the thing; and
- (b) ensure that the tag bears the licence number of the electrical worker who conducted the test.

Penalty:

- (a) in the case of an individual —
  - (i) for a first offence, \$2 000; and
  - (ii) for a subsequent offence, \$2 500;
- or
- (b) in the case of a body corporate —
  - (i) for a first offence, \$4 000; and
  - (ii) for a subsequent offence, \$5 000.

*[Regulation 3.63 amended in Gazette 14 Dec 2004 p. 6014.]*

**3.64. Restrictions on working in vicinity of overhead power lines**

- (1) In this regulation —

**“danger zone”** means anywhere that —

- (a) is within 0.5 metres of a live insulated overhead power line or aerial bundled conductor line of a voltage of not more than 1 000 volts;
- (b) is within 1.0 metre of a live uninsulated overhead power line of a voltage of not more than 1 000 volts;

- (c) is within 3.0 metres of a live overhead power 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 power line, whether insulated or not, of a voltage exceeding 33 000 volts;

**“overhead power line”** means an overhead line for the transmission of electrical energy.

- (2) Subject to subregulation (3), without limiting clause 2.5.7 of AS/NZS 3012, a person who, at a workplace, is an employer, the main contractor, a self-employed person or a person having control of the workplace must ensure that an employee or any plant or material used or controlled by an employee does not enter the danger zone of an overhead power line.

Penalty: the regulation 1.16 penalty.

- (3) A person does not commit an offence under subregulation (2) if, proof of which is on the person —
  - (a) the overhead power 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 employee is authorised to carry out electrical work under the *Electricity Act 1945*.

*[Regulation 3.64 inserted in Gazette 17 Dec 1999 p. 6232-3; amended in Gazette 14 Dec 2004 p. 6018.]*

### **3.65. Connecting electricity to construction sites**

The main contractor at a construction site must ensure, if it is practicable to do so, that by the time when work on the site has reached plate height or the equivalent, electricity has been supplied to the site from a supply authority's service line or service cable by way of a temporary or permanent connection.

Penalty:

- (a) in the case of an individual —

- (i) for a first offence, \$10 000; and
  - (ii) for a subsequent offence, \$12 500;
- or
- (b) in the case of a body corporate —
    - (i) for a first offence, \$20 000; and
    - (ii) for a subsequent offence, \$25 000.

*[Regulation 3.65 amended in Gazette 14 Dec 2004 p. 6016.]*

## **Division 7 — Scaffolds, gantries, hoardings and barricades and formwork**

### **3.66. Definitions**

In this Division —

**“barricade”** means a temporary fence consisting of rigid vertical and horizontal members;

**“cantilevered scaffold”** means a scaffold which is supported by cantilevered load-bearing members, but does not include a scaffold the platform of which is carried on frames attached to or supported by permanent or temporary construction;

**“gantry”** means a structure that is used —

- (a) for the overhead protection of persons; and
- (b) for the support of materials and persons;

**“hoarding”** means a substantial and fully sheeted fence or screen;

**“hung scaffold”** means a scaffold which is hung from another structure and which is not capable of being raised or lowered when in use;

**“scaffold”** means a temporary structure, stage or platform specifically erected to support access or working platforms, persons, plant or other material but does not include a gantry;

**“scaffolding equipment”** means any component, assembly or machine used or intended to be used in the construction of a scaffold;

**“spur scaffold”** means a scaffold which is partially supported by inclined load bearing members;

**“suspended scaffold”** means a scaffold incorporating a suspended platform which is capable of being raised or lowered when in use and includes a boatswain’s chair.

**3.67. Scaffolds and scaffolding equipment to be in accordance with Standard**

- (1) 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.
- (2) 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 applicable to subregulations (1) and (2) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulations (1) and (2) in any other case: the regulation 1.16 penalty.

*[Regulation 3.67 amended in Gazette 10 Jan 2003 p. 64; 14 Dec 2004 p. 6017.]*

**3.68. Area for scaffold to be kept clear**

A person who is the main contractor at a workplace or, if there is not a main contractor, a person who causes a scaffold to be erected at a workplace, must ensure that an area where a scaffold is to be erected is clear of rubbish and any material and equipment not required for immediate use.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 3.68 amended in Gazette 14 Dec 2004 p. 6017.]*

**3.69. Welding of lugs and saddle pieces**

- (1) A person who welds a lug or saddle piece to a steel structure or tank which supports, or is to support, a scaffold at a workplace must not depart for any purpose whatever leaving the lug or saddle piece partially and incompletely welded.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case:

- (a) for a first offence, \$25 000; and
  - (b) for a subsequent offence, \$31 250.
- (2) A person who welds a lug or saddle piece to a steel structure or tank which supports, or is to support, a scaffold at a workplace must endorse his or her initials, with a durable crayon, on the structure or tank, immediately adjacent to every lug or saddle piece that has been finally and completely welded.

Penalty:

- (a) for a first offence, \$2 000; and
- (b) for a subsequent offence, \$2 500.

*[Regulation 3.69 amended in Gazette 14 Dec 2004 p. 6014 and 6017.]*

**3.70. Warning signs etc. for incomplete scaffolds**

If a scaffold is being erected at a workplace but is still incomplete then a person who, at the workplace, is an employer, the main contractor or a self-employed person must ensure that danger tags, warning signs or other appropriate measures are used to prevent unauthorised access to the scaffold during the times when it is left unattended.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.70 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.71. Certain scaffolds not to be used**

A person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure that no person is required to use a scaffold that is incomplete or in relation to which there is a danger tag, warning sign or other measure for the prevention of unauthorised access to the scaffold.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.71 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.72. Inspection and marking of certain scaffolds**

- (1) A person who is the main contractor at a workplace or if there is not a main contractor, the person who causes to be erected at a workplace a cantilevered scaffold, a hung scaffold, a spur scaffold, a suspended scaffold or any scaffold from which a person or thing could fall more than 4 metres, must ensure that the scaffold is inspected by a competent person —

- (a) before the scaffold is used;
- (b) after the scaffold is altered or repaired; and
- (c) at least every 30 days,

and tagged during the inspection in accordance with subregulation (2).

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

- (2) For the purposes of subregulation (1), the scaffold is to be tagged in a prominent position at every access to the scaffold with a durable tag that is integrated into the scaffold and on which is legibly recorded in durable material —
- (a) the date that the scaffold was erected, altered or repaired, as the case may be;

- (b) the name and signature of the person doing the inspection; and
- (c) whether the scaffold is to be used for —
  - (i) light duty;
  - (ii) medium duty; or
  - (iii) heavy duty,as defined by AS/NZS 1576.1.

*[Regulation 3.72 amended in Gazette 14 Dec 2004 p. 6017.]*

**3.73. Scaffold not to be moved etc. without authority**

A person must not remove or alter a scaffold or any part of a scaffold at a construction site without the authority of the main contractor.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 3.73 amended in Gazette 14 Dec 2004 p. 6017.]*

**3.74. Lowering scaffolding equipment**

A person working on a construction site who lowers any scaffolding equipment from any building or structure must do so carefully, without throwing or dropping the scaffolding equipment.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case:

- (a) for a first offence, \$25 000; and
- (b) for a subsequent offence, \$31 250.

*[Regulation 3.74 amended in Gazette 14 Dec 2004 p. 6017.]*

**3.75. Hoardings and barricades**

The main contractor at a construction site must ensure, for the purposes of reducing the risk of injury or harm to persons who are or who are likely to be in the vicinity of, but not on the construction site, that —

- (a) until a hoarding (or, if a barricade could provide adequate protection against the risk, a barricade) has been erected, no other construction work is done at the site; and
- (b) the hoarding or barricade remains in place until the completion of all the other construction work, unless, in the case of a barricade, it is replaced by a hoarding.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.75 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.76. Gantries**

If there is a risk of an object or material used in construction work falling, whether from a crane or otherwise, onto persons who are likely to be in an area that is in the vicinity of, but not on the construction site, the main contractor at the construction site must ensure that —

- (a) a gantry is erected in the area;
- (b) no construction work other than the erection of the gantry in the area is done at any place on the site adjacent to the area until the gantry is erected; and
- (c) the gantry remains in place until the completion of all the other construction work or until there is no longer the risk that required the presence of the gantry.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.76 amended in Gazette 14 Dec 2004 p. 6018.]*



**3.77. Level of protection required**

The main contractor at a construction site must ensure that the design, erection, use and maintenance of a hoarding, barricade or gantry at the site is such that, having regard to the construction work to be done, the hoarding, barricade or gantry —

- (a) is self-supporting; and
- (b) can withstand the loading, if any, to be placed on it.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.77 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.78. No unauthorised removal etc.**

A person must not remove or make any alteration to a barricade, hoarding or gantry on a construction site without the authority of the main contractor.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 3.78 amended in Gazette 14 Dec 2004 p. 6017.]*

**3.79. Requirements as to formwork**

A person who, at a workplace is an employer, the main contractor or a self-employed person must ensure that formwork is not constructed or used at the workplace unless the formwork is so designed, erected, supported, braced and maintained that it supports safely all vertical or lateral loads and withstands any force that may be applied to the loads until the loads are supported by a concrete structure.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.79 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.80. Formwork to be contained within workplace**

The main contractor at a workplace must ensure that if formwork is used at the workplace then material is placed around the formwork so that in the event that the formwork fails, no component of the formwork goes outside the workplace area.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.80 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.81. Stripping and lowering of formwork**

- (1) A person who strips formwork must —
  - (a) do the work in a systematic manner and so as to minimise damage to the components;
  - (b) remove nails and sharp fixings before stacking the components; and
  - (c) upon completion of the work, stack the components of the formwork so that there is no obstruction either to access ways or to work areas.
- (2) A person who lowers any formwork from any building or structure must do so carefully, without throwing or dropping the formwork.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case:

- (a) for a first offence, \$25 000; and
- (b) for a subsequent offence, \$31 250.

*[Regulation 3.81 amended in Gazette 14 Dec 2004 p. 6017.]*

**Division 8 — Work in confined spaces**

**3.82. Definitions**

In this Division —

**“confined space”** means an enclosed or partially enclosed space which —

- (a) is not intended or designed primarily as a workplace;
  - (b) is at atmospheric pressure during occupancy; and
  - (c) has restricted means for entry and exit,
- and which either —
- (d) has an atmosphere containing or likely to contain potentially harmful levels of contaminant;
  - (e) has or is likely to have an unsafe oxygen level; or
  - (f) is of a nature or is likely to be of a nature that could contribute to a person in the space being overwhelmed by an unsafe atmosphere or a contaminant;

**“contaminant”** means any substance, the presence of which may be harmful to safety or health.

*[Regulation 3.82 amended in Gazette 17 Dec 1999 p. 6233.]*

**3.83. Duties of designers, manufacturers and suppliers of things with confined spaces**

- (1) A person who designs, manufactures or supplies, for use at a workplace, a thing constituting or containing a confined space must ensure, as far as practicable, that the design eliminates the need for a person to enter the confined space.
- (2) If it is not practicable to eliminate the need for a person to enter or work in a confined space at the workplace, then a person who designs, manufactures or supplies the thing constituting or containing the confined space must ensure —
  - (a) where practicable, that the thing constituting or containing the confined space is designed to minimise risks of injury or harm to a person who enters or works in the confined space; and
  - (b) that the thing constituting or containing the confined space is provided with safe means of entry and exit.

Penalty applicable to subregulations (1) and (2) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulations (1) and (2) in any other case: the regulation 1.16 penalty.

*[Regulation 3.83 amended in Gazette 14 Dec 2004 p. 6017.]*

**3.84. Modification of confined spaces**

A person who modifies a thing constituting or containing a confined space at a workplace must ensure that the thing is not modified to the detriment of the safe means of entry and exit.

Penalty for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 3.84 amended in Gazette 14 Dec 2004 p. 6017.]*

**3.85. Work in confined spaces to comply with Standard**

A person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure that the provisions of AS/NZS 2865 are complied with in relation to work done in a confined space at the workplace.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.85 amended in Gazette 10 Jan 2003 p. 64; 14 Dec 2004 p. 6018.]*

**3.86. When persons to stand by confined spaces**

If, at a workplace, there is a risk of injury or harm to a person who enters or works in a confined space then a person who, at the workplace, is an employer, the main contractor or a self-employed person must ensure that no person enters or works in the confined space unless another person is present in the immediate vicinity outside the confined space.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.86 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.87. Training in relation to work in confined spaces**

- (1) If a person is to enter or work in a confined space at a workplace then a person who, at the workplace, is an employer, the main contractor or a self-employed person must ensure that persons referred to in subregulation (2) receive training on the matters referred to in subregulation (3).  
Penalty: the regulation 1.16 penalty.
- (2) The persons to receive the training are the persons who —
  - (a) work in or near a confined space;
  - (b) manage or supervise persons working in or near confined spaces;
  - (c) purchase or maintain equipment used by, or for the rescue or protection of, persons working in or near confined spaces;
  - (d) are required to be in the immediate vicinity outside the confined space for the purposes of regulation 3.86; and
  - (e) are involved in rescue and first aid procedures in relation to persons working in or near confined spaces.
- (3) The training is to include the following matters —
  - (a) the hazards of the confined space;
  - (b) assessment procedures;
  - (c) control measures;
  - (d) emergency procedures; and
  - (e) the selection, use, fit, storage and maintenance of safety equipment.

*[Regulation 3.87 amended in Gazette 14 Dec 2004 p. 6018.]*

**Division 9 — Safety requirements in relation to certain work processes**

**Subdivision 1 — Tilt-up concrete and precast concrete elements**

*[Heading amended in Gazette 22 Oct 2004 p. 4834.]*

**3.88. Interpretation**

- (1) In this Subdivision —

**“concrete panel”** means a concrete panel that is manufactured as a separate and movable panel for the purpose of being incorporated as a wall once the process by which the panel is manufactured is complete, but 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, craneage, 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;
- (c) the removal of temporary bracing of a concrete panel;

**“wall”** includes a retaining wall.

- (2) For the purposes of this Subdivision, 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).

*[Regulation 3.88 inserted in Gazette 22 Oct 2004 p. 4835.]*

**3.88A. Commissioner to be given notice of intention to manufacture concrete panels**

- (1) A person who, at a workplace (other than a construction site) where a concrete panel is proposed to be manufactured, is an employer or a self-employed person must ensure that the

Commissioner 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 main contractor must ensure that the Commissioner 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) is to be in an approved form 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 once the process by which the panel is manufactured is complete.

Penalty applicable to subregulations (1) and (2): the regulation 1.16 penalty.

- (4) A person referred to in subregulation (1) (other than the Commissioner) must ensure that a copy of the notice is given to the main contractor at the construction site referred to in subregulation (3)(b) within the period referred to in subregulation (1).

Penalty:

- (a) in the case of an individual —
  - (i) for a first offence, \$2 000; and
  - (ii) for a subsequent offence, \$2 500;
- or
- (b) in the case of a body corporate —
  - (i) for a first offence, \$4 000; and
  - (ii) for a subsequent offence, \$5 000.

*[Regulation 3.88A inserted in Gazette 22 Oct 2004 p. 4835-6; amended in Gazette 14 Dec 2004 p. 6014 and 6018.]*

**3.88B. Manufacture of concrete panels to be 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 an employer or a self-employed person must ensure that —
  - (a) the design and shop drawings of the panel are in accordance with AS 3850 section 3;
  - (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;
  - (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.
- (2) A person who, at a construction site where a concrete panel is proposed to be manufactured, is the main contractor must ensure that —
  - (a) the design and shop drawings of the panel are in accordance with AS 3850 section 3;
  - (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;
  - (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 applicable to subregulations (1) and (2): the regulation 1.16 penalty.

*[Regulation 3.88B inserted in Gazette 22 Oct 2004 p. 4836; amended in Gazette 14 Dec 2004 p. 6018.]*



**3.88C. Transport, cramage, storage and erection of concrete panels at construction sites to be in accordance with Standard**

- (1) A person who, at a construction site, is the main contractor, an employer or a self-employed person 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 cramage, temporary storage and erection of a concrete panel at the construction site is in accordance with AS 3850 section 5.
- Penalty: the regulation 1.16 penalty.
- (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;
  - (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;
  - (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;
    - (ii) located where there is little chance of damage to the panels to be stored;
    - (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.

*[Regulation 3.88C inserted in Gazette 22 Oct 2004 p. 4837; amended in Gazette 14 Dec 2004 p. 6018.]*

**3.88D. Temporary bracing of concrete panels at construction sites to be in accordance with Standard**

- (1) A person who, at a construction site, is the main contractor, an employer or a self-employed person 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: the regulation 1.16 penalty.

- (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.

*[Regulation 3.88D inserted in Gazette 22 Oct 2004 p. 4837-8; amended in Gazette 14 Dec 2004 p. 6018.]*

**3.88E. Incorporation of concrete panels into final structure to be in accordance with Standard**

A person who, at a construction site, is the main contractor, an employer or a self-employed person must ensure that —

- (a) the fixing of a concrete panel for the incorporation of the panel as a 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: the regulation 1.16 penalty.

*[Regulation 3.88E inserted in Gazette 22 Oct 2004 p. 4838;  
amended in Gazette 14 Dec 2004 p. 6018.]*

**3.88F. Tilt-up work at construction sites not to be done unless notification of intention to manufacture panels has been given**

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 Commissioner has been notified of the intention to manufacture the panel under regulation 3.88A(1) or (2), as is relevant to the case.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 3.88F inserted in Gazette 22 Oct 2004 p. 4838;  
amended in Gazette 14 Dec 2004 p. 6017.]*

**3.88G. Certain documents to be at construction sites where tilt-up work done**

- (1) The main 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 Commissioner given under regulation 3.88A(4) to the main contractor in respect of the panel;
  - (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 3.88A(2) given to the Commissioner in respect of the panel;

- (c) a copy of any exemption under regulation 2.12 relating to the work;
- (d) a copy of the shop drawings of each concrete panel that is, or is to be, involved in the work;
- (e) a current plan setting out details of the proposed execution of the work;
- (f) a copy of any written or diagrammatic advice, from a qualified practising engineer, received by the main 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 3.88B(1)(d) or (2)(d), as is relevant to the case.

Penalty: the regulation 1.16 penalty.

- (2) Nothing in subregulation (1) limits the operation of regulation 3.2.

*[Regulation 3.88G inserted in Gazette 22 Oct 2004 p. 4838-9; amended in Gazette 14 Dec 2004 p. 6018.]*

**3.88H. Limited entry to areas of construction sites where tilt-up work being done**

A person who, at a construction site where tilt-up work is being done, is the main contractor, an employer, a self-employed person, a person having control of the workplace or a person having control of access to 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;
- (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 for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 3.88H inserted in Gazette 22 Oct 2004 p. 4839;  
amended in Gazette 14 Dec 2004 p. 6017.]*

**3.88I. Certain persons to ensure that only trained persons  
manufacture concrete panels**

- (1) A person who, at a workplace where a concrete panel is proposed to be manufactured, is a person having control of the workplace must ensure that —
- (a) the manufacture is directly supervised by a person who has completed an approved course for managers and supervisors in the construction industry concerning the manufacture of concrete panels; and
  - (b) each person involved in the manufacture has completed an approved course for persons involved in the manufacture of concrete panels concerning the aspect of the work in which the person is involved.

Penalty applicable to a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

- (2) A person does not commit an offence under subregulation (1) if the person's failure to comply with the subregulation occurred before 1 July 2005.

*[Regulation 3.88I inserted in Gazette 22 Oct 2004 p. 4840;  
amended in Gazette 14 Dec 2004 p. 6017.]*

**3.88J. Certain persons to ensure that only trained persons do  
tilt-up work other than manufacturing concrete panels**

- (1) 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 having control of the workplace must ensure that —

- (a) the work is directly supervised by a person who has completed an approved course for managers and supervisors in the construction industry concerning tilt-up work; and
- (b) each person involved in the work has completed an approved course for persons involved in tilt-up work concerning the aspect of the tilt-up work in which the person is involved.

Penalty applicable to a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

- (2) A person does not commit an offence under subregulation (1) if the person's failure to comply with the subregulation occurred before 1 July 2005.

*[Regulation 3.88J inserted in Gazette 22 Oct 2004 p. 4840; amended in Gazette 14 Dec 2004 p. 6017.]*

### **Subdivision 2 — Moulding and casting**

#### **3.89. Moulding and casting**

- (1) A person who, at a workplace at which moulding or casting of metal is done, is an employer, a main contractor or a self-employed person must ensure that the moulding or casting is not done within 3 metres of —
  - (a) any part of a furnace that is in use; or
  - (b) any part of a receptacle or ladle that is in use or about to be used in the process of tapping hot metal from a furnace.
- (2) A person does not commit an offence under subregulation (1) if, proof of which is on the person, the moulding or casting is of a type that is required to be done in close proximity to, or in direct contact with, a furnace.

- (3) A person who, at a workplace at which moulding or casting of metal is done, is an employer, a main contractor or a self-employed person must ensure —
- (a) that the surface on which moulding or casting is done is level;
  - (b) if molten metal is to be carried by hand, that the walkway or floor over which it is carried is as even and level as practicable; and
  - (c) that the area within a 3 metre radius of the place where moulding or casting is being done is kept clear of any hazard.

Penalty applicable to subregulations (1) and (3): the regulation 1.16 penalty.

*[Regulation 3.89 amended in Gazette 14 Dec 2004 p. 6018.]*

### **3.90. Pit or deep mould**

A person who, at a workplace at which a pit or deep mould is used for the moulding or casting of metal, is an employer, a main contractor or a self-employed person must ensure —

- (a) that around the pit or deep mould there is a fence at least one metre high with a fender board and that the fence is removed only for the purposes of working the pit or deep mould;
- (b) in the case of a below ground pit furnace, that the pit is either fenced in accordance with paragraph (a) or that any unfenced areas are covered by a substantial grating that is hinged or otherwise moveable so as to allow the removal of metal from the furnace;
- (c) in the case of a pit or deep mould that is used frequently, that the internal walls are lined with bricks or concrete or other material that provides adequate reinforcement and keeps the pit or mould dry;
- (d) in the case of a pouring pit at which a ladle is used for taking molten metal from the furnace, that either —

- (i) there is permanently fitted an automatic guiding mechanism that prevents spillage; or
- (ii) there is a clearance of at least 300 mm between the side of the pit and any part of the ladle or attachment to the ladle;

and

- (e) in the case of a pit or deep mould where a person is required to stand or work over or near the edge of the pit or deep mould, that the floor or walkway on which the person works is at a uniform level and that the edge is covered by a grating that —
  - (i) is substantial enough to prevent a person falling into the opening; and
  - (ii) as far as practicable, is flush with the surrounding floor and walkways.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.90 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.91. Ladles**

A person who, at a workplace at which moulding or casting of metal is done, is an employer, a main contractor or a self-employed person must ensure that —

- (a) each hand-carried ladle is fitted with a suitable shield or guard to protect each person carrying the ladle from the effects of radiant heat;
- (b) each handle on a hand-carried ladle has safe gripping points;
- (c) when a double-handled ladle is used, there is not carried a mass greater than a mass calculated on the basis of 19 kilograms for each person operating the ladle;
- (d) where practicable, each lip pouring ladle is fitted with a safety device to prevent the accidental tipping of the ladle;



- (e) each lip pouring ladle that has a capacity of more than 500 kilograms is fitted with —
  - (i) a gear-operated device that enables the operator to directly control the tilting of the ladle at all times; and
  - (ii) a locking mechanism which prevents the ladle from tilting until the locking mechanism is released by the operator;
- (f) each bottom pouring ladle is fitted with an opening mechanism that enables the operator to directly control the ladle at all times, even if the ladle strikes another object;
- (g) that maintenance work on a ladle is not done in the vicinity of moulding or casting work; and
- (h) ladles are not heated or dried in a foundry by means of an open coal, coke or wood fire unless the means of extracting fumes generated by the heating or drying process and the means of ventilation are as close as practicable to the point where the heating or drying is done.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.91 amended in Gazette 14 Dec 2004 p. 6018.]*

### **3.92. Work under suspended loads at foundries**

A person who, at a workplace that is a foundry, is an employer or a self-employed person must ensure that no work is done in the foundry under a moulding box, core or casting unless the box, core or casting, as the case may be, is securely supported either on a trestle or on a support of a similar kind.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.92 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.93. Moulds or chills for spare metal**

A person who, at a workplace at which moulding or casting of metal is done, is an employer, a main contractor or a self-employed person must ensure that an adequate number of moulds or chills into which spare metal may be poured are immediately available to persons doing moulding or casting.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.93 amended in Gazette 14 Dec 2004 p. 6018.]*

**Subdivision 3 — Welding and allied processes**

**3.94. Definitions**

In this Subdivision —

“**allied process**” includes cutting, grinding and gouging associated with welding;

“**welding**” means the joining of material by means of heat or pressure or both so that the material is united in a homogenous mass.

**3.95. Atmosphere safety when welding etc.**

A person who, at a workplace at which welding or an allied process is done, is an employer, a main contractor or a self-employed person must ensure, for the purposes of complying with regulation 3.38 in relation to the workplace, that the means of extracting fumes generated by the welding or the allied process and the means of ventilation are as close as practicable to the point where the welding or allied process is done.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.95 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.96. Welding and allied processes to be in accordance with Standard**

A person who, at a workplace at which welding or an allied process is done, is an employer, a main contractor or a self-employed person must ensure that the welding or allied process is done in accordance with the provisions of AS 1674 applying to the type of welding or allied process.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.96 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.97. Protective screens**

A person who, at a workplace at which an electric welding process is done, is an employer, a main contractor or a self-employed person must ensure, where practicable, that suitable screens are provided to protect persons in the vicinity of the welder from harmful rays produced by the process.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.97 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.98. Flashback arresters**

- (1) A person who, at a workplace at which gas welding, heating, cutting or an allied process is done, is an employer, a main contractor or a self-employed person must ensure that a flashback arrester is fitted —
  - (a) on the operator's side of each regulator connection or gas discharge of a manifolded cylinder pack; and
  - (b) to the blowpipe.

Penalty: the regulation 1.16 penalty.

- (2) Subregulation (1) does not apply to a single hose liquid petroleum gas cylinder that is used with atmospheric air.

*[Regulation 3.98 amended in Gazette 17 Dec 1999 p. 6233; 8 Mar 2002 p. 962; 14 Dec 2004 p. 6018; 9 Sep 2005 p. 4159.]*

### **Subdivision 4 — Spray painting**

#### **3.99. Definitions**

In this Subdivision —

**“flammable paint”** means any —

- (a) paint; or
- (b) other liquid used in a spray painting process, with a flash point of or below 61°C when determined in accordance with AS/NZS 2106;

**“powder paint”** means any paint in solid powder form that is capable of being ignited;

**“spray painting”** means the application, either alone or in combination, of flammable paint, toxic paint or powder paint to an object by a spray painting process, whether done manually, mechanically or automatically;

**“spray painting process”** means spray painting by one of the following methods —

- (a) airless — whereby flammable paint, toxic paint or powder paint, either alone or in combination, is ejected from a spray nozzle under hydraulic pressure;
- (b) compressed air — whereby a mixture of air and flammable paint, toxic paint or powder paint, either alone or in combination, is applied under pressure;
- (c) electrostatic — whereby an object and flammable paint, toxic paint or powder paint, either alone or in combination, are electrically charged at opposite polarities;
- (d) any combination of the processes referred to in paragraphs (a), (b) and (c);

**“toxic paint”** means a paint, solvent, liquid or other material which contains a substance referred to in an item in Schedule 3.2 in the quantity and, where applicable, calculated in the manner, specified in that item.

*[Regulation 3.99 amended in Gazette 10 Jan 2003 p. 64.]*

**3.100. Spray painting generally to be inside booth**

- (1) A person who, at a workplace at which spray painting is done, is an employer, a main contractor or a self-employed person must ensure that the spray painting is done inside a booth that is designed, constructed, installed and maintained in accordance with AS/NZS 4114.

Penalty: the regulation 1.16 penalty.

- (2) A person does not commit an offence under subregulation (1) if, proof of which is on the person —
- (a) it is not practicable to do the spray painting in a booth; or
  - (b) the work to be done is spotting, touching up, or another minor operation.

*[Regulation 3.100 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.101. Electrostatic spray painting**

A person who, at a workplace at which spray painting is done by an electrostatic process, is an employer, a main contractor or a self-employed person must ensure that —

- (a) all electrical equipment complies with AS 2268 and AS/NZS 3000;
- (b) the equipment has automatic controls that operate without delay —
  - (i) to give audible warning; and
  - (ii) to disconnect the power supply to any high voltage transformer being used,in the event of a failure of the ventilation system or stoppage of any conveyor carrying objects through the high voltage field used in the process;
- (c) objects being painted are maintained in effective metallic contact with the conveyor or other earthed

support and all hooks are kept clean to ensure maintenance of this contact; and

- (d) where practicable, sharp points or knife edges and points of contact are shielded from random spray or are so located as not to collect spray material during normal operations.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.101 amended in Gazette 10 Jan 2003 p. 64;  
14 Dec 2004 p. 6018.]*

### **Subdivision 5 — Abrasive blasting**

#### **3.102. Definitions**

In this Subdivision —

**“abrasive blasting”** means propelling a stream of abrasive material at high speed against a surface by means of compressed air, liquid, steam, centrifugal wheels or paddles for the purpose of cleaning, abrading, etching or otherwise changing the original appearance or condition of the surface;

**“abrasive material”** means any substance, including metal shot, metal grit or slag (whether or not incorporated in water or other liquid or steam) used or intended to be used as an abrasive for abrasive blasting;

**“blasting cabinet”** means a structure used for abrasive blasting and which is designed so that when operating, the presence of a person inside the cabinet is not required;

**“blasting chamber”** means a structure used for abrasive blasting and which is designed so that when operating, the presence of a person inside the chamber is required;

**“compressed air wet abrasive blast cleaning”** means abrasive blasting where liquid is added to the abrasive material at least 3 metres before the nozzle exit of the propellant (or 100 mm before the nozzle exit when a venturi is used);

**“dry abrasive blasting”** means abrasive blasting conducted without the addition of water or other liquid to the abrasive material or its propellant;

**“pressurized liquid blast cleaning”** means the cleaning of an object using liquid that is compressed or pressurized;

**“wet abrasive blasting”** means compressed air wet abrasive blast cleaning or pressurized liquid blast cleaning.

### **3.103. Blasting equipment**

- (1) A person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure that equipment used for the purposes of abrasive blasting at the workplace —
  - (a) is designed so that the person operating the nozzle can control the flow of abrasive material through the nozzle;
  - (b) has hose whip checks or hose coupling safety locks or both;
  - (c) in the case of equipment used for dry abrasive blasting, has an efficient means for the discharge of static electrical charge from the abrasive blasting nozzle; and
  - (d) in the case of equipment used for wet abrasive blasting, has a water flow rate sufficient to prevent the generation of dust.
- (2) A person who, at a workplace at which equipment is used for the purposes of abrasive blasting, is an employer, the main contractor, or a self-employed person must ensure that —
  - (a) the equipment includes a device designed to cut off automatically the flow of abrasive material through the nozzle if the person operating the nozzle becomes unable to do so; or
  - (b) procedures are in place which enable a person other than the person operating the nozzle to cut off the flow of abrasive material if the person operating the nozzle becomes unable to do so.

Penalty applicable to subregulations (1) and (2): the regulation 1.16 penalty.

*[Regulation 3.103 amended in Gazette 17 Dec 1999 p. 6233-4; 14 Dec 2004 p. 6018.]*

**3.104. Blasting chambers and cabinets**

A person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure that each blasting cabinet or blasting chamber at the workplace —

- (a) is constructed of hard wearing non-combustible materials;
- (b) is designed and maintained —
  - (i) to prevent the escape of dust; and
  - (ii) to minimise internal projections on which dust may settle;
- (c) which has any window or inspection port —
  - (i) has each such window or inspection port fixed in a metal sash;
  - (ii) has each such window or inspection port maintained so as to permit effective inspection of operations; and
  - (iii) that is glazed, has glass that is toughened safety glass, laminated safety glass or safety wired glass manufactured to the requirements of AS/NZS 2208 for each such glazed window or inspection port;and
- (d) has a mechanical exhaust system that effectively extracts the dust from the blasting cabinet or the blasting chamber and which is arranged so as to prevent re-entry of the extracted dust into the blasting cabinet or blasting chamber and the workplace.

Penalty: the regulation 1.16 penalty.



*[Regulation 3.104 amended in Gazette 10 Jan 2003 p. 64;  
14 Dec 2004 p. 6018.]*

**3.105. Lighting and exits for blasting chambers**

A person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure that each blasting chamber at the workplace —

- (a) has illumination to at least 200 lux, measured on a horizontal plane situated one metre above the floor; and
- (b) has 2 exits —
  - (i) located as far from each other as is practicable; and
  - (ii) both of which are fitted with a quick release system.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.105 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.106. Persons doing abrasive blasting to be protected**

If, at a workplace, a person does abrasive blasting of a kind other than abrasive blasting done in a blasting cabinet, then a person who, at the workplace, is an employer, the main contractor or a self-employed person must ensure that —

- (a) the first-mentioned person is provided with a supplied air respirator which is fitted with an inner bib; and
- (b) the first-mentioned person wears a shoulder cape, jacket or protective suit.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.106 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.107. Radioactive substances not to be used in abrasive blasting**

A person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure that no material containing any radioactive substance as defined in the

*Radiation Safety Act 1975* is used in any abrasive blasting at the workplace.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.107 amended in Gazette 14 Dec 2004 p. 6018.]*

### **Subdivision 6 — Excavations and earthworks**

#### **3.108. Assessment in relation to excavations**

A person who, at a workplace where excavation work is to be done, is an employer, the main contractor or a self-employed person must consider, as part of the assessment process referred to in regulation 3.1, whether any identified risk of injury or harm to persons doing the work, persons in an excavated area or persons otherwise in the vicinity of the work may be reduced by any of the following means —

- (a) temporary support systems;
- (b) battering;
- (ba) benching;
- (c) other forms of retaining structures whether of a temporary or permanent nature;
- (d) de-watering systems,

for use or application during and after the work.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.108 amended in Gazette 14 Dec 2004 p. 6018;  
6 Jan 2006 p. 11.]*

#### **3.109. Where person at risk due to excavation**

- (1) If, at a workplace where excavation work is to be done, any person is at risk of injury because of the excavation work then a person who, at the workplace, is an employer, the main contractor or a self-employed person must ensure that —
  - (a) suitable barriers are erected between the person at risk and the likely cause of the danger; and

- (b) suitable signs that warn of the risk are erected at the place where the excavation work is to be done.
- (2) If, at a workplace, there is an excavated area in, around, or across the top of, which persons can move or plant can be moved then a person who, at the workplace, is an employer, the main contractor, a self-employed person or a person having control of the workplace must ensure, as far as is practicable, that —
  - (a) persons can move safely in, around, and across the top of, the area; and
  - (b) plant can be moved safely in, around, and across the top of, the area.

Penalty applicable to subregulations (1) and (2): the regulation 1.16 penalty.

*[Regulation 3.109 inserted in Gazette 6 Jan 2006 p. 12.]*

### **3.110. No loads near excavation work**

A person who, at a workplace where excavation work is done, is an employer, the main contractor or a self-employed person must ensure that no item of plant, no excavated material and no other load is placed near the excavated area in a position where there is risk that —

- (a) the sides of the excavated area may collapse; or
- (b) the plant, material or other load may fall into the excavated area.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.110 amended in Gazette 14 Dec 2004 p. 6018.]*

### **3.111. Shoring in excavations etc.**

- (1) If, at a workplace —
  - (a) any excavation work or earthwork is to be done and there is a risk that the matter forming, or adjacent to, the excavated area or the earthwork may fall or dislodge; or

- (b) a person is required to work in an excavated area or other opening in the ground that is at least 1.5 metres deep,

then a person who, at the workplace is an employer, the main contractor or a self-employed person must ensure that while a person is working in or near the work, area or opening, the work, area or opening is shored in a manner which will prevent it from collapsing or moving.

Penalty: the regulation 1.16 penalty.

- (2) A person does not commit an offence under subregulation (1) if, proof of which is on the person, the sides of the work, area or opening have been assessed by a competent person to be self-supporting by virtue of the angle of the slope of the sides or the stability of the matter comprising the sides.

*[Regulation 3.111 amended in Gazette 14 Dec 2004 p. 6018; 6 Jan 2006 p. 12.]*

**3.112. Certain excavation work not to be done in isolation**

- (1) If a person is required to work in an excavated area or in another opening in the ground, either of which is at least 1.5 metres deep, then a person who, at the workplace, is an employer, the main contractor or a self-employed person must ensure that the first-mentioned person does not do any work without at least one other person being present in the immediate vicinity of the area where the work is being done.

Penalty: the regulation 1.16 penalty.

- (2) A person does not commit an offence under subregulation (1) if, proof of which is on the person, the sides of the excavated area or opening have been assessed by a competent person to be self-supporting by virtue of the angle of the slope of the sides or the stability of the matter comprising the sides.

*[Regulation 3.112 amended in Gazette 14 Dec 2004 p. 6018.]*

**3.113. Stability of affected buildings etc.**

If any excavation work or earthwork to be done at a workplace is likely to adversely affect the stability of any building or structure or any road then a person who, at the workplace, is an employer, the main contractor or a self-employed person must ensure that the work is not commenced or continued unless the stability of the building or structure or the road is protected by sheet piling, shoring, bracing, guying or other appropriate means.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.113 amended in Gazette 14 Dec 2004 p. 6018.]*

**Subdivision 7 — Demolition**

*[Heading inserted in Gazette 30 Mar 2001 p. 1774.]*

**3.114. Definitions**

In this Subdivision —

“**class 1**”, in relation to demolition work, means demolition work of any of the following kinds —

- (a) work comprising the total demolition of a building or structure that is 10 metres or more in height when measured from the lowest ground level of the building or structure to the highest part of the building or structure;
- (b) work —
  - (i) comprising the partial demolition of a building or structure that is 10 metres or more in height when measured from the lowest ground level of the building or structure to the highest part of the building or structure; and
  - (ii) affecting the structural integrity of the building or structure;
- (c) work —

- (i) comprising the total or partial demolition of a building or structure; and
  - (ii) involving the use of load shifting equipment on a suspended floor;
- (d) work comprising the total or partial demolition of pre-tensioned or post-tensioned structural components of a building or structure;
- (e) work comprising the total or partial demolition of a building or structure containing precast concrete elements erected by the tilt-up method of construction;
- (f) work involving the removal of key structural members of a building or structure so that the whole or a part of the building or structure collapses;
- (g) work done to a building or structure involving explosives;
- (h) work comprising the demolition or partial demolition of a building or 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 or asbestos cement roofing material in excess of 200 m<sup>2</sup> from a building or structure if any part of the area to be removed is 10 metres or more above the lowest ground level of the building or structure;

**“class 2”**, in relation to demolition work, means demolition work comprising the total or partial demolition of a building or structure that is less than 10 metres in height when measured from the lowest ground level of the building or structure to the highest part of the building or structure but does not include —

- (a) the total or partial demolition of a single storey dwelling; or

- (b) work of a kind referred to in paragraphs (c), (d), (e), (f), (g), or (h) of the definition of “class 1”;

**“class 3”**, in relation to demolition work, means work comprising the removal of —

- (a) more than 200 m<sup>2</sup> of brittle or fragile roofing material; or
- (b) more than 200 m<sup>2</sup> of asbestos cement roofing, from a building or structure;

**“demolition”** means the complete or partial dismantling of a building or structure by pre-planned and controlled methods or procedures;

**“licence”** means a licence issued under regulation 3.116(2);

**“licensed person”**, in relation to class 1, class 2 or class 3 demolition work, means a person who has been issued with a licence that allows the person to do that class of demolition work.

*[Regulation 3.114 inserted in Gazette 30 Mar 2001 p. 1774-5; amended in Gazette 7 Jun 2002 p. 2734.]*

### **3.115. Application of Subdivision**

- (1) This Subdivision does not apply to the demolition of a building or structure by a person in the metal fabrication or engineering industry in the course of maintaining, refurbishing, upgrading, modifying or decommissioning plant.
- (2) This Subdivision does not apply to the demolition of —
  - (a) a fence or wall less than 1.8 metres in height; or
  - (b) a building or structure less than 2 metres in height.

*[Regulation 3.115 inserted in Gazette 30 Mar 2001 p. 1775-6; amended in Gazette 7 Jun 2002 p. 2734.]*

**3.116. Class 1, 2 or 3 demolition licences**

- (1) A person may, in an approved form, apply to the Commissioner to be licensed to do class 1, class 2 or class 3 demolition work and the application is to be accompanied by the appropriate fee set out in Schedule 6.1A, which is to be refunded if the application is refused.
- (2) On an application under subregulation (1) the Commissioner may issue to the applicant a licence to do class 1, class 2 or class 3 demolition work if the Commissioner is satisfied that the applicant is able to do that class of demolition work in a safe and proper manner.
- (3) A licence may be issued subject to such conditions that the Commissioner sees fit and endorses on the licence.
- (4) A licence has effect for 2 years from its issue unless it is sooner cancelled or suspended under subregulation (5).
- (5) The Commissioner may, by notice in writing, cancel or suspend a licence issued to a person if —
  - (a) the person is convicted of an offence against these regulations or the Act; or
  - (b) in the opinion of the Commissioner, the person —
    - (i) breaches a condition of the licence; or
    - (ii) is unable to comply with a condition of the licence or a provision of these regulations or the Act.

*[Regulation 3.116 inserted in Gazette 30 Mar 2001 p. 1776.]*

**3.117. Offence to do class 1, 2 or 3 demolition work unless licensed to do so and work to be done in accordance with conditions of licence**

- (1) A person must not do class 1 demolition work unless the person has been issued with a licence to do class 1 demolition work and



the work is done in accordance with the conditions of the licence, if any.

- (2) A person must not do class 2 demolition work unless the person has been issued with a licence to do class 1 or class 2 demolition work and the work is done in accordance with the conditions of the licence, if any.
- (3) A person must not do class 3 demolition work unless the person has been issued with a licence to do class 1 or class 3 demolition work and the work is done in accordance with the conditions of the licence, if any.
- (4) A person licensed to do class 2 demolition work must not do class 3 demolition work unless —
  - (a) the building or structure from which the roofing is removed is less than 10 metres in height when measured from the lowest ground level of the building or structure to the highest part of the building or structure; and
  - (b) the work is done in accordance with the conditions of the licence, if any.

Penalty applicable to subregulations (1), (2), (3) and (4) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulations (1), (2), (3) and (4) in any other case: the regulation 1.16 penalty.

*[Regulation 3.117 inserted in Gazette 30 Mar 2001 p. 1776-7; amended in Gazette 7 Jun 2002 p. 2734-5; 14 Dec 2004 p. 6017.]*

**3.118. Certain persons to ensure that persons doing class 1, 2 or 3 demolition work are licensed**

A person who, at a workplace, is an employer, the main contractor, a self-employed person or the person having control of the workplace must ensure that —

- (a) any class 1 demolition work to be done at the workplace is done by a person who has been issued with a licence to do class 1 demolition work;
- (b) any class 2 demolition work to be done at the workplace is done by a person who has been issued with a licence to do class 1 or class 2 demolition work;
- (c) any class 3 demolition work to be done at the workplace on a building or structure that is less than 10 metres in height when measured from the lowest ground level of the building or structure to the highest part of the building or structure is done by a person who has been issued with a licence to do class 1, class 2 or class 3 demolition work; and
- (d) any class 3 demolition work to be done at the workplace on a building or structure that is 10 metres or more in height when measured from the lowest ground level of the building or structure to the highest part of the building or structure is done by a person who has been issued with a licence to do class 1 or class 3 demolition work.

Penalty: the regulation 1.16 penalty.

*[Regulation 3.118 inserted in Gazette 30 Mar 2001 p. 1777; amended in Gazette 7 Jun 2002 p. 2735; 14 Dec 2004 p. 6018.]*

**3.119. Commissioner to be notified of intention to do class 1, 2 or 3 demolition work in accordance with Standard**

- (1) A person who wishes to do class 1, class 2 or class 3 demolition work in a manner that would be in accordance with AS 2601 is to notify the Commissioner at least 5 working days before the work is intended to begin.
- (2) The notification is to be in an approved form and is to be accompanied —
  - (a) by the name of the licensed person who will do the demolition work;

- (b) subject to subregulation (3), by written confirmation of the licensed person that the demolition work will be done in accordance with AS 2601;
  - (c) by written confirmation of the licensed person that another person will not be allowed to do the demolition work unless that person has been trained in safe methods of demolition work by a training organisation registered under the Australian National Training Authority framework; and
  - (d) by written confirmation of the licensed person that the demolition work will be directly supervised by a competent person at all times when the demolition work is being done.
- (3) For the purposes of subregulation (2)(b) it is not necessary for the licensed person to give written confirmation that the work plan required to be prepared under AS 2601 will be submitted to the Commissioner for approval.

*[Regulation 3.119 inserted in Gazette 30 Mar 2001 p. 1777-8.]*

**3.120. Application for Commissioner's approval to do class 1, 2 or 3 demolition work not in accordance with Standard**

- (1) A person who wishes to do class 1, class 2 or class 3 demolition work but to do the work in a manner that would not be in accordance with AS 2601 is to apply, at least 10 working days before the work is intended to begin, to the Commissioner for approval to do the work.
- (2) The application is to be in an approved form and is to 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 Commissioner requires to consider the application.

*[Regulation 3.120 inserted in Gazette 30 Mar 2001 p. 1778.]*

**3.121. Commissioner to acknowledge receipt and result of application and may impose conditions**

- (1) The Commissioner is to acknowledge the receipt of an application under regulation 3.120 within 10 days of receiving the application.
- (2) The acknowledgment is to include either —
  - (a) advice to the effect that the demolition work has not been approved by the Commissioner;
  - (b) advice to the effect that the demolition work has been approved by the Commissioner without conditions; or
  - (c) advice to the effect that the demolition work has been approved by the Commissioner on conditions imposed or to be imposed by the Commissioner.
- (3) The Commissioner may impose any condition that the Commissioner thinks is necessary in relation to any occupational safety and health matter in respect of demolition work that is the subject of an application under regulation 3.120 but if the Commissioner imposes a condition then it must be communicated to the applicant within 50 days from the day of the acknowledgment.

*[Regulation 3.121 inserted in Gazette 30 Mar 2001 p. 1778.]*

**3.122. Class 1, 2 or 3 demolition work not to be done without notification or approval or until conditions set**

A person must not do class 1, class 2 or class 3 demolition work unless —

- (a) in the case of work to be done in accordance with AS 2601, the Commissioner has been notified in accordance with regulation 3.119; or
- (b) in the case of work that is not to be done in accordance with AS 2601, the Commissioner has approved the work under regulation 3.121 and conditions imposed or to be imposed by the Commissioner have been communicated to the person who applied for the approval.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 3.122 inserted in Gazette 30 Mar 2001 p. 1779;  
amended in Gazette 14 Dec 2004 p. 6017.]*

**3.123. Demolition work other than class 1, 2 or 3 demolition work to be in accordance with Standard**

- (1) A person who, at a workplace where demolition work other than class 1, class 2 or class 3 demolition work is being done, is an employer, the main contractor or a self-employed person must ensure, subject to subregulation (2), that the work is done in accordance with AS 2601.

Penalty: the regulation 1.16 penalty.

- (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 Commissioner for approval.

*[Regulation 3.123 inserted in Gazette 30 Mar 2001 p. 1779;  
amended in Gazette 7 Jun 2002 p. 2735; 22 Oct 2004 p. 4841;  
14 Dec 2004 p. 6018.]*

**3.124. Class 1, 2 or 3 demolition work to be in accordance with Standard or approval**

- (1) A licensed person must ensure, subject to subregulation (2), that any class 1, class 2 or class 3 demolition work that is to be done in accordance with AS 2601 and which is done by the licensed person is done in accordance with AS 2601.
- (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 Commissioner for approval.

- (3) A licensed person must ensure, in relation to any class 1, class 2 or class 3 demolition work that is not to be done in accordance with AS 2601 and which is done by the licensed person that —
- (a) the work is done in accordance with the Commissioner's approval to do the work under regulation 3.121; and
  - (b) there is compliance with each condition (if any) imposed by the Commissioner in relation to the approval to do the work.

Penalty applicable to subregulations (1) and (3) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulations (1) and (3) in any other case: the regulation 1.16 penalty.

*[Regulation 3.124 inserted in Gazette 30 Mar 2001 p. 1779-80; amended in Gazette 14 Dec 2004 p. 6017.]*

**3.125. Certain documents to be at demolition workplaces**

- (1) A licensed person must ensure that at all times when class 1, class 2 or class 3 demolition work is being done by that person 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 Commissioner, in relation to the work;
  - (b) a copy of AS 2601; and
  - (c) a copy of the work plan referred to in AS 2601.
- (2) A person who, at a workplace where demolition work other than class 1, class 2 or class 3 demolition work is being done, is an employer, the main contractor or a self-employed person must ensure that at all times when the work is being done, 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 applicable to subregulations (1) and (2) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulations (1) and (2) in any other case: the regulation 1.16 penalty.

*[Regulation 3.125 inserted in Gazette 30 Mar 2001 p. 1780-1; amended in Gazette 7 Jun 2002 p. 2735; 14 Dec 2004 p. 6017.]*

**3.126. Demolition work involving asbestos**

- (1) A person who, at a workplace where demolition work, other than class 1, class 2 or class 3 demolition work, that involves the demolition of a building or structure in which there is any thermal or acoustic insulating material containing asbestos is being done, must ensure that the work —
  - (a) does not commence or immediately ceases when the presence of the material is apparent; and
  - (b) does not proceed until the material has been removed in accordance with regulation 5.45.
- (2) A licensed person who is doing class 1, class 2 or class 3 demolition work that involves the demolition of a building or structure in which there is any thermal or acoustic insulating material containing asbestos must ensure that the work —
  - (a) does not commence or immediately ceases when the presence of the material is apparent; and
  - (b) does not proceed until the material has been removed in accordance with regulation 5.45.

Penalty applicable to subregulations (1) and (2) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulations (1) and (2) in any other case: the regulation 1.16 penalty.

*[Regulation 3.126 inserted in Gazette 30 Mar 2001 p. 1781; amended in Gazette 14 Dec 2004 p. 6017.]*

**3.127. Limited entry to area where demolition work being done**

- (1) A person who, at a workplace, is an employer, the main contractor or a self-employed person must not allow any person to enter or remain in an area of the workplace where demolition work, other than class 1, class 2 or class 3 demolition work, has commenced other than —
  - (a) a person doing the work;
  - (b) a person authorised by the employer, main contractor or self-employed person to enter the area for a purpose connected with doing the work; or
  - (c) a person authorised under a written law to enter the area.
- (2) A licensed person must not allow any person to enter or remain in an area of a workplace where class 1, class 2 or class 3 demolition work being done by the person has commenced other than —
  - (a) a person doing the work;
  - (b) a person authorised by the licensed person to enter the area for a purpose connected with doing the work; or
  - (c) a person authorised under a written law to enter the area.

Penalty applicable to subregulations (1) and (2) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulations (1) and (2) in any other case: the regulation 1.16 penalty.

*[Regulation 3.127 inserted in Gazette 30 Mar 2001 p. 1781-2; amended in Gazette 14 Dec 2004 p. 6017.]*

**3.128. Scaffold used in demolition work to be heavy duty scaffold**

- (1) A person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure that any scaffold involved in demolition work at the workplace, other than class 1, class 2 or class 3 demolition work —
  - (a) is a heavy duty scaffold that meets the requirements of AS/NZS 1576.1;



- (b) is erected to the full height of the building or structure;
  - (c) has a closely boarded platform with a minimum width of one metre that abuts on the face of the building or structure at the working level;
  - (d) has a fender board not less than 900 mm high fitted on the outer edge and on the ends of the working platform;
  - (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;
  - (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 done; 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 building or structure.
- (2) A licensed person must ensure that any scaffold involved in class 1, class 2 or class 3 demolition work that the person is doing at a workplace complies with subregulation (1)(a) to (g).  
Penalty applicable to subregulations (1) and (2) for a person who commits the offence as an employee: the regulation 1.15 penalty.  
Penalty applicable to subregulations (1) and (2) in any other case: the regulation 1.16 penalty.
- (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 Commissioner in relation to the demolition work.

*[Regulation 3.128 inserted in Gazette 30 Mar 2001 p. 1782-3; 14 Dec 2004 p. 6017.]*

**Division 10 — Driving commercial vehicles**

*[Heading inserted in Gazette 8 Apr 2003 p. 1108.]*

**3.129. Application**

This Division does not apply to a commercial goods vehicle, as defined in section 4(1) of the *Transport Co-ordination Act 1966*, that is required to be licensed under that Act.

*[Regulation 3.129 inserted in Gazette 8 Apr 2003 p. 1108.]*

**3.130. Interpretation**

In this Division —

**“commercial vehicle”** means —

- (a) an omnibus within the meaning of the *Transport Co-ordination Act 1966*;
- (b) a school bus within the meaning of the *Road Traffic (Vehicle Standards) Regulations 2002*;
- (c) any mobile plant with a GVM over 4.5 tonnes, or motor vehicle with a GVM over 4.5 tonnes within the meaning of those terms in the *Road Traffic (Vehicle Standards) Regulations 2002* 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, within the meaning of those terms in the *Road Traffic (Vehicle Standards) Regulations 2002* used or intended to be used for the carriage of goods for hire or reward;

**“commercial vehicle driver”** means a person who drives a commercial vehicle in the course of work and whose work time —

- (a) is more than 60 hours per week;
- (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 a.m.;

**“driver fatigue management plan”**, in relation to commercial vehicle drivers, means a written document setting out requirements and procedures relating to —

- (a) scheduling trips;
- (b) rostering drivers;
- (c) establishing a driver’s fitness to work;
- (d) education of drivers in fatigue management;
- (e) managing incidents on or relating to commercial vehicles; and
- (f) establishing and maintaining appropriate workplace conditions;

**“responsible person at a workplace”** means a person who, at a workplace, is an employer, the main contractor, a self-employed person or the person having control of the workplace;

**“work time”**, in relation to driving a commercial vehicle, includes —

- (a) time spent doing work incidental to the driving;
- (b) time spent operating the mobile plant, where the commercial vehicle is plant;
- (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.

*[Regulation 3.130 inserted in Gazette 8 Apr 2003 p. 1108-10.]*

### **3.131. Driving commercial vehicles**

- (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 3.132;  
and
- (b) is certified by a medical practitioner as fit to drive the vehicle.

Penalty: the regulation 1.16 penalty.

- (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 3.132;  
and
- (b) be the holder of a certificate of a medical practitioner confirming his or her fitness to drive the vehicle.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case:

- (a) for a first offence, \$25 000; and
- (b) for a subsequent offence, \$31 250.

- (3) For the purposes of subregulations (1)(b) and (2)(b), the certificate is to state that not more than 3 years before the driving, the medical practitioner examined and passed the commercial vehicle driver in accordance with —

- (a) the Assessing Fitness to Drive 2003 published by Austroads Incorporated and the National Road Transport Commission; or
- (b) requirements exceeding or substantially equivalent to the requirements in the document referred to in paragraph (a).

*[Regulation 3.131 inserted in Gazette 8 Apr 2003 p. 1110;  
amended in Gazette 25 Jun 2004 p. 2292; 14 Dec 2004 p. 6017  
and 6018.]*

**3.132. Commercial vehicle operating standard**

- (1) A commercial vehicle driver must, so far as 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 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 practicable, have —
  - (a) in any 24 hour period — at least 7 hours of 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 one 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 of 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 practicable, have at least 24 continuous hours of non-work time between shift changes.

*[Regulation 3.132 inserted in Gazette 8 Apr 2003 p. 1110-11; amended in Gazette 25 Jun 2004 p. 2292.]*

**3.133. 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: the regulation 1.16 penalty.

*[Regulation 3.133 inserted in Gazette 8 Apr 2003 p. 1111; amended in Gazette 14 Dec 2004 p. 6018.]*

**3.134. Record of work time, breaks from driving, and non-work time**

- (1) A responsible person at a workplace must ensure that a record in accordance with subregulation (2) is established and kept current in respect of the work time, breaks from driving, and non-work time of each commercial vehicle driver who is required to drive a commercial vehicle that forms the whole or part of the workplace.

Penalty: the regulation 1.16 penalty.

- (2) The record is to be —
- (a) set out in a clear and systematic manner;
  - (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.

*[Regulation 3.134 inserted in Gazette 8 Apr 2003 p. 1112;  
amended in Gazette 14 Dec 2004 p. 6018.]*

### **Division 11 — Construction industry safety awareness training obligations**

*[Heading inserted in Gazette 26 Jul 2005 p. 3403.]*

#### **3.135. Definitions**

In this Division —

**“approved safety awareness training course”** means —

- (a) a safety awareness training course accredited under section 27 of the *Vocational Education and Training Act 1996*; or
- (b) a course accredited by the Commission under section 14(1)(h) of the Act for the purposes of this Division;

**“current”**, in relation to a safety awareness training certificate, has the meaning given in regulation 3.136(5);

**“employee”** includes a person who, under section 23D, 23E or 23F of the Act, is treated as an employee for purposes set out in the section;

**“employer”** includes a person who, under section 23D, 23E or 23F of the Act, is treated as an employer for purposes set out in the section;

**“safety awareness training certificate”** means a certificate that —

- (a) was issued by the provider of an approved safety awareness training course to a person named in the certificate; and
- (b) certifies that on the date specified in the certificate the person satisfactorily completed the approved safety awareness training course;

**“safety awareness training course”** means a training course that includes at least 4 hours of instruction in —

- (a) the rights and responsibilities under the Act and these regulations of persons who do construction work or employ persons who do such work;
- (b) the hazards to which a person is likely to be exposed while doing construction work at a workplace; and
- (c) how to apply risk control principles when doing construction work at the workplace;

**“safety training induction certificate”** means a certificate showing that, before 31 December 2005, the holder of the certificate completed an induction course in safety awareness for construction work.

*[Regulation 3.135 inserted in Gazette 26 Jul 2005 p. 3403-4.]*

**3.136. Safety awareness training requirements**

- (1) During the period beginning on 1 January 2007 and ending on 31 December 2007, an employee or a self-employed person must not do construction work at the workplace unless the employee or self-employed person holds —
  - (a) a safety training induction certificate; or
  - (b) a current safety awareness training certificate.

Penalty: the regulation 1.15 penalty.



- (2) During the period beginning on 1 January 2007 and ending on 31 December 2007, an employer, a main contractor or a person having control of the workplace must not permit an employee or a self-employed person to do construction work at the workplace unless the employee or self-employed person holds —

- (a) a safety training induction certificate; or
- (b) a current safety awareness training certificate.

Penalty: the regulation 1.16 penalty.

- (3) On or after 1 January 2008, an employee or a self-employed person must not do construction work at the workplace unless the employee or self-employed person holds a current safety awareness training certificate.

Penalty: the regulation 1.15 penalty.

- (4) On or after 1 January 2008, an employer, a main contractor or a person having control of the workplace must not permit an employee or a self-employed person to do construction work at the workplace unless the employee or self-employed person holds a current safety awareness training certificate.

Penalty: the regulation 1.16 penalty.

- (5) For the purposes of this Division —

- (a) a safety awareness training certificate issued for an approved safety awareness training course that was completed by the holder of the certificate after the commencement of this Division but before 1 January 2007 remains current until 31 December 2009; and
- (b) a safety awareness training certificate issued for an approved safety awareness training course that was completed by the holder of the certificate on or after 1 January 2007 remains current for 3 years after the day on which the course was completed.

**Occupational Safety and Health Regulations 1996**

**Part 3** Workplace safety requirements

**Division 11** Construction industry safety awareness training obligations

**r. 3.136**

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*[Regulation 3.136 inserted in Gazette 26 Jul 2005 p. 3404-5;  
amended in Gazette 27 Apr 2007 p. 1776.]*

## **Part 4 — Plant**

### **Division 1 — Preliminary**

#### **4.1. Definitions**

In this Part and in Schedules 4.1, 4.2 and 4.3, unless the contrary intention appears —

**“alter”**, in relation to plant, means to change the design of, add to or take away from the plant where the change may affect safety or health, but does not include routine maintenance, repairs or replacement;

**“amusement structure”** means equipment operated for hire or reward which provides entertainment or amusement through movement of the equipment, or part of the equipment, or when passengers travel on, around or along the equipment or move the equipment through self-powered motion;

**“boiler”** means a vessel or an arrangement of vessels and their interconnecting parts in which steam or other 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 by similar high temperature means and —

- (a) includes superheaters, reheaters, economizers, boiler piping, supports, mountings, valves, gauges, fittings, controls, the boiler setting and other equipment directly associated with the boiler;
- (b) does not include a fully flooded or pressurized system where water or other liquid is heated to a temperature lower than the normal atmospheric boiling temperature of the liquid;

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

**“bridge crane”** means a crane comprising a bridge beam mounted at each end to an end carriage and capable of travelling along elevated runways and having one or more hoisting mechanisms arranged to traverse the bridge;

**“building maintenance equipment”** means a suspended platform and associated equipment (including a building maintenance unit or a swing stage) which incorporates permanently installed overhead supports to provide access to the faces of a building or structure for maintenance or cleaning, but does not include a suspended scaffold;

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

**“commissioning”**, in relation to plant, means performing the necessary adjustments, tests and inspections before the plant is used to ensure that the plant is in full working order in accordance with the requirements specified in the design of the plant, and includes recommissioning;

**“concrete placing unit”** means plant used to place concrete by way of pumping concrete through a pipeline attached to or forming part of a boom and capable of travelling over a supporting surface without the need for fixed runways or railway tracks and relying on gravity for stability, that is, with no vertical restraining connection between itself and the supporting surface and no horizontal restraining connection (other than frictional forces at supporting surface level) which could aid stability;

**“conveyor”** means an apparatus or equipment worked by any power other than manual power and by which loads can be raised, lowered, transported or continuously driven by —

- (a) an endless belt, rope or chain or other similar means;
- (b) buckets, trays or other containers or fittings moved by an endless belt, rope, chain or other similar means;
- (c) a rotating screw;
- (d) a vibration or walking beam; or
- (e) a powered roller conveyor where the rolls are driven by an endless belt, rope or chain,

and includes the supporting structure, auxiliary equipment and gear used in connection with the conveyor;

**“crane”** means plant that is used for the raising or lowering of a freely suspended load and moving a load horizontally and —

- (a) includes the supporting structure of the crane and its foundations;
- (b) does not include any industrial lift truck, industrial robot, building maintenance equipment, suspended scaffold or lift;

**“design verifier”** means a person competent to undertake the tasks set out in regulation 4.3(2)(c);

**“earthmoving machinery”** means an operator controlled item of plant used to excavate, load, transport, compact or spread earth, overburden, rubble, spoil, aggregate or similar material;

**“elevating work platform”** means a telescoping device, scissor device or articulating device or any combination of those devices used to position personnel, equipment and materials to and from workplaces located above or below the support surface;

**“escalator”** includes a moving ramp for use by passengers but does not include a conveyor used only for moving goods;

**“explosive powered tool”** means a powder actuated hand-held tool which can drive a fastener against, into or through a substance by means of an explosive charge and includes every attachment and accessory for such tool and every device to be used with such tool but does not include a firearm, an LPG or propane gas powered tool or a side-wall coring gun used in exploratory borehole work;

**“fired heater”** means a pressure vessel in which a liquid is heated below its atmospheric boiling temperature or a process in which fluid is heated in tubes above or below its atmospheric boiling temperature by the application of fire, the products of combustion or electric power or by similar high temperature means;

**“gantry crane”** means a crane comprising a bridge beam supported at each end by legs mounted on end carriages which is capable of travelling on supporting surfaces or deck levels (whether fixed or not) and which has a crab with one or more hoisting units arranged to travel across the bridge;

**“gas cylinder”** means a rigid pressure vessel designed for the storage and transport of gas under pressure and to which AS 2030 applies that does not have more than 3 000 litres water capacity and is without openings or integral attachments on the shell other than at the ends;

**“hoist”** means an appliance intended for raising or lowering a load or persons and —

- (a) includes an elevating work platform, a mast-climbing work platform, a people and materials hoist, a scaffold hoist and a serial hoist;
- (b) does not include a lift or building maintenance equipment;

**“industrial lift truck”** means powered mobile plant designed to move goods, materials or equipment and which is equipped with an elevating load carriage and which usually has a

load-holding attachment but does not include a mobile crane or earthmoving machinery;

**“industrial robot”** means a multi-functional manipulator that is capable of handling materials, parts, tools or specialized devices through variable programmed motions for the performance of a variety of tasks and includes its controls;

**“interlocked”** in relation to a plant’s guarding device or machine element means the connection between the guarding device or machine element and the plant’s control system or power system by which connection —

- (a) access is allowed to the plant’s moving parts when those parts are not operating; and
- (b) moving parts are prevented from starting up or operating when access is available to those parts;

**“laser”** means any device that can produce or amplify electromagnetic radiation in the wave length range from 100 nanometres to one millimetre by the process of controlled stimulated emission but does not include any electric light globe, fluorescent light tube, electric radiator used for heating, radio or video communication equipment, domestic cooking appliance using high powered lamps or navigation and search light;

**“laser product”** means any product or assembly of components which constitutes, incorporates or is intended to incorporate a laser;

**“lift”** means any permanent plant (or plant that is intended to be permanent) which is in, or attached to, a building or structure and by means of which persons, goods or materials may be raised or lowered within or on a car cage or a platform and the movement of which is restricted by a guide or guides and includes an apparatus in the nature of a chair lift, escalator, moving walk or stairway lift and any supporting structure, machinery, equipment, gear, lift well, enclosures and entrances;

**“mast climbing work platform”** means a hoist having a working platform for the support or raising of personnel, equipment and materials to the working position by means of a drive system which moves along an extendable mast (which may be tied to a building) but does not include a lift or building maintenance equipment;

**“mobile crane”** means a crane capable of travelling over a supporting surface without the need for fixed runways or railway tracks and which relies on gravity only for stability and accordingly, has neither a vertical restraining connection between itself and the supporting surface nor a horizontal restraining connection (other than frictional forces at the supporting surface level) to aid stability;

**“nail gun”** means a tool which by the use of compressed air, is capable of discharging a nail, spike or other fastener into or through material;

**“operator protective devices”** includes roll-over protective structures, falling object protective structures, operator restraining devices and seat belts;

**“out-of-service tag”** means an accident prevention tag as referred to in section 5 of AS 1319 in the form of a warning sign, within the meaning of that Standard, bearing the words “OUT-OF-SERVICE”;

**“presence sensing safeguarding system”** includes —

- (a) a sensing system employing one or more forms of radiation which can be either self-generated or generated by pressure;
- (b) the interface between the final switching devices of the sensing system and the machine primary control elements; and
- (c) the capacity of a machine to stop when 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 a boiler, pressure vessel and pressure piping to which AS/NZS 1200 applies and having a hazard level of A, B, C or D according to the criteria set out in AS 4343;

**“pressure piping”** 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 —

- (a) includes distribution headers, bolting, gaskets, pipe supports and pressure retaining accessories;
- (b) does not include any boiler or pressure vessel or a pipeline to which any other written law applies;

**“pressure vessel”** means a vessel subject to internal or external pressure and —

- (a) includes interconnected parts and components, valves, gauges and other fittings up to the first point of connection to connecting piping, fired heaters and gas cylinder;
- (b) does not include any boiler or pressure piping;

**“regulatory authority”** means any Commonwealth, State or Territory authority, other than the Commissioner, with responsibility for plant safety;

**“repair”**, in relation to plant, means to restore plant to an operating condition but does not include replacement, routine maintenance or alteration;

**“tower crane”** means a boom or jib crane mounted on a tower structure;

**“tractor”** means a motor vehicle, whether wheeled or track mounted, designed principally to be used in agriculture, horticulture or turf management to provide power and movement of any attached trailer, machine or implement;

**“use”**, in relation to plant, means to work from the plant or to operate, or maintain the plant;

**“vehicle hoist”** means a vehicle-hoisting device, the purpose of which is to provide accessibility for convenient under-chassis examination or service;

**“work box”** means a personnel carrying device designed to be suspended from a crane for the purpose of providing a working area for persons elevated by and working from the box.

*[Regulation 4.1 amended in Gazette 17 Dec 1999 p. 6234;  
8 Mar 2002 p. 963.]*

## **Division 2 — Registration of plant design and items of plant**

### **4.2. Design of kinds of plant in Schedule 4.1 to be registered**

- (1) A person who manufactures, imports or supplies plant of a kind set out in Schedule 4.1 for erection, installation, commissioning or use at a workplace must ensure —
  - (a) that the design of the plant has been registered by the Commissioner or a regulatory authority;
  - (b) that the registration is current;
  - (c) that the plant is or has been manufactured in accordance with the current registered design; and
  - (d) while the plant is under the person’s control, that the design registration number issued by the Commissioner under regulation 4.10 or by a regulatory authority is within the vicinity of the plant and is readily accessible.

Penalty: the regulation 1.16 penalty.
- (2) For the purposes of this regulation, a plant design is to be treated as being registered if —
  - (a) the Commissioner or a regulatory authority, as the case requires, has registered the design on the basis that there will be a modification; and
  - (b) the modification is in accordance with the specifications of the Commissioner or the regulatory authority.

*[Regulation 4.2 amended in Gazette 8 Mar 2002 p. 964;  
14 Dec 2004 p. 6018.]*

**4.3. Application for registration of design of kinds of plant in Schedule 4.1**

- (1) A person who wishes to apply for the registration of the design of plant of a kind set out in Schedule 4.1 is to apply to the Commissioner in accordance with this regulation.
- (2) An application under subregulation (1) is to be in an approved form and is to be accompanied by the following —
  - (a) a statement signed by the person who designed the plant to the effect that the person has complied with the duties that a person who designs plant has under these regulations;
  - (b) the name, business address and qualifications of each of the design verifiers and where applicable, the employer of each design verifier;
  - (c) a statement signed by a design verifier to the effect that the plant's design complies with each Standard set out in Schedule 4.3 that is relevant to that kind of plant and in the case of plant that is pressure equipment that, in addition, verification of the relevant Standards has been done in accordance with AS 3920.1;
  - (d) representational drawings of the plant design; and
  - (e) the fee set out in item 1 of Schedule 6.2.
- (3) The statements and information referred to in subregulation (2) are to be in the English language.

**4.4. Design verifier to be independent of designer**

For the purposes of an application under regulation 4.3 —

- (a) a design verifier must not have had any involvement in the design of the relevant plant; and

- (b) the person who designs an item of plant and the design verifier of the item of plant must not be employed by the same person unless the employer undertakes the design of items of plant using a quality system that has been certified by a body accredited or approved by the Joint Accreditation System of Australia and New Zealand.

**4.5. Fee for design verifier who is an officer of the department**

Where a person intends to apply for the registration of the design of plant of a kind set out in Schedule 4.1, the person may request the Commissioner to provide the design verification statement under regulation 4.3(2)(c) and, where the statement is provided by an officer of the department, the person must pay to the Commissioner a fee calculated at the rate set out in Schedule 6.1 for the time taken to prepare the statement.

**4.6. Provision of further information**

- (1) The Commissioner may require a person who makes an application under regulation 4.3 to provide any of the following —
  - (a) detailed drawings of the plant design;
  - (b) design calculations;
  - (c) details of operating instructions;
  - (d) diagrams of control systems, including the sequence of operating the controls;
  - (e) details of maintenance requirements;
  - (f) a statement of the limitations of the plant's use;
  - (g) any other information that the Commissioner thinks is necessary to make a decision on the application.
- (2) The statements and information referred to in subregulation (1) are to be in the English language.

**4.7. Commissioner may register design of kinds of plant in Schedule 4.1**

- (1) On an application under regulation 4.3 and on payment of the fee referred to in regulation 4.8, the Commissioner may —
  - (a) register the plant design without conditions or modifications;
  - (b) register the plant design on any condition that the Commissioner thinks is appropriate;
  - (c) register the plant design on the basis that —
    - (i) the design, and any drawings, calculations or instructions that accompanied it, will be modified to the extent specified by the Commissioner; or
    - (ii) an item of plant manufactured in accordance with the design will be tested in a manner specified by the Commissioner,with or without requiring any further application or the provision of any more information; or
  - (d) refuse to register the plant design.
- (2) If the Commissioner refuses to register the plant design, the Commissioner is to provide written reasons for the refusal to the applicant with the notice of the decision.

*[Regulation 4.7 amended in Gazette 8 Mar 2002 p. 964.]*

#### **4.8. Assessment fee**

A person who makes an application under regulation 4.3 must, on completion of the assessment of the application and in addition to the fee referred to in regulation 4.3(2)(e), pay to the Commissioner a fee for any assessment of the application required by the Commissioner to be undertaken calculated at the rate set out in Schedule 6.1 for the time taken to conduct the assessment.

#### **4.9. Procedure where testing required by Commissioner**

If, for the purposes of regulation 4.7(1)(c)(ii), the Commissioner specifies a test that is to be done then the Commissioner may specify that the test be witnessed by an officer of the department or another competent person and if the test is to be witnessed by an officer of the department then the applicant is to —

- (a) allow at least 5 working days for the Commissioner to arrange for an officer to witness the test; and
- (b) pay to the Commissioner a fee for the witnessing of the test calculated at the rate set out in Schedule 6.1 for the time taken to witness the test.

**4.10. Design registration number**

- (1) If the Commissioner registers a plant design, the Commissioner is to issue a design registration number for the plant design and provide the applicant with evidence of the registration in an approved form.
- (2) A person who sells or otherwise disposes of plant must give the person who acquires the plant the design registration number of the plant.

Penalty: the regulation 1.16 penalty.

*[Regulation 4.10 amended in Gazette 8 Mar 2002 p. 964;  
14 Dec 2004 p. 6018.]*

**4.11. Alteration to design of types of plant in Schedule 4.1 to be registered**

If the design of plant of a kind set out in Schedule 4.1 that is used at a workplace is altered then a person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that plant manufactured to the altered design is not used at the workplace unless the alteration to the design of the plant has been registered by the Commissioner or a regulatory authority and the registration is current.

Penalty: the regulation 1.16 penalty.

*[Regulation 4.11 amended in Gazette 8 Mar 2002 p. 964;  
14 Dec 2004 p. 6018.]*

**4.12. Application for registration of alteration to plant design etc.**

A person who wishes to apply for the registration of an alteration to the design of plant of a kind set out in Schedule 4.1 is to apply to the Commissioner under regulation 4.3, and that regulation and regulations 4.6, 4.7, 4.8 and 4.10 apply as if the application were for a new design.

**4.13. Confidentiality of design information**

- (1) The Commissioner is to ensure that any information provided with an application under regulation 4.3 is treated as confidential information.
- (2) Despite subregulation (1), the Commissioner may —
  - (a) if requested by a regulatory authority or by a coroner of this or any other State or Territory, allow that regulatory authority or coroner to have access to the design information;
  - (b) if a person has the applicant's authority, allow that person to have access to such of the information as is authorised;
  - (c) provide any design verification statement referred to in regulation 4.3(2) to employees or their safety and health representatives at a workplace where the relevant plant is installed or used.
- (3) If —
  - (a) the person who initially supplied the information accompanying an application under regulation 4.3 no longer exists or cannot be located; and
  - (b) the plant that was the subject of the application has been installed or is used at a workplace,

then the Commissioner may release the information to a person who, at the workplace, is an employer, the main contractor, a self-employed person or a person in control of the workplace but only to the extent that the Commissioner thinks balances the requirements for the safe operation of that plant and for the information to be treated as confidential information.

**4.14. Individual items of plant in Schedule 4.2 to be registered**

- (1) A person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that an individual item of plant of a kind set out in Schedule 4.2 is not used at the workplace unless —

- (a) the individual item has been registered by the Commissioner or a regulatory authority and the registration is current; and
- (b) the person has a copy of the statement referred to in regulation 4.15(2)(c).

- (2) If an individual item of plant has been registered by the Commissioner or a regulatory authority and —

- (a) the plant is altered;
- (b) in the case of plant which is fixed plant, the plant is relocated; or
- (c) there is a change in the ownership of the plant,

then a person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that the plant is not used at the workplace unless the plant is re-registered.

- (2a) The vesting of an individual item of plant in an entity under Part 9 Division 3 of the *Electricity Corporations Act 2005* is not to be regarded as a change in the ownership of the plant for the purposes of subregulation (2)(c).



- (3) A person does not commit an offence against subregulation (1) if the person's failure to comply with the subregulation occurred within 21 days of the day on which the competent person signed the statement referred to in subregulation (1)(b).

Penalty applicable to subregulations (1) and (2): the regulation 1.16 penalty.

*[Regulation 4.14 amended in Gazette 8 Mar 2002 p. 965-6; 14 Dec 2004 p. 6018; 31 Mar 2006 p. 1351.]*

**4.15. Application for registration etc. of Schedule 4.2 items of plant**

- (1) A person who wishes to apply for the registration or the re-registration of an individual item of plant of a kind set out in Schedule 4.2 is to apply to the Commissioner in accordance with this regulation.
- (2) An application under subregulation (1) is to be in an approved form and is to be accompanied by the following —
- (a) sufficient information to identify the individual item of plant and any relevant matter referred to in regulation 4.14(2);
  - (b) if the design of the kind of plant is required under this Division to be registered —
    - (i) whether the Commissioner or a regulatory authority registered the design (or any alteration of the design) and the name of any relevant regulatory authority; and
    - (ii) the plant's design registration number;
  - (c) a copy of a signed statement by a competent person to the effect that —
    - (i) the individual item of plant has been inspected by that competent person, and that the plant is safe to operate; and

- (ii) the information referred to in regulation 4.30(1)(c) for the individual item of plant is at the workplace;
  - and
  - (d) the fee set out in item 2 of Schedule 6.2.
- (3) The statements and information referred to in subregulation (2) are to be in the English language.

*[Regulation 4.15 amended in Gazette 8 Mar 2002 p. 966.]*

**4.16. Provision of further information**

The Commissioner may require a person who makes an application under regulation 4.15 to provide any other information that the Commissioner thinks is necessary to make a decision on the application.

**4.17. Commissioner's functions as to applications to register etc. Schedule 4.2 items of plant**

- (1) On an application under regulation 4.15 and on payment of the fee referred to in regulation 4.18, the Commissioner may —
- (a) register or re-register the individual item of plant without conditions;
  - (b) register or re-register the individual item of plant on any condition that the Commissioner thinks is appropriate;
  - or
  - (c) refuse to register the individual item of plant.
- (2) If the Commissioner refuses to register or re-register an individual item of plant, the Commissioner is to provide written reasons for the refusal to the applicant with the notice of the decision.

**4.18. Assessment fee**

A person who makes an application under regulation 4.15 must, on completion of the assessment of the application and in

addition to the fee referred to in regulation 4.15(2)(d), pay to the Commissioner a fee for any assessment of the application required by the Commissioner to be undertaken calculated at the rate set out in Schedule 6.1 for the time taken to conduct the assessment.

**4.19. Registration number of Schedule 4.2 item of plant**

If the Commissioner —

- (a) registers an individual item of plant, the Commissioner is to issue a registration number for that item of plant; or
- (b) re-registers an individual item of plant, the Commissioner is to use the existing registration number for that item of plant,

and provide the applicant with evidence of the registration in an approved form.

**4.19A. Registration number of classified plant or designated plant**

If —

- (a) an item of classified plant is treated under regulation 7.7(2)(b) as having a registration number issued under regulation 4.19; or
- (b) an item of designated plant is treated under regulation 7.8(2) as having a registration number issued under regulation 4.19,

the Commissioner, on the application of a person who is required to stamp or mark the item of plant with the current registration number of the item, is to provide the applicant with evidence of the registration number in the approved form.

*[Regulation 4.19A inserted in Gazette 8 Mar 2002 p. 966.]*

**4.20. Registration numbers and evidence to be displayed**

- (1) A person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of

the workplace or a person having control of access to the workplace must ensure that an individual item of plant that has been registered as required by this Division is not used at the workplace unless —

- (a) the registration number of the item of plant is legibly stamped on the plant or, if stamping is impractical, is legibly marked on the plant; and
- (b) a copy of the evidence of the registration is displayed on or near the item of plant.

Penalty: the regulation 1.16 penalty.

- (1a) A person does not commit an offence under subregulation (1) in relation to an individual item of plant if the person fails to comply with the subregulation within 21 days of the day on which an application is made for the registration or re-registration of the item of plant.
- (2) A person who, by way of hiring or leasing, supplies for installation or use at a workplace an individual item of plant which has been registered as required by this Division must ensure that before the plant is hired or leased the current registration number of the item of plant is legibly stamped on the plant or, if stamping is impractical, is legibly marked on the plant.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 4.20 amended in Gazette 8 Mar 2002 p. 967;  
14 Dec 2004 p. 6017 and 6018.]*

**4.21. Commissioner may deregister items of plant**

- (1) If the Commissioner has registered an individual item of plant under this Division but is of the opinion that the item of plant should no longer be registered having regard to the requirements of this Part in relation to the item of plant then the Commissioner may deregister the item of plant.

- (2) If the Commissioner deregisters an item of plant under subregulation (1) then the Commissioner is to inform the following persons that the item of plant has been deregistered —
- (a) the person who applied to have the item of plant registered (if available); and
  - (b) each person who is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace at the workplace where the item of plant was being used at the time of the deregistration,

and the Commissioner is to give each person so informed written reasons for the deregistration.

*[Regulation 4.21 amended in Gazette 8 Mar 2002 p. 967.]*

#### **4.21A. Notification of permanent withdrawal of plant from service**

A person who has applied for and obtained the registration or re-registration of an individual item of plant must when the item of plant is permanently withdrawn from service advise the Commissioner of the withdrawal.

Penalty:

- (a) in the case of an individual —
  - (i) for a first offence, \$5 000; and
  - (ii) for a subsequent offence, \$6 250;
- or
- (b) in the case of a body corporate —
  - (i) for a first offence, \$10 000; and
  - (ii) for a subsequent offence, \$12 500.

*[Regulation 4.21A inserted in Gazette 8 Mar 2002 p. 968; amended in Gazette 14 Dec 2004 p. 6015.]*

### **Division 3 — General duties applying to plant**

#### **Subdivision 1 — Kinds of plant to which this Division applies**

#### **4.22. Meaning of “plant” for the purposes of Division 3**

In this Division, a reference to plant is to be treated as a reference to plant —

- (a) which is pressure equipment; or
- (b) which, in order to work, requires the supply of energy of a kind other than, or in addition to, the energy supplied by the exertion of the body of a human or an animal.

#### **Subdivision 2 — Identification of hazards and assessing and addressing risks in relation to plant**

#### **4.23. Duties of persons who design plant**

- (1) A person who designs plant must, during the design process —
  - (a) as far as practicable, identify any hazard in the design of the plant to which persons who install, erect, dismantle or use the plant at a workplace may be exposed;
  - (b) assess, in accordance with subregulation (2), the risk of injury or harm to a person resulting from each identified hazard; and
  - (c) consider whether the risk may be reduced by the means referred to in subregulation (3).

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

- (2) An assessment under subregulation (1)(b) must include assessment of each of the following —
  - (a) the impact of the plant on the work environment in which the plant is designed to be used;

- (b) the range of environmental and operational conditions in which the plant is intended to be manufactured, transported, installed and used;
  - (c) the relationship between the functioning of the plant and the physical capacities and requirements of persons who may use the plant; and
  - (d) the need for safe access and egress for persons who install, erect, inspect, use and dismantle the plant.
- (3) The means referred to in subregulation (1)(c) are —
- (a) the means referred to in regulation 4.29;
  - (b) ensuring the plant is designed according to each Standard set out in Schedule 4.3 that is relevant to that kind of plant;
  - (c) in the case of powered mobile plant —
    - (i) ensuring that the plant is designed to reduce, as far as is practicable, the risk of the plant overturning, or of an object coming into contact with the operator;
    - (ii) where, despite reduction measures, there is a risk that —
      - (I) the plant may overturn;
      - (II) an object may come into contact with the operator of the plant; or
      - (III) the operator of the plant may be ejected from the seat,ensuring that the risk is limited by the provision of an appropriate combination of operator protective devices; and
    - (iii) where, despite reduction measures, there is a risk that an object may come into contact with the operator of the plant from the front, side or rear of the plant, ensuring that the risk is limited by

the provision of an appropriate structure that protects the operator.

*[Regulation 4.23 amended in Gazette 8 Mar 2002 p. 968;  
14 Dec 2004 p. 6017.]*

**4.24. Duties of persons who manufacture plant**

- (1) If the person who designed plant is not within the jurisdiction of the State, the person who manufactures the plant must carry out the duties under regulation 4.23 of the person who designed the plant.
- (2) A person who manufactures plant must as far as practicable, during the manufacturing process, identify any hazard arising from the manufacture of the plant to which persons who install, erect, dismantle or use the plant at a workplace may be exposed.
- (3) If, under subregulation (1) or (2), a person who manufactures plant identifies a hazard, the person must assess, in accordance with subregulation (4), the risk of injury or harm to a person resulting from each identified hazard.
- (4) An assessment under subregulation (3) must, as far as practicable, adequately address each identified hazard by way of —
  - (a) a visual inspection of the plant and its associated environment;
  - (b) auditing;
  - (c) testing;
  - (d) a technical or scientific evaluation;
  - (e) an analysis of injury and near-miss data;
  - (f) discussions with designers, suppliers, importers, employers, employees or any other relevant person; and
  - (g) a quantitative hazard analysis,as the case requires.



- (5) If, under subregulation (1) or (2) a person identifies a hazard and then assesses the risk of injury or harm to a person resulting from each identified hazard then the person must —
- (a) consider whether the risk may be reduced by the means referred to in regulation 4.29; or
  - (b) arrange with the person who designed the plant to alter the design to reduce the risk as far as is practicable.

Penalty applicable to subregulations (1), (2), (3) and (5) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulations (1), (2), (3) and (5) in any other case: the regulation 1.16 penalty.

*[Regulation 4.24 amended in Gazette 8 Mar 2002 p. 969;  
14 Dec 2004 p. 6017.]*

#### **4.25. Duties of persons who import plant**

- (1) If neither the person who designed plant nor the person who manufactured the plant is within the jurisdiction of the State, the person who imports the plant must carry out —
- (a) the duties under regulation 4.23 of the person who designed the plant; and
  - (b) the duties under regulation 4.24 of the person who manufactured the plant.
- (2) A person who imports plant that is to be used for spare parts for plant at a workplace or for scrap must, before the plant is delivered or taken to a workplace, advise the purchaser of the plant in writing or by a mark on the plant that the plant cannot be put into service and that it can be used only for spare parts or scrap, as the case may be.

Penalty applicable to subregulations (1) and (2) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulations (1) and (2) in any other case: the regulation 1.16 penalty.

*[Regulation 4.25 amended in Gazette 8 Mar 2002 p. 969; 14 Dec 2004 p. 6017.]*

**4.26. Duties of persons who supply plant**

- (1) A person who supplies plant for installation or use at a workplace must, before the plant leaves his or her control, ensure that —
  - (a) the duties under regulation 4.23 of the person who designed the plant;
  - (b) the duties under regulation 4.24 of the person who manufactured the plant; and
  - (c) the duties under regulation 4.25 of the person who imported the plant,have been carried out.
- (2) To the extent that it is not practicable for a person who supplies plant to comply with subregulation (1), the person must, before the plant leaves his or her control —
  - (a) as far as practicable, identify any hazard in the design and manufacture of the plant to which persons who install, erect or use the plant at a workplace may be exposed;
  - (b) assess the risk of injury or harm to a person resulting from each hazard, if any, identified under paragraph (a); and
  - (c) consider whether the risk may be reduced by the means referred to in regulation 4.29.
- (3) A person who supplies plant does not commit an offence under subregulation (1) or (2) if, proof of which is on the person, the plant is intended for use as scrap material.
- (4) A person who supplies plant that is to be used for spare parts for plant at a workplace or for scrap must, before the plant is

delivered or taken to a workplace, advise the purchaser of the plant in writing or by a mark on the plant that the plant cannot be put into service and that it can be used only for spare parts or scrap, as the case may be.

Penalty applicable to subregulations (1), (2) and (4) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulations (1), (2) and (4) in any other case: the regulation 1.16 penalty.

*[Regulation 4.26 amended in Gazette 8 Mar 2002 p. 969-70;  
14 Dec 2004 p. 6017.]*

#### **4.27. Duties of erectors and installers of plant**

- (1) Without limiting regulation 3.1, a person who erects or installs plant at a workplace must, before and during the erection or installation process, so far as practicable, identify each hazard arising from the erection or installation of the plant to which persons who use the plant at the workplace are likely to be exposed.
- (2) If, under subregulation (1) a person who erects or installs plant identifies a hazard then the person must assess, in accordance with subregulations (3) and (4), the risk of injury or harm to a person resulting from each identified hazard.
- (3) An assessment under subregulation (2) must include assessment of each of the following —
  - (a) the impact of the erection or installation process on the work environment during the erection or installation of the plant; and
  - (b) the need for safe access and egress for persons who install, erect, inspect or subsequently use the plant.
- (4) An assessment under subregulation (2) must, as far as practicable, adequately address each identified hazard by way of —

- (a) a visual inspection of the plant and its associated environment;
  - (b) auditing;
  - (c) testing;
  - (d) a technical or scientific evaluation;
  - (e) an analysis of injury and near-miss data;
  - (f) discussions with designers, manufacturers, suppliers, importers, employers, employees or any other relevant person; and
  - (g) a quantitative hazard analysis,
- as the case requires.
- (5) For the purposes of subregulation (2), an assessment may be done either on individual items of plant or, where multiple items of plant of the same design are erected or installed and are intended for use under conditions that are the same for all practical purposes, the assessment may be done in relation to a representative sample, but if the risk associated with the plant could vary from operator to operator, a separate assessment of the risk to each operator of the particular plant is to be done in relation to each item of plant.
- (6) If, under subregulation (1), a person identifies a hazard and then assesses the risk of injury or harm to a person resulting from each identified hazard then the person must consider whether the risk may be reduced —
  - (a) by the means referred to in regulation 4.29; or
  - (b) in the case of plant to which AS/NZS 3000 applies, by complying with the relevant requirements of that Standard in relation to electrical installations.
- (7) A person who erects or installs plant at a workplace must ensure that the plant —
  - (a) is erected or installed having regard to the instructions of the designer or manufacturer of the plant or, if those

instructions are not available, any instructions developed in relation to the plant by a competent person; and

- (b) if the plant is designed to be operated in a fixed position, the plant is positioned on and if necessary fixed to a secure base to prevent inadvertent movement when the plant is energized or operating.

Penalty applicable to subregulations (1), (2), (6) and (7) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulations (1), (2), (6) and (7) in any other case: the regulation 1.16 penalty.

*[Regulation 4.27 amended in Gazette 8 Mar 2002 p. 970-1; 10 Jan 2003 p. 65; 14 Dec 2004 p. 6017.]*

#### **4.28. Duties of certain persons in relation to plant**

- (1) Without limiting regulation 3.1, a person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must, so far as practicable, identify each hazard arising from the design, manufacture, erection, installation or use of plant to which persons who install, erect, use or dismantle the plant at the workplace are likely to be exposed.
- (2) Without limiting subregulation (1), a person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must, before and during the introduction of the plant to the workplace, identify each hazard referred to in that subregulation to which a person at the workplace is likely to be exposed in the event of —
  - (a) any alteration to the plant;
  - (b) any change in the way, or the location in which, the plant is used;

- (c) any change in a system of work associated with the plant; or
  - (d) the first-mentioned person becoming aware of the existence of the hazard through new or further safety or health information relating to the plant or its associated systems of work.
- (3) If, under subregulation (1) or (2), a person identifies a hazard then the person must assess, in accordance with subregulation (4), the risk of injury or harm to a person resulting from each identified hazard.
- (4) An assessment under subregulation (3) must, as far as practicable, adequately address each identified hazard by way of —
  - (a) a visual inspection of the plant and its associated environment;
  - (b) auditing;
  - (c) testing;
  - (d) a technical or scientific evaluation;
  - (e) an analysis of injury and near-miss data;
  - (f) discussions with designers, manufacturers, importers, suppliers, installers or erectors of plant, employees or any other relevant person; and
  - (g) a quantitative hazard analysis,as the case requires.
- (5) For the purposes of subregulation (3), an assessment may be done either on individual items of plant or, where multiple items of plant of the same design are installed or erected and are intended for use under conditions that are the same for all practical purposes, the assessment may be done in relation to a representative sample, but if the risk associated with the plant could vary from operator to operator, a separate assessment of

the risk to each operator of the particular plant is to be done in relation to each item of plant.

- (6) If, under subregulation (1) or (2), a person identifies a hazard and then assesses the risk of injury or harm to a person then the person must consider whether the risk may be reduced by the means referred to in regulation 4.29.

Penalty applicable to subregulations (1), (2), (3) and (6): the regulation 1.16 penalty.

*[Regulation 4.28 amended in Gazette 8 Mar 2002 p. 971-2; 14 Dec 2004 p. 6018.]*

**4.29. Possible means of reducing risks in relation to plant**

The means referred to in regulations 4.23(3)(a), 4.24(5)(a), 4.26(2)(c), 4.27(6)(a), 4.28(6) and 4.37(1)(f) are —

- (a) one or a combination of the following means —
  - (i) substitution of the plant by less hazardous plant;
  - (ii) modification of the design of the plant;
  - (iii) isolation of the plant;
  - (iv) using engineering methods to change physical characteristics of the plant;
  - (v) implementing, maintaining and supervising control measures and systems of work so as to reduce the risk as far as is practicable;
- (b) to the extent that it is not practicable to reduce the risk by the means referred to in paragraph (a), the means of administrative controls and personal protective clothing and equipment;
- (c) ensuring that the plant is manufactured, inspected and, where required, tested —
  - (i) according to each Standard set out in Schedule 4.3 that is relevant to that kind of plant; and
  - (ii) having regard to the designer's specifications;

- (d) ensuring that if, after supply to a workplace, any plant is found to have a fault that may affect safety or health, then as far as is practicable, the person to whom the plant was supplied is advised of the fault and what is required to rectify it;
- (e) ensuring that there is an optimum relationship between the functioning of the plant and the physical capacities and requirements of persons who may use the plant;
- (f) ensuring that there is sufficient access to and egress from —
  - (i) the parts of the plant that require cleaning, maintenance, adjustment or repair; and
  - (ii) the operator's work station for normal and emergency situations,so as to reduce the risk as far as is practicable;
- (g) the provision of emergency lighting, safety doors and alarm systems where access to the plant is required as part of its normal operation and persons could become entrapped and at risk because of heat, cold or lack of air suitable for breathing;
- (h) the reduction, as far as is practicable, of exposure to dangerous parts during operation, lubrication, adjustment or maintenance of the plant;
- (i) ensuring, in the case where guarding should be provided for the plant, that the guarding comprises —
  - (i) a permanently fixed physical barrier for cases in which, during normal operation, maintenance or cleaning of the plant, no person would need either complete or partial access to the dangerous area;
  - (ii) an interlocked physical barrier for cases in which during normal operation, maintenance or cleaning of the plant, a person may require



complete or partial access to the dangerous area;  
or

- (iii) a physical barrier securely fixed in position by means of fasteners or other suitable devices sufficient to ensure that the guard cannot be altered or removed without the aid of a tool or key for cases where neither a permanently fixed physical barrier nor an interlocked physical barrier is practicable,

but, if none of the guards described in subparagraphs (i), (ii) or (iii) is practicable, the provision of a presence sensing safeguard system;

- (j) ensuring, in the cases where guarding of any moving part of the plant does not eliminate the risk of entanglement or where it is not practicable to guard a moving part of the plant, that persons do not operate, or pass in close proximity to, the moving part unless a safe system of work is in place to reduce the risk as far as is practicable;
- (k) ensuring that the plant's operating controls are —
  - (i) suitably identified so as to indicate their nature and function;
  - (ii) located so as to be readily and conveniently operated by each person using the plant;
  - (iii) located, guarded or of a double action type to prevent unintentional activation; and
  - (iv) able to be locked into the “off” position to enable the disconnection of all motive power and forces;
- (l) ensuring that plant —
  - (i) designed to be operated or attended by more than one person; and
  - (ii) having more than one control fitted,

has multiple controls of the “stop and lock-off” type so that the plant cannot be restarted after a stop control has been used unless each stop control has been reset; and

- (m) ensuring that each of the plant’s emergency stop devices —
  - (i) is prominent, clearly and durably marked and immediately accessible to each operator of the plant;
  - (ii) has handles, bars or push buttons that are coloured red; and
  - (iii) will not be affected by electrical or electronic circuit malfunction,

as may be appropriate to the particular case.

*[Regulation 4.29 amended in Gazette 8 Mar 2002 p. 972.]*

**Subdivision 3 — Information and general matters in relation to plant**

**4.30. Persons who design plant to provide information**

- (1) A person who designs plant for use at a workplace must ensure that the person who manufactures the plant is provided with sufficient information to enable the plant to be manufactured in accordance with the design specifications and, as far as practicable, provide information relating to —
  - (a) the purpose for which the plant is designed;
  - (b) testing or inspections to be conducted in relation to the plant;
  - (c) installation, commissioning, operation, maintenance, cleaning, transport, storage and (where plant is capable of being dismantled) dismantling of the plant;
  - (d) systems of work necessary for the safe use of the plant;
  - (e) knowledge, training or skill necessary for persons undertaking inspection and testing of the plant;

- (f) the current design registration number (if any) issued by the Commissioner under regulation 4.10 or by a regulatory authority for that kind of plant; and
- (g) emergency procedures relating to the plant,

to accompany the plant when it is manufactured, supplied, installed or erected, inspected and used at a workplace.

- (2) A person who designs plant for use at a workplace must ensure that the information referred to in subregulation (1) is in, or has been translated into, the English language before providing the information.

Penalty applicable to subregulations (1) and (2) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulations (1) and (2) in any other case: the regulation 1.16 penalty.

*[Regulation 4.30 amended in Gazette 14 Dec 2004 p. 6017.]*

#### **4.30A. Persons who manufacture plant to obtain information**

A person who manufactures plant for use at a workplace must obtain from the designer of the plant —

- (a) sufficient information to enable the plant to be manufactured in accordance with the design specifications for the plant; and
- (b) the other information referred to in regulation 4.30(1).

Penalty for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 4.30A inserted in Gazette 8 Mar 2002 p. 972-3; amended in Gazette 14 Dec 2004 p. 6017.]*

**4.31. Persons who manufacture plant to provide information**

- (1) A person who manufactures plant for use at a workplace must ensure that when the plant is delivered to a person who will supply the plant, that the person who will supply the plant is provided with —
  - (a) the information about the plant that has been provided under regulation 4.30(1) or obtained under regulation 4.30A; and
  - (b) the design registration number issued by the Commissioner under regulation 4.10 or by a regulatory authority for that kind of plant.
- (2) A person who manufactures plant for use at a workplace must ensure that the information referred to in subregulation (1) is in, or has been translated into, the English language before providing the information.

Penalty applicable to subregulations (1) and (2) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulations (1) and (2) in any other case: the regulation 1.16 penalty.

*[Regulation 4.31 amended in Gazette 8 Mar 2002 p. 973;  
14 Dec 2004 p. 6017.]*

**4.31A. Persons who import new plant to obtain information**

A person who imports new plant for use at a workplace must obtain the information referred to in regulation 4.30(1) —

- (a) from the manufacturer of the plant; or
- (b) if it is impracticable to obtain it from the manufacturer of the plant, from a competent person.

Penalty for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 4.31A inserted in Gazette 8 Mar 2002 p. 973;  
amended in Gazette 14 Dec 2004 p. 6017.]*

**4.32. Persons who import plant to provide information**

- (1) A person who imports new plant for use at a workplace must ensure that when the plant is delivered to a person who will supply or use the plant, that the person who will supply or use the plant is provided with the information about the plant that has been provided under regulation 4.30 or 4.31 or obtained under regulation 4.30A or 4.31A and the design registration number of that kind of plant.
- (2) A person who imports used plant for use at a workplace where the plant is not intended for use as scrap material or for spare parts for other plant must provide the person to whom delivery is intended with —
  - (a) all available and relevant safety and health information provided by the persons who designed or manufactured the plant; and
  - (b) any additional available information required to enable the plant to be used safely.
- (3) A person who imports plant for use at a workplace must ensure that the information referred to in subregulation (1) or (2), as the case requires, is in, or has been translated into, the English language before providing the information.
- (4) A person who imports plant for use at a workplace where the plant is intended for use as scrap material or for spare parts for other plant must advise the person to whom delivery is intended, either in writing or by marking the plant before its delivery —
  - (a) of the intended purpose for the plant; and
  - (b) that the plant in its current form is not to be placed in service but is to be used only as scrap material or as spare parts.

Penalty applicable to subregulations (1), (2), (3) and (4) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulations (1), (2), (3) and (4) in any other case: the regulation 1.16 penalty.

*[Regulation 4.32 amended in Gazette 8 Mar 2002 p. 974;  
14 Dec 2004 p. 6017.]*

**4.33. Persons who supply plant other than by way of hire or lease to provide information**

- (1) This regulation does not apply to plant supplied by way of hire or lease.
- (2) A person who supplies new plant for use at a workplace must ensure when the plant is supplied to a person, that the person is provided with —
  - (a) the information about the plant that has been provided under regulation 4.30, 4.31 or 4.32 and the design registration number of that kind of plant; and
  - (b) any available information, data or certificate specified for that plant by each Standard set out in Schedule 4.3 that is relevant to that kind of plant.
- (3) A person who supplies used plant for use at a workplace must ensure when the plant is supplied to a person that the person is provided with —
  - (a) all available, relevant safety and health information provided by the persons who designed or manufactured the plant, and any additional available information required to enable the plant to be used safely; and
  - (b) where available, any record kept by a previous owner of the plant in accordance with these regulations.
- (4) A person who supplies plant for use at a workplace must ensure that the information referred to in subregulation (2) or (3), as the

case requires, is in, or has been translated into, the English language before providing the information.

*[(5) repealed]*

- (6) A person who supplies plant for use at a workplace through an intermediary must ensure before the plant is supplied to a person that that person is advised in writing of each fault (if any) in the plant and, where applicable, that the plant is not to be used until a specified fault is rectified.

Penalty applicable to subregulations (2), (3), (4) and (6) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulations (2), (3), (4) and (6) in any other case: the regulation 1.16 penalty.

*[Regulation 4.33 amended in Gazette 8 Mar 2002 p. 974;  
7 Jun 2002 p. 2737; 14 Dec 2004 p. 6017.]*

#### **4.34. Certain records to be kept in relation to plant**

- (1) If plant of a kind specified in subregulation (2) is used at a workplace then a person who, at the workplace, is an employer, a main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that a record is made and kept of any maintenance, inspection, commissioning, alteration of the plant or test results while it is at the workplace or otherwise under the control of that person.
- (2) The following plant is specified for the purposes of subregulation (1) —
- (a) an individual item of plant of a kind set out in Schedule 4.2;
  - (b) any of the following items of plant —
    - (i) an industrial lift truck;
    - (ii) a mobile crane;

- (iii) a hoist with a platform movement in excess of 2.4 metres and designed to lift people;
  - (iv) a boom-type elevating work platform;
  - (v) a presence-sensing safeguarding system;
  - (vi) a vehicle hoist;
  - (vii) a gantry crane with a safe working load greater than 5 tonnes, or which is designed to handle molten metal or dangerous goods;
  - (viii) a bridge crane with a safe working load greater than 10 tonnes, or which is designed to handle molten metal or dangerous goods;
  - (ix) a mast climbing work platform;
  - (x) a concrete placing unit.
- (3) A person who, at a workplace, is an employer, a main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that —
  - (a) any record kept by the person under subregulation (1); and
  - (b) any information that has been provided under regulation 4.33 about plant at the workplace,is accessible at all reasonable times to any person working at the workplace and to any safety and health representative at the workplace.
- (4) A person who, at a workplace, is an employer, a main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure, in relation to plant used at the workplace or otherwise under the control of that person, that any record relating to safety and health in respect of the plant is transferred on sale of the plant, unless the plant is sold as scrap material or as spare parts for other plant.



Penalty applicable to subregulations (1), (3) and (4): the regulation 1.16 penalty.

*[Regulation 4.34 amended in Gazette 8 Mar 2002 p. 974-5; 14 Dec 2004 p. 6018.]*

**4.35. Duties of suppliers of plant by way of hire or lease**

- (1) A person who supplies plant for use at a workplace by way of hiring or leasing the plant must —
  - (a) ensure that the plant is inspected between periods of hire or lease so as to reduce, as far as is practicable, any risk of injury or harm occurring to persons installing or erecting, commissioning or using the plant at a workplace;
  - (b) ensure that an assessment is done to determine whether the plant requires testing, in order to check so far as practicable whether new or increased risks of injury or harm occurring to persons installing or erecting, commissioning or using the plant at the workplace have developed and to determine the frequency of any required testing; and
  - (c) ensure that any testing determined by the assessment to be necessary is done and recorded and that the records are maintained for the operating life of the plant.
- (2) A person who supplies plant for use at a workplace by way of hiring or leasing the plant must ensure —
  - (a) when the plant is supplied to a person that the person is provided with all available, relevant safety and health information provided by the persons who designed or manufactured the plant, and any additional available information required to enable the plant to be used safely; and

- (b) that the information referred to in paragraph (a) is in, or has been translated into, the English language before providing the information.

Penalty applicable to subregulations (1) and (2) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulations (1) and (2) in any other case: the regulation 1.16 penalty.

*[Regulation 4.35 amended in Gazette 8 Mar 2002 p. 975; 14 Dec 2004 p. 6017.]*

**4.36. Duties of certain persons as to installation, commissioning etc. of plant**

A person, who at a workplace, is an employer, a main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure —

- (a) that a competent person undertakes the installation or erection and commissioning of plant at the workplace and is provided with the information necessary to enable the plant to be installed or erected and commissioned so as to reduce, as far as is practicable, the risk of injury or harm occurring as a result of the installation or erection and commissioning of the plant;
- (b) that plant is installed or erected in a location of the workplace that is suitable for the operation being undertaken, and for the type of plant;
- (c) that there is sufficient space around plant at the workplace to allow the plant to be used and repaired so as to reduce, as far as is practicable, the risk of injury or harm occurring as the result of the use or repair of that plant;
- (d) during testing and start-up of plant at the workplace, if the final means of safeguarding is not in place, that interim safeguards are used; and

- (e) that plant is not put into active service at the workplace unless the adjustments, inspections and testing undertaken during the commissioning process indicate that the plant is in full working order and is appropriate for the intended service.

Penalty: the regulation 1.16 penalty.

*[Regulation 4.36 amended in Gazette 8 Mar 2002 p. 976;  
14 Dec 2004 p. 6018.]*

#### **4.37. Duties of certain persons as to use of plant**

- (1) A person, who at a workplace, is an employer, a main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure —
  - (a) that plant at the workplace is subject to appropriate checks, tests and inspections necessary to reduce the risk of injury or harm occurring to a person at the workplace;
  - (b) that inspection, repair, maintenance, alteration and cleaning of the plant at the workplace is carried out having regard to procedures recommended by the designer or manufacturer or, if those recommendations are not available, procedures developed by a competent person;
  - (c) where the function or condition of plant at the workplace is impaired to the extent that it presents an immediate risk to safety or health, that the plant is withdrawn from use until the plant is assessed and repaired under regulation 4.38(1);
  - (d) that plant at the workplace is used only for the purpose for which it was designed, unless the person has determined, and a competent person has assessed, that a proposed change in use does not increase the risk of injury or harm occurring;
  - (e) that measures are provided to prevent, as far as practicable, interference with plant or the alteration or

use of plant in a manner that could render the plant a hazard to any person at the workplace;

- (f) that every dangerous part of a fixed, mobile or hand held powered plant is, as far as practicable, securely fenced or guarded in accordance with regulation 4.29 unless the plant is so positioned or constructed that it is as safe as it would be if securely fenced or guarded;
- (g) that a fence or guard provided for the purposes of this regulation is constantly maintained and of substantial construction taking into account its intended purpose;
- (h) as far as practicable, that any fence or guard provided for the purpose of this regulation is kept in position while the plant is operated; and
- (i) in the cases where guarding of any moving part of the plant does not eliminate the risk of entanglement or where it is not practicable to guard a moving part of the plant, that persons do not operate, or pass in close proximity to, the moving part unless a safe system of work is in place to reduce the risk as far as is practicable.

Penalty: the regulation 1.16 penalty.

- (2) A person does not commit an offence under subregulation (1)(e) if the measures are designed to allow interference with the plant or the alteration or use of the plant for the purposes of dealing with an accident or emergency.

*[Regulation 4.37 inserted in Gazette 8 Mar 2002 p. 976-8; amended in Gazette 7 Jun 2002 p. 2737; 14 Dec 2004 p. 6018.]*

**4.37A. Duties of certain persons for the purposes of regulation 4.37(1)(b) or (c)**

- (1) In this regulation —  
“**energy source**” means anything with the capacity for doing work and includes springs under tension or compression, accumulators, capacitors and other energy storing devices.

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- (2) If access to plant at a workplace is required for the purposes of regulation 4.37(1)(b) or (c), then a person who, at the workplace, is an employer, a main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must —
- (a) ensure that all hazards associated with and all energy sources of the plant are identified; and
  - (b) authorise a person (an **“authorised person”**) to carry out the matters referred to in subregulation (3), (4) or (5)(a).
- (3) An authorised person must, if it is practicable to do so, stop the plant and ensure that any risk associated with any identified hazard is reduced as far as is practicable.
- (4) An authorised person must, if it is practicable to do so, stop the plant and ensure that —
- (a) all energy sources are de-energized, and isolated using an isolation device and locked-out using a lock-out device;
  - (b) an out of service tag is fixed to the plant and danger tags are fixed at the energy sources and the operating controls of the plant;
  - (c) the measures taken in paragraph (a) are tested to ensure that the plant cannot be energized inadvertently;
  - (d) anything to be carried out under regulation 4.37(1)(b) or (c) is not carried out before the tests are carried out; and
  - (e) after anything to be carried out under regulation 4.37(1)(b) or (c) is carried out, the plant is returned to operational status.
- (5) If it is not practicable to carry out all of the matters referred to in subregulation (4)(a) to (d) —

- (a) the authorised person must ensure that such of those matters as it is practicable to carry out are carried out; and
    - (b) the person who gave the authorised person authorisation must —
      - (i) ensure that written procedures are developed by a competent person to deal with the hazards and energy sources that it is not practicable to deal with under subregulation (4)(a) to (d);
      - (ii) provide those written procedures to the authorised person; and
      - (iii) ensure that the written procedures are followed by a person carrying out the matters referred to regulation 4.37(1)(b) or (c).
  - (6) If access to plant at a workplace is required for the purposes of regulation 4.37(1)(b) or (c) and it is not practicable to stop the plant, then a person who, at the workplace, is an employer, a main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure —
    - (a) that the plant is fitted with operating controls that allow controlled movement of the plant;
    - (b) that there are written procedures to be followed in relation to anything to be carried out under regulation 4.37(1)(b) or (c) that are designed to prevent injury to persons working on the plant; and
    - (c) that persons working on the plant carry out the work in accordance with the written procedures.
  - (7) A person does not commit an offence under subregulation (4)(a) or (5)(a) if the plant is not isolated and locked out in the case of an accident or emergency.
- Penalty applicable to subregulations (2), (3), (4), (5) and (6): the regulation 1.16 penalty.

*[Regulation 4.37A inserted in Gazette 8 Mar 2002 p. 978-80;  
amended in Gazette 14 Dec 2004 p. 6018.]*

**4.38. Duties of certain persons as to damaged plant**

- (1) A person, who at a workplace, is an employer, a main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure —
  - (a) when plant at the workplace has been damaged to the extent that its function or condition is impaired in a manner that increases a risk of injury or harm occurring to a person at the workplace, that a competent person assesses the damage and advises the first-mentioned person —
    - (i) of the nature of the damage; and
    - (ii) whether the plant can be repaired and, if so, what repairs are to be done to reduce, as far as is practicable, any risk of injury or harm occurring;
  - (b) that any repair, inspection and, where necessary, testing of plant at the workplace is done by a competent person; and
  - (c) that repairs to plant at the workplace are done so that the original design limits in relation to the plant are not exceeded.
- (2) If, at a workplace, any plant is damaged and the damage exposes a person to a hazard because of the presence of electricity then a person who, at the workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that —
  - (a) the plant is disconnected from the electricity supply and that it is not used until the damaged part is repaired or replaced;

- (b) a person authorised by the first-mentioned person fixes an “out-of-service” tag to the plant and all the common isolation points for that plant, and only removes the tags when the electrical hazard is no longer a hazard; and
- (c) the action to stop the plant and to return the plant to operational status is taken by a person authorised by the first-mentioned person.

Penalty applicable to subregulations (1) and (2): the regulation 1.16 penalty.

*[Regulation 4.38 amended in Gazette 8 Mar 2002 p. 980-1; 14 Dec 2004 p. 6018.]*

**4.39. Duties of certain persons when design of plant is altered**

Without limiting regulation 4.11, if the design of existing plant at a workplace is altered then a person who, at the workplace is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that —

- (a) the design alteration is assessed for any risk of injury or harm occurring as if it were an original design;
- (b) the alteration to the plant is done by a competent person; and
- (c) before the plant is returned to service, it is inspected and tested by a competent person having regard to the design specifications for the design alteration.

Penalty: the regulation 1.16 penalty.

*[Regulation 4.39 amended in Gazette 8 Mar 2002 p. 981; 14 Dec 2004 p. 6018.]*

**4.40. Duties of certain persons as to dismantling, storing or disposing of plant**

- (1) If plant at a workplace is dismantled then a person who, at the workplace is an employer, the main contractor, a self-employed



person, a person having control of the workplace or a person having control of access to the workplace must ensure that —

- (a) the dismantling is done, or supervised, by a competent person; and
  - (b) any relevant information that has been provided by the person who designed or manufactured the plant is made available to the competent person.
- (2) If plant, including plant that is dismantled, is to be stored at a workplace rather than disposed of then a person who, at the workplace is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that both the preparation for storage, and the storage, of that plant is done by a competent person.
- (3) If plant at a workplace is to be disposed of and contains materials presenting a risk to the safety or health of a person then a person who, at the workplace is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that disposal is done by a competent person.

Penalty applicable to subregulations (1), (2) and (3): the regulation 1.16 penalty.

*[Regulation 4.40 amended in Gazette 8 Mar 2002 p. 982; 14 Dec 2004 p. 6018.]*

**4.41. Plant not to be used etc. if a hazard unless in an emergency**

A person must not interfere with, alter or use plant in a manner which could render the plant a hazard to any person at a workplace unless the interference, alteration or use of the plant occurs by way of dealing with an accident or emergency.

Penalty for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 4.41 amended in Gazette 14 Dec 2004 p. 6017.]*

**4.42. Mandatory markings not to be interfered with**

A person must not remove, disfigure, destroy or conceal or attempt to remove, disfigure, destroy or conceal, any stamp or mark showing the safe working load of plant at a workplace or a number or marking displayed in accordance with this Part.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 4.42 amended in Gazette 14 Dec 2004 p. 6017.]*

**Division 4 — Safety requirements in relation to certain types of plant**

**4.43 Plant under pressure**

- (1) A person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure —
  - (a) that any pressure equipment to which AS/NZS 1200 applies (other than a gas cylinder) to be used at the workplace is installed, commissioned, operated, maintained and inspected in accordance with AS 2593, AS 3873, AS/NZS 3788 or AS 3892, as is applicable, or the Australian Miniature Boiler Safety Committee Code, except that the inspection is to be conducted by a competent person rather than an in-service inspector within the meaning of AS/NZS 3788; and
  - (b) that each gas cylinder to be used at the workplace has a current inspection mark in accordance with AS 2030.
- (2) A person who, at a workplace that is a gas cylinder filling station, is an employer, the main contractor, a self-employed

person, a person having control of the workplace or a person having control of access to the workplace must ensure that a gas cylinder to be used at a workplace —

- (a) is not filled unless it bears a current inspection mark in accordance with AS 2030;
- (b) is filled in accordance with AS 2030; and
- (c) is filled with a fluid that is compatible with the particular cylinder.

Penalty applicable to subregulations (1) and (2): the regulation 1.16 penalty.

*[Regulation 4.43 inserted in Gazette 8 Mar 2002 p. 982-3;  
amended in Gazette 14 Dec 2004 p. 6018.]*

#### **4.44. Powered mobile plant**

- (1) Subject to regulation 4.45, a person who, at a workplace at which there is any powered mobile plant, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure in relation to each item of powered mobile plant that —

- (a) if there is any risk that —
  - (i) the plant could overturn;
  - (ii) an object could come into contact with the operator of the plant; or
  - (iii) the operator of the plant could be ejected from the seat,

then, as far as practicable, the risk is limited by the provision of an appropriate combination of operator protective devices, and that those devices are maintained and used appropriately; and

- (b) if there is a risk that an object may come into contact with the operator of the plant from the front, side or rear of the plant then, as far as practicable, the risk is limited

by the provision of an appropriate structure that protects the operator.

- (2) Subject to regulation 4.45, a person who supplies powered mobile plant for use at a workplace must ensure that the plant is fitted with suitable and adequate operator protective devices to reduce, as far as is practicable, the risk of injury or harm to the operator.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

- (3) Nothing in subregulation (1) or (2) or regulation 4.45 prevents a person from lowering or removing a roll-over protective structure for such time as the powered mobile plant is being used under a tree or in a place that would be too low for the plant to work had the roll-over protective structure been in operating position.

- (4) If powered mobile plant at a workplace is fitted with a roll-over protective structure or a falling object protective structure then a person who, at the workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that —

- (a) the protective structure complies with AS 1636 or AS 2294; or
- (b) the protective structure has been designed by a suitably qualified engineer to a standard that provides at least the same level of protection as would be provided if the protective structure complied with AS 1636 or AS 2294.

- (5) If powered mobile plant at a workplace —

- (a) is fitted with a roll-over protective structure or a falling object protective structure; and

- (b) has seat belt attaching points incorporated into the original design of that plant,

then a person who, at the workplace is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that the plant is fitted with a seat belt at each set of attaching points and that the operator of the plant uses the seat belt.

- (6) A person who, at a workplace at which there is any powered mobile plant, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure in relation to each item of powered mobile plant that if there is any risk that the plant could collide with persons or any other plant or thing, then the risk is reduced as far as practicable.
- (7) A person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that a person other than the operator (**“the passenger”**) does not ride on powered mobile plant at the workplace unless —
  - (a) the passenger is seated in a seat specifically designed for carrying a passenger;
  - (b) the passenger’s seat is located within the zone of protection afforded by the framework of an operator protective device if such a device is required under these regulations; and
  - (c) the passenger’s seat is fitted with an appropriate seat belt and that the passenger uses the seat belt.
- (8) Nothing in subregulation (7) prevents a person who is training, instructing or assessing the operator of a powered mobile plant in the operation of the plant (**“the instructor”**) from riding on the plant other than in a seat specifically designed for carrying a

person if a person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace ensures that means are used to prevent the instructor from slipping, falling or being thrown from the plant.

Penalty applicable to subregulations (1), (4), (5), (6) and (7): the regulation 1.16 penalty.

*[Regulation 4.44 amended in Gazette 8 Mar 2002 p. 983-5; 7 Jun 2002 p. 2737; 14 Dec 2004 p. 6017 and 6018.]*

**4.45. Specific protection requirements for certain tractors and certain earthmoving machinery**

- (1) A person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that —
  - (a) a tractor of a mass greater than 800 kilograms and less than 15 000 kilograms manufactured, imported or originally purchased after 1 January 1981 is fitted with a roll-over protective structure; and
  - (b) hydraulic excavators and earthmoving machinery of a kind to which AS 2294 applies manufactured, imported or originally purchased after 1 January 1989 is fitted with an appropriate combination of operator protective devices.

Penalty: the regulation 1.16 penalty.

- (2) Nothing in this regulation or in regulation 4.44 applies to a tractor that is installed in a fixed position and in a manner that would not enable the tractor to be used as mobile plant.

*[Regulation 4.45 amended in Gazette 8 Mar 2002 p. 985; 14 Dec 2004 p. 6018.]*

**4.46. Plant with hot or cold parts**

- (1) If any plant at a workplace has a hot or a cold part and a person could be exposed to that hot or cold part then a person who, at the workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that the exposure is monitored, and is appropriately managed to reduce, as far as is practicable, any risk of injury or harm occurring to the first-mentioned person.
- (2) If plant containing molten metal is to be moved at a workplace then a person who, at the workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that arrangements are made to prevent unnecessary access to any part of the transport route during the transportation.
- (3) If plant at a workplace has pipes or other parts which are hot or cold then a person who, at the workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that those pipes or other parts are adequately guarded or insulated to reduce, as far as is practicable, the risk of injury or harm to a person.

Penalty applicable to subregulations (1), (2) and (3): the regulation 1.16 penalty.

*[Regulation 4.46 amended in Gazette 8 Mar 2002 p. 986; 14 Dec 2004 p. 6018.]*

*[4.47. Repealed in Gazette 8 Mar 2002 p. 986.]*

**4.48 Industrial robots, etc.**

A person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that —

- (a) no person works in the immediate vicinity of plant which could start without warning and cause a hazard unless appropriate controls and systems of work are in place; and
- (b) if an industrial robot can be remotely or automatically energized, access to the immediate area around that robot is restricted and controlled at all times by —
  - (i) positive isolation; or
  - (ii) the provision of interlocked guarding, presence-sensing devices or permit-to-work systems.

Penalty: the regulation 1.16 penalty.

*[Regulation 4.48 inserted in Gazette 8 Mar 2002 p. 986-7; amended in Gazette 14 Dec 2004 p. 6018.]*

**4.49. Lasers**

A person who, at a workplace is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that —

- (a) a laser or laser product is not used at a workplace unless it has been classified and labelled in accordance with AS/NZS 2211;
- (b) Class 3B or Class 4 lasers or laser products (as defined in AS/NZS 2211) are not used for construction work;
- (c) the use of lasers and laser products (other than Class 3B or Class 4 lasers or laser products) in construction work is in accordance with AS 2397; and



- (d) the use of lasers and laser products at a workplace other than a construction site is in accordance with AS/NZS 2211.

Penalty: the regulation 1.16 penalty.

*[Regulation 4.49 amended in Gazette 8 Mar 2002 p. 987; 10 Jan 2003 p. 65; 14 Dec 2004 p. 6018.]*

#### **4.50. Nail guns**

- (1) A person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that a nail gun is not brought onto or used at the workplace if it has been modified so that it is not or cannot be used in accordance with its manufacturer's specifications for its safe use.
- (2) Subregulation (1) does not apply to a nail gun that is taken onto a workplace for the purpose of —
  - (a) being repaired; or
  - (b) being modified to ensure that it complies with its manufacturer's specifications for its safe use.
- (3) A person who at a workplace uses a nail gun must ensure that one or more safety warning signs bearing the words "WARNING —NAIL GUN IN USE — KEEP CLEAR" are displayed so as to be clearly legible to all persons who are at or entering that part of the workplace where the gun is to be used.

Penalty applicable to subregulations (1) and (3) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulations (1) and (3) in any other case: the regulation 1.16 penalty.

*[Regulation 4.50 amended in Gazette 8 Mar 2002 p. 988; 14 Dec 2004 p. 6017.]*

**4.51. Explosive powered tools**

A person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that an explosive powered tool used at the workplace complies with the requirements of, and is used in accordance with, AS/NZS 1873.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 4.51 inserted in Gazette 8 Mar 2002 p. 989;  
amended in Gazette 14 Dec 2004 p. 6017.]*

**4.52. Amusement structures**

- (1) If, at a workplace, there is an amusement structure then a person who, at the workplace is an employer, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure —
  - (a) that the structure is operated, maintained and inspected —
    - (i) in accordance with AS 3533 or, if applicable, the Australian Association of Live Steamers Code of Practice and maintained in accordance with that Standard or Code, as the case requires; and
    - (ii) having regard to the instructions of a person who designed or manufactured the structure or of any competent person who develops instructions for the operation of that structure;
  - (b) that records are kept in relation to the structure in accordance with AS 3533 or, if applicable, the Australian Association of Live Steamers Code of Practice;

- (c) that the structure has such emergency brakes as are necessary to prevent collision between components of the amusement structure in the event of the normal controls failing; and
  - (d) where the structure uses inclined tracks, that it has automatic anti-rollback devices to prevent backward movement of any passenger carrying units upon failure of the propelling mechanism.
- (2) A person who is an employer, a self-employed person, a person having control of the workplace or a person having control of access to the workplace at a workplace at which an amusement structure is operated must ensure that —
  - (a) if the operator of the structure does not have a clear view of the point at which passengers are loaded or unloaded then the structure has a signal system for starting and stopping;
  - (b) any code of signals adopted is printed and kept posted at the stations of the operator and the signaller; and
  - (c) signals for the movement or operation of the structure are given only when all passengers and other persons who may be endangered by such movement or operation are in a position of safety.

Penalty applicable to subregulations (1) and (2): the regulation 1.16 penalty.

*[Regulation 4.52 amended in Gazette 8 Mar 2002 p. 989-90; 14 Dec 2004 p. 6018.]*

**4.53. Plant that lifts, suspends or lowers people, equipment or materials**

- (1) If there is at a workplace any plant that is designed to lift or lower people, equipment or materials then a person who, at the workplace is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure, as far as

practicable, that no loads are suspended over, or travel over, a person.

- (2) A person who, at a workplace is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that no person is lifted or suspended by any plant at a workplace or its attachment (other than any plant specifically designed for the lifting or suspending of persons) unless —
- (a) another method is impracticable;
  - (b) a suitable and adequate work box or other personnel carrying device, designed for the purpose, is used and securely attached to the plant;
  - (c) the plant is fitted with a means by which the work box or other personnel carrying device can be safely lowered in the event of an emergency or the failure of the power supply;
  - (d) the plant is suitably stabilized at all times while the work box or other personnel carrying device is in use;
  - (e) a suitable means of preventing a person falling from the work box or other personnel carrying device is provided in accordance with Division 5 of Part 3 and worn by all persons in a suspended work box or other personnel carrying device, except where the work box or other personnel carrying device is fully enclosed; and
  - (f) in the case of a crane, it has “drive-up” and “drive-down” controls on both the hoisting and luffing motions and those controls are used.
- (3) A person who, at a workplace is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that a load is not lifted at the workplace simultaneously with 2 or more items of plant other than cranes unless —

- (a) it is not practicable to lift the load with one item of plant only;
  - (b) the distance between any 2 of the items of plant is such that each plant and its load cannot come into contact with the other items of plant and their loads; and
  - (c) a means of communication is provided for the operator of each item of plant and each operator is trained in the use of the means of communication.
- (4) A system of radio communication is not sufficient for the purposes of subregulation (3) unless it is kept free from interference from any other radio system and enables clear communication at all times.
- (5) A person who, at a workplace is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that if plant is used for lifting or moving a load at the workplace and the load may become unstable, then the load is appropriately restrained.
- (6) A person who, at a workplace is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that plant other than a crane or hoist is not used at the workplace to suspend a load unless —
  - (a) the use of a crane or hoist is impracticable;
  - (b) the lifting arm of the plant is not extended beyond the limit required to lift the load;
  - (c) the plant does not travel with the load unless the lifting arm is retracted as far as practicable;
  - (d) if necessary, stabilizers are provided and used to achieve stability of the plant;
  - (e) persons and vehicles are prevented from entering any area in or adjacent to the workplace where there is a risk of injury or damage occurring as a result of the movement of the load —

- (i) by means of warning signs, flashing lights, barriers, traffic controllers or other means as would be appropriate to the nature of the load; and
    - (ii) with the minimum amount of disruption to persons and traffic in the area;
  - (f) a lifting point is provided on the plant;
  - (g) if buckets operated by trip-type catches are used for lifting, the catch is bolted or otherwise positively engaged;
  - (h) an appropriate load chart is provided and all lifting is done within the safe working load limits of the plant;
  - (i) the safe working load limits of the plant are actually displayed on the plant; and
  - (j) loads are only lifted using attachments that are suitable for the task being performed.
- (7) A person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that no winch other than a winch that is part of a crane is used at the workplace for any lifting work unless the winch is a “drive-up/drive-down” type that does not incorporate any form of declutching allowing free fall.
- Penalty applicable to subregulations (1), (2), (3), (5), (6) and (7): the regulation 1.16 penalty.

*[Regulation 4.53 amended in Gazette 8 Mar 2002 p. 990-2; 14 Dec 2004 p. 6018.]*

**4.54. Additional requirements as to cranes, hoists and building maintenance units**

- (1) In this regulation —
- “certificate of competency”** has the meaning given to that term in Part 6;

**“dogger”** means a person who holds a certificate of competency as a dogger;

**“responsible person”**, in relation to a workplace, means a person who, at the workplace is an employer, the main contractor, a self-employed person or a person having control of the workplace;

**“rigger”** means a person who holds a certificate of competency as a rigger;

**“vehicle loading crane”** means a crane mounted on a vehicle for the principal purpose of loading items onto the vehicle and unloading items from the vehicle.

- (2) If, at a workplace, a person is to ride in a work box suspended from a crane, each responsible person at the workplace must ensure that both the rider and the driver of the crane have been given written instructions for the use of the crane in those circumstances, setting out the conditions of use, and signed by both the responsible person and a competent person.
- (3) If a crane or hoist is at a workplace, each responsible person at the workplace must ensure that the crane or hoist is not used as an amusement structure, whether or not for payment or reward.
- (4) If there is a crane, hoist or building maintenance unit at a workplace then each responsible person at the workplace must ensure that the crane, hoist or unit is maintained, inspected and operated —
  - (a) in accordance with written instructions developed at the time of design or manufacture by the person who designed or manufactured the crane, hoist or unit;
  - (b) if it is not practicable for that person to obtain the instructions referred to in paragraph (a), in accordance with any written instructions approved by the Commissioner for the purposes of this paragraph; or
  - (c) if it is not practicable for that person to obtain instructions referred to in paragraph (a) or (b), in accordance with AS 2550.1 and any other part of

AS/NZS 2550 that is relevant to that kind of plant and with AS 1418.1 and any other part of AS/NZS 1418 that is relevant to that kind of plant.

- (5) A person does not commit an offence under subregulation (4) in not complying with item 10.4.1(a), 10.4.2(e), or 10.4.3(d) of AS 2550.10 before 3 October 2005 where the relevant plant is a hoist that —
  - (a) is a boom-type elevating work platform;
  - (b) is used only in connection with commercial fruit growing; and
  - (c) was owned immediately before 3 October 2003 by a person who has owned it continuously since then.
- (6) Nothing in subregulation (4) or (5) affects the requirement under regulation 4.34 to make and keep records of maintenance and inspection.
- (7) A responsible person at a workplace must ensure that no crane is used at the workplace for multi-crane hoisting unless —
  - (a) the rated capacity of the crane exceeds the crane's share of the load by at least —
    - (i) 20%, if 2 cranes are used;
    - (ii) 33%, if 3 cranes are used; or
    - (iii) 50%, if more than 3 cranes are used;
  - (b) the physical dimensions and mass of the load prevent the load from being handled by a single crane that is readily available; and
  - (c) the hoisting is supervised by a competent person who is not an operator of one of the cranes.
- (8) If a crane with a maximum rated capacity of greater than 60 tonnes, other than a vehicle loading crane, is used at a construction site, a responsible person must ensure that the following persons are involved in the use of the crane —



- (a) at least one crane operator who has experience in the use of such a crane;
  - (b) at least —
    - (i) one dogger and one rigger;
    - (ii) 2 doggers; or
    - (iii) 2 riggers,each of whom has experience in the use of such a crane.
- (9) If a crane with a maximum rated capacity of equal to or more than 10 tonnes and less than or equal to 60 tonnes, other than a vehicle loading crane, is used at a construction site a responsible person must ensure that the following persons are involved in the use of the crane —
  - (a) at least one crane operator who has experience in the use of such a crane;
  - (b) at least —
    - (i) one dogger; or
    - (ii) one rigger,who has experience in the use of such a crane.
- (10) If a vehicle loading crane with a boom of a length greater than 3 metres, or capable of extending to a length of greater than 3 metres, is used at a construction site, a responsible person must ensure that the following persons are involved in the use of the crane —
  - (a) at least one crane operator who has experience in the use of such a crane;
  - (b) at least one dogger.
- (10a) A person does not commit an offence under subregulation (10) where —
  - (a) the vehicle loading crane is used to lift a load from the ground onto the vehicle on which the crane is mounted or to lift a load from the vehicle onto the ground; and

- (b) the operator of the crane is a dogger who has experience in the use of such a crane.
- (10b) A person does not commit an offence under subregulation (10) where —
  - (a) the vehicle loading crane is used to lift a load from the ground onto the vehicle on which the crane is mounted or to lift a load from the vehicle onto the ground;
  - (b) part of the load has the purpose of connecting the load to a crane for a lift;
  - (c) that part of the load is used for that purpose;
  - (d) there is involved in the use of the crane at least one crane operator who has experience in the use of such a crane; and
  - (e) an operator of the crane knows the mass of the load.
- (10c) A person does not commit an offence under subregulation (10) before 1 January 2005 where the vehicle loading crane is used to lift a load from the ground onto the vehicle on which the crane is mounted or to lift a load from the vehicle onto the ground.
- (11) If a crane with a maximum rated capacity of less than 10 tonnes and a boom of a length greater than 3 metres, or capable of extending to a length of greater than 3 metres, other than a vehicle loading crane, is used at a construction site a responsible person must ensure that the following persons are involved in the use of the crane —
  - (a) at least one crane operator who has experience in the use of such a crane;
  - (b) at least one dogger.
- (11a) A person does not commit an offence under subregulation (11) before 1 January 2005 where the crane used is earthmoving machinery.
- (12) If a crane at a workplace is of a kind set out in Schedule 4.1 or 4.2, and there is an event or occurrence that causes, or that at the

time of the event or occurrence would reasonably be expected to cause, the crane to be damaged or to malfunction to the extent that risk of injury or harm occurring to a person at the workplace increases, a person having control of the workplace must as soon as practicable after the person becomes aware of the event or occurrence ensure that the Commissioner is notified of the event or occurrence.

Penalty applicable to subregulations (2), (3), (4), (7), (8), (9), (10), (11) and (12): the regulation 1.16 penalty.

*[Regulation 4.54 inserted in Gazette 3 Oct 2003 p. 4359-62; amended in Gazette 25 Jun 2004 p. 2292-3; 14 Dec 2004 p. 6018.]*

**4.55. Additional requirements as to industrial lift trucks**

- (1) A person who, at the workplace is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that an industrial lift truck at the workplace that is not a pedestrian operated industrial lift truck is operated —
  - (a) in the case of a person who is not less than 18 years of age —
    - (i) by a person who has documentary evidence that he or she satisfies the competency requirements of the *National Guidelines for Occupational Health and Safety Competency Standards for the Operation of Loadshifting Equipment and Other Types of Specified Equipment* [NOHSC: 7019 (1992)] for loadshifting equipment; and
    - (ii) having regard to the instructions of a person who designed or manufactured the industrial lift truck or of any competent person who develops instructions for the operation of the industrial lift truck;

or

- (b) in the case of a person who has reached 17 years of age —
  - (i) by a person who is undergoing training and instruction in the use of that type of industrial lift truck at a workplace under the direct supervision of a person overseeing the training in accordance with the *National Occupational Health and Safety Certification Standards for Users and Operators of Industrial Equipment* [NOHSC: 1006 (2001)] (“**the instructor**”) unless the instructor is satisfied that direct supervision is not necessary because a lesser degree of supervision would not place the person being trained or other persons at risk of injury or harm; and
  - (ii) having regard to the instructions of a person who designed or manufactured the industrial lift truck or of any competent person who develops instructions for the operation of the industrial lift truck.
- (2) If there is a pedestrian operated industrial lift truck at a workplace, then a person who, at the workplace is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that that truck is operated —
  - (a) by a person trained or being trained in the operation of that type of truck; and
  - (b) having regard to the instructions of a person who designed or manufactured the industrial lift truck or of any competent person who develops instructions for the operation of the industrial lift truck.
- (3) A person who, at a workplace is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the

workplace must ensure that an industrial lift truck of any kind at the workplace is not operated by a person who has not reached 17 years of age.

Penalty applicable to subregulations (1), (2) and (3): the regulation 1.16 penalty.

*[Regulation 4.55 inserted in Gazette 8 Mar 2002 p. 994-6; amended in Gazette 14 Dec 2004 p. 6018; 9 Sep 2005 p. 4159.]*

**4.56. Lifts and general work on lifts**

- (1) If there is a lift at a workplace then a person who, at the workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that —
  - (a) the lift is installed, commissioned, maintained, inspected and tested by a competent person —
    - (i) in accordance with AS 1735.1 and any other Part of AS 1735 that is relevant to that kind of lift; and
    - (ii) having regard to the instructions of the persons who designed and manufactured the lift.
  - [(b) deleted]*
- (2) Without limiting regulation 3.49, if a person does work in a lift well at a workplace and there is a risk of the person falling or of objects falling on the person or a risk to the person from movement of the lift or a false car then a person who, at the workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that as a minimum, the following protection is provided for the first-mentioned person —
  - (a) a safe working platform or area;
  - (b) adequate overhead protection; and
  - (c) safe access to the safe working platform or area.

- (3) Without limiting regulation 3.3, if a person does work involving the use of a winch in a lift well at a workplace then a person who, at the workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that the first-mentioned person is provided with an efficient auditory signalling system allowing communication between the winch driver and that person.

Penalty applicable to subregulations (1), (2) and (3): the regulation 1.16 penalty.

*[Regulation 4.56 amended in Gazette 8 Mar 2002 p. 996; 14 Dec 2004 p. 6018.]*

**4.57. Construction and installation work of lifts**

- (1) The requirements of this regulation in relation to the construction and installation of lifts are in addition to the requirements in regulation 4.56 in relation to lifts.
- (2) If a lift is being constructed or installed and a person other than a person involved in the work could have access to the area where the work is being done then a person who, at the workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that secure barriers are provided to prevent access to the lift well by anyone other than persons doing the work.
- (3) If —
- (a) a lift is being installed; or
  - (b) work associated with the installation of a lift is being done in an express lift well,

and a false car, permanent car platform or permanent car is in use then a person who, at the workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that a false car, permanent car

platform or permanent car is provided in an adjacent lift well so as to give access to or egress from the express lift well in case of an emergency.

- (4) If a lift is being constructed in a building or structure then a person who, at the workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that an independent power supply is provided to enable the persons to do the work.
- (5) Without limiting regulation 3.49, if a lift is being constructed or installed in a building or structure and there is a risk of a person falling or of objects falling on the person or a risk to the person from movement of the lift or a false car then a person who, at the workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that there is a solid or mesh enclosure between the lift well and any adjacent lift well that has a lift in operation.
- (6) If a lift is being constructed or installed at a workplace then a person who is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that —
  - (a) the safe working provisions and practices set out in AS/NZS 4431 are followed; and
  - (b) an independent power supply is provided to enable the construction or installation to be carried out.

Penalty applicable to subregulations (2), (3), (4), (5) and (6): the regulation 1.16 penalty.

*[Regulation 4.57 amended in Gazette 8 Mar 2002 p. 996-7; 7 Jun 2002 p. 2737; 14 Dec 2004 p. 6018.]*

## **Part 5 — Hazardous substances**

### **Division 1 — Preliminary**

#### **5.1. Interpretation**

- (1) In this Part, unless the contrary intention appears —

**“appointed medical practitioner”** means a medical practitioner who is —

- (a) adequately trained to conduct health surveillance in relation to the hazardous substance in question; and
- (b) appointed by the employer, a main contractor or a self-employed person, as the case requires, after consultation with the person in respect of whom the health surveillance is to be conducted and after giving the person a reasonable choice in the selection of the medical practitioner;

**“article”** means an item which —

- (a) during production is formed to a specific shape or design, or with a specific surface;
- (b) is used for a purpose that depends in whole or in part upon its shape, surface or design; and
- (c) undergoes no change in chemical composition or physical state during use except as an intrinsic aspect of that use,

but does not include fluid or a particle;

**“asbestos”** means the fibrous form of mineral silicates belonging to the serpentine and amphibole groups of rock forming minerals and includes actinolite, amosite (brown asbestos), anthophyllite, crocidolite (blue asbestos), chrysotile (white asbestos), tremolite, or any material containing one or more of those minerals;

**“biological monitoring”** means the measurement and evaluation of a hazardous substance or its metabolites in a person’s body tissues, fluids or exhaled air;



**“chemical name”** means the scientifically recognized name given to a compound or substance based on its chemical constitution;

**“consumer package”** means a package —

- (a) intended by the supplier for retail display and sale; or
- (b) containing a number of packages referred to in paragraph (a);

**“container”** means anything in or by which a hazardous substance is or has been held, but does not include a tank or bulk storage container as defined in the *ADG Code*;

**“emergency services”** means —

- (a) the Police Force of Western Australia;
- (b) a brigade within the meaning of the *Fire Brigades Act 1942*; or
- (c) any other department, agency or instrumentality of the Crown that may be required to attend the scene of an emergency involving a hazardous substance;

**“exposure standard”**, in relation to a substance specified in the *National Exposure Standards* [NOHSC: 1003 (1995)], means the exposure standard specified in those Standards for the substance;

**“generic name”** means the name used to describe a category or group of chemicals;

**“hazardous substance”** means a substance —

- (a) entered in the *List of Designated Hazardous Substances* [NOHSC: 10005 (1999)]; or
- (b) which, under regulation 5.3(b) is, or should be, determined to be a hazardous substance;

**“health surveillance”** means the monitoring of a person for the purpose of identifying changes in the person’s health status resulting from exposure to a hazardous substance;

**“ingredient”** means a component of a substance (including an impurity) whether in a mixture or combined with that substance;

**“Material Safety Data Sheet”** or **“MSDS”** means a document which contains the information in relation to a substance that is required by the *National Code of Practice for the Preparation of Material Safety Data Sheets* [NOHSC: 2011 (2003)], whether or not the document is in the form required by that code of practice;

**“monitoring”** means the regular survey of all measures which are used to control hazardous substances at a workplace and includes the monitoring of the atmosphere at the workplace to derive a quantitative estimate of the levels of hazardous substances in the air, but does not include biological monitoring;

**“purchaser”**, in relation to a substance, means a person who acquires the substance for valuable consideration;

**“record”** means any form in which information can be stored, whether on a permanent basis or in a form from which information can be reproduced;

**“retailer”**, in relation to a substance, means a person who sells the substance to members of the public who themselves are not engaged in any further resale of the substance;

**“risk phrase”** refers to the phrases set out in Appendix 4 of the *Approved Criteria for Classifying Hazardous Substances* [3<sup>rd</sup> Edition: NOHSC: 1008 (2004)] by which the health effects of hazardous substances can be described;

**“safety phrase”** means a phrase describing the safe handling, storage or use of personal protective equipment for a hazardous substance;

**“substance”** means any natural or artificial entity, composite material, mixture or formulation, other than an article;

**“supplier”**, in relation to a hazardous substance, includes —

- (a) a wholesaler, distributor, warehouse operator or other person who supplies the substance; and
- (b) a person who manufactures or imports the substance, but does not include a retailer;

**“type I ingredient”** means an ingredient described as a type I ingredient in Schedule 5.1;

**“type II ingredient”** means an ingredient described as a type II ingredient in Schedule 5.1;

**“type III ingredient”** means an ingredient described as a type III ingredient in Schedule 5.1;

**“use”**, in relation to a hazardous substance, or an article containing a Schedule 5.6 substance, includes the production, handling, storage, transport or disposal of the substance or article but does not include —

- (a) the holding of a substance or article in transit for less than 2 working days; or
- (b) transportation of a substance or article in compliance with the *ADG Code*, the *International Maritime Dangerous Goods Code*, the *Technical Instructions for the Safe Transport of Dangerous Goods by Air* or a law of the Commonwealth regulating the transportation of the substance or article;

**“warehouse operator”** means a person who operates a warehouse where unopened packaged goods intended for supply to a retailer are held on the premises.

(2) In subregulation (1) a reference to —

- (a) the *ADG Code* is a reference to the “Australian Code for the Transport of Dangerous Goods by Road and Rail” prepared by the Standing National Advisory Committee on the Transport of Dangerous Goods (5th edition) published by the Australian Government Publishing Service, Canberra, 1992, ISBN 0 644 256 109;

- (b) the *International Maritime Dangerous Goods Code* is a reference to the code prepared by the Inter-Governmental Consultative Organisation, published by the Australian Government Publishing Service, Canberra, 1979, Catalogue Code 7992010; and
  - (c) the *Technical Instructions for the Safe Transport of Dangerous Goods by Air* is a reference to the instructions prepared by the International Civil Aviation Organisation (ICAO).
- (3) Before 24 April 2008, despite the definition of “Material Safety Data Sheet” or “MSDS” in subregulation (1), a document that contains the information in relation to a substance that is required by the *National Code of Practice for the Preparation of Material Safety Data Sheets* [NOHSC: 2011 (1994)], whether or not the document is in the form required by that code of practice, is taken to be a Material Safety Data Sheet or MSDS for the purposes of these regulations.

*[Regulation 5.1 amended in Gazette 17 Dec 1999 p. 6234; 30 Dec 2003 p. 5737-8; 7 Jan 2005 p. 77; 27 Apr 2007 p. 1776.]*

## **5.2. Application**

This Part does not apply in relation to —

- (a) a radioactive substance;
- (b) a substance used in or in connection with the prevention, diagnosis, curing or alleviation of a disease, ailment, defect or injury in human beings or animals while it is being administered to a human being or an animal; or
- (c) a substance that may be hazardous only by reason of its containing any disease causing organism.

*[Regulation 5.2 amended in Gazette 17 Dec 1999 p. 6235.]*

## **Division 2 — Hazardous substances generally**

### **5.3. Determination of whether or not a substance is a hazardous substance**

A person who intends to manufacture or import a substance for use at a workplace must, before doing so —

- (a) determine whether the substance is entered as a hazardous substance in the *List of Designated Hazardous Substances* [NOHSC: 10005 (1999)]; and
- (b) if the substance is not entered in the *List of Designated Hazardous Substances*, determine in accordance with the *Approved Criteria for Classifying Hazardous Substances* [3<sup>rd</sup> Edition: NOHSC: 1008 (2004)] whether the substance is a hazardous substance.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 5.3 amended in Gazette 17 Dec 1999 p. 6235;  
14 Dec 2004 p. 6017; 7 Jan 2005 p. 77.]*

### **5.4. Commissioner to be notified of new hazardous substances**

If a person determines under regulation 5.3(b) that a substance is a hazardous substance then the person must, within a reasonable time of the determination, notify the Commissioner of the determination.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 5.4 amended in Gazette 14 Dec 2004 p. 6017.]*

### **5.5. Material Safety Data Sheets**

- (1) A person who manufactures or imports a hazardous substance for use at a workplace must —
  - (a) prepare an MSDS for the hazardous substance;

- (b) ensure that the MSDS is available before the hazardous substance is supplied to the workplace; and
  - (c) review and revise the MSDS as often as is reasonably necessary to keep it up to date and, in any event, at least every 5 years.
- (2) A person who manufactures or imports a hazardous substance for use at a workplace must disclose in the MSDS for the hazardous substance —
  - (a) the chemical name of any type I ingredient of the hazardous substance;
  - (b) the chemical name of any type II ingredient of the hazardous substance or, if the identity of a type II ingredient of the hazardous substance is commercially confidential, the generic name of the ingredient; and
  - (c) subject to subregulation (3), either the chemical name or a generic name of any type III ingredient of the hazardous substance.
- (3) If the disclosure of a generic name of a type III ingredient does not, in the opinion of the person who manufactured or imported the hazardous substance, provide sufficient commercial protection and the type III ingredient —
  - (a) is not itself a hazardous substance; and
  - (b) does not have known synergistic effects with other ingredients in the hazardous substance,

then the phrase “Other ingredients determined not to be hazardous” may be used instead of the chemical name or generic name.

Penalty applicable to subregulations (1) and (2) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulations (1) and (2) in any other case: the regulation 1.16 penalty.

*[Regulation 5.5 amended in Gazette 17 Dec 1999 p. 6235;  
14 Dec 2004 p. 6017.]*

**5.6. Labelling etc.**

A supplier of a hazardous substance for use in a workplace must ensure that —

- (a) any container in which the hazardous substance is supplied is labelled in accordance with the relevant requirements of the *National Code of Practice for the Labelling of Workplace Substances* [NOHSC: 2012 (1994)];
- (b) the chemical name of any type I ingredient of the hazardous substance is disclosed on a label for the hazardous substance; and
- (c) the chemical name of any type II ingredient of the hazardous substance or, if the identity of a type II ingredient of the hazardous substance is commercially confidential, the generic name of that ingredient, is disclosed on a label for the hazardous substance.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 5.6 amended in Gazette 14 Dec 2004 p. 6017.]*

**5.7. Commissioner to be notified if generic name used for type II ingredients**

- (1) If a generic name is used or to be used to identify a type II ingredient of a hazardous substance under regulation 5.5(2)(b) or 5.6(c), the person who manufactured or imported the hazardous substance must notify the Commissioner in the form of Appendix 4 to the *National Code of Practice for the Preparation of Material Safety Data Sheets* [NOHSC: 2011 (2003)].

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

- (2) Before 24 April 2008, a person may, instead of notifying the Commissioner in the form mentioned in subregulation (1), notify the Commissioner in the form of Appendix 5 to the *National Code of Practice for the Preparation of Material Safety Data Sheets* [NOHSC: 2011 (1994)].

*[Regulation 5.7 amended in Gazette 14 Dec 2004 p. 6017;  
27 Apr 2007 p. 1776-7.]*

**5.8. Provision of information about hazardous substances**

- (1) A supplier of a hazardous substance for use at a workplace must ensure that a current MSDS for the hazardous substance is provided —
- (a) to a person (whether or not a retailer) who purchases the hazardous substance from the supplier on the first occasion of the person obtaining the hazardous substance from the supplier;
  - (b) to a person (whether or not a retailer) —
    - (i) who purchases the hazardous substance from the supplier on a subsequent occasion; or
    - (ii) who is a potential purchaser of the hazardous substance and intends to purchase the hazardous substance from the supplier,at the request of that person; and
  - (c) to a person —
    - (i) who purchases the hazardous substance from a person who obtained the hazardous substance from the supplier; or
    - (ii) who is a potential purchaser of the hazardous substance and intends to purchase the hazardous substance from a person who has obtained, or



will obtain, the hazardous substance from the supplier,

at the request of that person.

- (2) A person who is a supplier does not commit an offence under subregulation (1)(a) if the person does not provide an MSDS for a hazardous substance to another supplier or to a retailer and —
- (a) the hazardous substance is in a consumer package which holds less than 30 kilograms or 30 litres; and
  - (b) proof of which is on the person, the package is not intended to be opened on either the premises of the person, the other supplier or the retailer, as the case requires.
- (3) Despite subregulations (1) and (2), a supplier of a hazardous substance for use in a workplace must, at the request of a person who has obtained, either directly or indirectly, the hazardous substance from the supplier, provide the person as soon as is practicable with —
- (a) a copy of any summary report in the possession of the supplier that has been prepared under the *Industrial Chemicals (Notification and Assessment) Act 1989* of the Commonwealth in relation to the hazardous substance; and
  - (b) any other information (in addition to an MSDS) in the possession of the supplier in relation to the hazardous substance which may, in the opinion of the supplier, assist in the safe use of the hazardous substance.

Penalty applicable to subregulations (1) and (3) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulations (1) and (3) in any other case: the regulation 1.16 penalty.

*[Regulation 5.8 amended in Gazette 14 Dec 2004 p. 6017.]*

**5.9. Ingredient disclosure to medical practitioners**

Despite regulation 5.5(2)(b) and (c) and regulation 5.6(c), a person to whom any of those regulations applies must disclose to a medical practitioner the chemical name of a type II or type III ingredient if the medical practitioner —

- (a) determines that a medical emergency exists and requests the information for the purposes of providing proper emergency or first aid treatment; and
- (b) gives a written undertaking that the information will only be used for the purposes of providing proper emergency or first aid treatment.

Penalty for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 5.9 amended in Gazette 14 Dec 2004 p. 6017.]*

**5.10. Ingredient disclosure to persons who may be affected**

- (1) If there is a hazardous substance at a workplace then for the purposes of protecting the safety and health of a person who might be exposed to the hazardous substance at the workplace —

- (a) a person who works at the workplace or employs a person who works at the workplace; or
- (b) any emergency services personnel,

may request the supplier of the hazardous substance to disclose the chemical name of any ingredient of the hazardous substance.

- (2) A request under subregulation (1) is to —
  - (a) be in writing;
  - (b) provide details of the purposes for which the information is required; and

- (c) include a written undertaking that the information will not be used except for the purposes set out in the written request.
- (3) A person who receives a request under subregulation (1) that complies with subregulation (2) must respond in writing within 30 days of receiving the request and must either —
  - (a) disclose the chemical name of the ingredient as requested; or
  - (b) refuse the request giving —
    - (i) specific reasons for the refusal; and
    - (ii) such alternative information as can be given to satisfy the purposes set out in the request without disclosing the chemical name of the ingredient.

Penalty applicable to subregulation (3) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulation (3) in any other case: the regulation 1.16 penalty.

*[Regulation 5.10 amended in Gazette 14 Dec 2004 p. 6017.]*

**5.11. Employers, main contractors and self-employed persons to obtain and provide information**

- (1) If a hazardous substance is to be used at a workplace then a person who, at the workplace, is an employer, the main contractor or a self-employed person must —
  - (a) before, or upon, the first occasion on which the hazardous substance is supplied to the workplace —
    - (i) obtain from the supplier of the hazardous substance an MSDS for the hazardous substance; and
    - (ii) consult with all persons who might be exposed to the hazardous substance at the workplace about the intention to use the hazardous substance at

the workplace and the safest method of using the hazardous substance;

- (b) ensure that the MSDS for the hazardous substance is readily available to any person who might be exposed to the hazardous substance at the workplace; and
- (c) ensure that no alteration is made to an MSDS except where —
  - (i) the person who is the employer, the main contractor or the self-employed person, as the case requires, is also the person who imported the hazardous substance; and
  - (ii) an overseas document described as a material safety data sheet requires alteration in order to conform with the definition of MSDS in these regulations.

Penalty for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

- (2) A person to whom subregulation (1) applies and who is also a retailer or a warehouse operator does not commit an offence under that subregulation —
  - (a) if the hazardous substance is in a consumer package which holds less than 30 kilograms or 30 litres; and
  - (b) if, proof of which is on the person, the package is not intended to be opened on the premises of the person.

*[Regulation 5.11 amended in Gazette 14 Dec 2004 p. 6017; 27 Apr 2007 p. 1777.]*

**5.12. Duties of employers, main contractors and self-employed persons as to labelling hazardous substances**

- (1) If a hazardous substance is used at a workplace then a person who, at the workplace, is an employer, the main contractor or a self-employed person must ensure —

- (a) that any container in which the hazardous substance is held at the workplace is labelled in accordance with the relevant requirements of the *National Code of Practice for the Labelling of Workplace Substances* [NOHSC: 2012 (1994)];
  - (b) if the hazardous substance is contained in an enclosed system such as a pipe or piping system or a process or reactor vessel, that the presence of the hazardous substance is made known to any person who might be exposed to the hazardous substance at the workplace; and
  - (c) that a correct label or colour code of the hazardous substance or an enclosed system referred to in paragraph (b) is not removed, defaced, modified or altered, unless the container has been cleaned to the extent that it no longer contains the hazardous substance.
- (2) If a hazardous substance is decanted at a workplace from its original container to another container and all of the hazardous substance is consumed immediately then a person does not commit an offence under subregulation (1) even though the container into which the hazardous substance is decanted is not labelled in accordance with that subregulation.
- (3) If a hazardous substance is decanted at a workplace from its original container to another container and not all of the hazardous substance is consumed immediately then a person who, at the workplace, is an employer, the main contractor or a self-employed person must ensure that the container into which the hazardous substance has been decanted is labelled with —
  - (a) the brand name, trade name, code name or code number specified by the supplier of the hazardous substance; and
  - (b) the risk phrases and safety phrases that apply to the hazardous substance.

Penalty applicable to subregulations (1) and (3): the regulation 1.16 penalty.

*[Regulation 5.12 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.13. Register of hazardous substances**

- (1) A person who, at a workplace, is an employer, a main contractor or a self-employed person must —
- (a) establish and keep current a register of each hazardous substance used in the workplace;
  - (b) ensure that the register contains (as a minimum) a list of each hazardous substance used from time to time at the workplace and the MSDS for each hazardous substance; and
  - (c) ensure that the register is readily available to all persons who are or who might be exposed to a hazardous substance at the workplace, including emergency services personnel.

Penalty: the regulation 1.16 penalty.

- (2) A person to whom subregulation (1) applies and who is also a retailer or a warehouse operator does not commit an offence under that subregulation —
- (a) if the hazardous substance is in a consumer package which holds less than 30 kilograms or 30 litres; and
  - (b) if, proof of which is on the person, the package is not intended to be opened on the premises of the person.

*[Regulation 5.13 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.14. Certain uses of certain hazardous substances prohibited**

A person who, at a workplace, is an employer, a main contractor or a self-employed person must ensure that a hazardous substance of a kind set out in column 1 of Schedule 5.2 is not used or handled at the workplace in the manner set out opposite that hazardous substance in column 2 of that Schedule.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.14 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.15. Assessment in relation to hazardous substances**

- (1) Without limiting regulation 3.1, a person who, at a workplace is an employer, the main contractor or a self-employed person must assess the risk of injury or harm occurring to a person as a result of the person being exposed to a hazardous substance at the workplace.
- (2) A person who, at a workplace is an employer, the main contractor or a self-employed person must ensure, as far as is practicable, that an assessment referred to in subregulation (1) —
  - (a) includes the identification of each hazardous substance used at the workplace;
  - (b) includes —
    - (i) a review of the MSDS for each hazardous substance used at the workplace; or
    - (ii) where a hazardous substance is included in a consumer package, a review of each label on the package;
  - and
  - (c) includes the identification of any likelihood of injury or harm occurring as a result of exposure to each hazardous substance used at the workplace.
- (3) If a person is required under subregulation (1) to conduct an assessment in relation to a hazardous substance at one workplace then the person may, for the purposes of the assessment, have regard to an assessment of representative work with the hazardous substance at another workplace or other workplaces.
- (4) A person who is required under subregulation (1) to conduct an assessment in relation to a hazardous substance at a workplace must ensure that whatever the outcome of the assessment, a

record is made in the register referred to in regulation 5.13 to indicate that the assessment has been done.

Penalty applicable to subregulations (1), (2) and (4): the regulation 1.16 penalty.

*[Regulation 5.15 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.16. Assessment report**

If an assessment conducted under regulation 5.15 identifies a significant risk of injury or harm occurring as a result of exposure to a hazardous substance at a workplace then the person who was required under that regulation to conduct the assessment must ensure, as far as is practicable that —

- (a) a report is prepared on the assessment; and
- (b) the action to be taken in order to achieve compliance with this Part in relation to the hazardous substance is set out in the report.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.16 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.17. Subsequent assessments**

A person required under regulation 5.15 to conduct an assessment in relation to a hazardous substance at a workplace must ensure that a further assessment is made —

- (a) if it appears that there is an increase in the risk of injury or harm occurring as a result of exposure to any hazardous substance at the workplace; and
- (b) when 5 years have elapsed since the last assessment referred to in regulation 5.15 was done.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.17 amended in Gazette 14 Dec 2004 p. 6018.]*



**5.18. Assessment reports to be available for inspection**

A person who is required under regulation 5.15 or 5.17 to conduct an assessment in relation to a hazardous substance must ensure that each assessment report (if any) prepared on behalf of that person in relation to the hazardous substance is accessible at all reasonable times to any person who might be exposed to the hazardous substance at the workplace.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.18 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.19. Exposure standards not to be exceeded**

A person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure that no person is exposed at the workplace to a hazardous substance in excess of the exposure standard for the hazardous substance.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.19 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.20. Risks arising from hazardous substances to be reduced and means of reducing risks**

- (1) A person who, at a workplace, is an employer, the main contractor or a self-employed person must, as far as practicable, reduce any risk to a person arising from exposure to a hazardous substance at the workplace —
  - (a) by means of preventing exposure to the hazardous substance;
  - (b) to the extent that it is not practicable to prevent exposure to the hazardous substance, by means other than the provision of personal protective clothing or equipment; and
  - (c) to the extent that it is not practicable to reduce the risk by the means referred to in paragraph (a) or (b), by requiring the person who may be exposed to the

hazardous substance to use personal protective clothing or equipment (in addition to the means referred to in paragraph (b) where practicable).

- (2) A person who, at a workplace is an employer, the main contractor or a self-employed person must ensure that the means referred to in subregulation (1) are effectively maintained.

Penalty applicable to subregulations (1) and (2): the regulation 1.16 penalty.

*[Regulation 5.20 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.21. Induction and training**

- (1) A person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure that each person who is likely to be exposed to a hazardous substance at the workplace receives, before commencing the work, relevant and adequate information about and training on —
- (a) the potential health risk and any toxic effects associated with the hazardous substance;
  - (b) the control measures used to minimise the risk to safety and health;
  - (c) the correct use of methods used to minimise adverse effects of exposure to the hazardous substance;
  - (d) without limiting regulation 3.34, the correct care and use of personal protective clothing and equipment; and
  - (e) the need for, and details of, health surveillance.
- (2) A person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure that records are kept of all induction and training undertaken by a person for the purposes of subregulation (1).

Penalty applicable to subregulations (1) and (2): the regulation 1.16 penalty.

*[Regulation 5.21 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.22. Monitoring risks associated with hazardous substances**

If an assessment under regulation 5.15 indicates that monitoring should be done at the workplace then a person who, at the workplace, is an employer, the main contractor or a self-employed person must ensure that —

- (a) appropriate monitoring is done;
- (b) a record is kept of the results of monitoring;
- (c) each person who is likely to be exposed to a hazardous substance at the workplace is given the results of the monitoring of the hazardous substance as soon as the results are available; and
- (d) the results of monitoring are accessible to all persons referred to in paragraph (c) at all reasonable times.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.22 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.23. Health surveillance in relation to hazardous substances**

- (1) If the health of a person is at risk as a result of the person's exposure at a workplace to a hazardous substance set out in column 1 of Schedule 5.3 then a person who, at the workplace, is an employer, the main contractor or a self-employed person must ensure that health surveillance of the type set out opposite the substance in column 2 of that Schedule is provided for, and at no cost to, the first-mentioned person and is supervised by an appointed medical practitioner.
- (2) A person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure that health surveillance supervised by an appointed medical practitioner is provided for, and at no cost to, each person who has been identified in an assessment under regulation 5.15 as being —
  - (a) exposed, or likely to have been exposed, to a hazardous substance in circumstances where —

- (i) he or she is at risk of suffering an identifiable disease or effect on health as a result of the exposure;
    - (ii) there is a reasonable likelihood that such a disease or effect on health might occur under the particular conditions of work; and
    - (iii) there is a scientifically recognized technique which can be used for detecting indications of the disease or the effect on health;
  - or
  - (b) exposed, or likely to have been exposed, to a hazardous substance in excess of the exposure standard for that hazardous substance.
- (3) A person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure that health surveillance under subregulation (2) includes biological monitoring if there is a suitable biological monitoring procedure available in relation to the relevant hazardous substance.
- (4) A person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure that results of any health surveillance under subregulation (1), (2) or (3) are treated as confidential records.

Penalty applicable to subregulations (1), (2), (3) and (4): the regulation 1.16 penalty.

*[Regulation 5.23 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.24. Duties of appointed medical practitioners**

- (1) An appointed medical practitioner who provides health surveillance in relation to a person must ensure, as soon as practicable after the health surveillance is completed, or if the health surveillance comprises a series of tests and examinations (“**ongoing surveillance**”), as soon as practicable after the results become available, that —
- (a) the results of the health surveillance or ongoing surveillance are recorded;

- (b) the person is notified of the results of the health surveillance or ongoing surveillance and given any necessary explanation of those results;
  - (c) the Commissioner is notified if the health surveillance or ongoing surveillance yields results which are consistent with exposure to a hazardous substance; and
  - (d) the person who was required to arrange the health surveillance is advised —
    - (i) of the outcome of the health surveillance or ongoing surveillance;
    - (ii) on any need for remedial action; and
    - (iii) of any notification made under paragraph (c) to the Commissioner.
- (2) An appointed medical practitioner —
  - (a) must ensure that the results of any health surveillance are treated as confidential records; and
  - (b) must not provide to any other person the results of any health surveillance that identify the person to whom they apply without first obtaining the informed and written consent of that person.
- (3) Subregulation (2)(b) does not apply to the provision of the results to —
  - (a) the Commissioner under subregulation (1)(c); or
  - (b) a person who, as part of the requirements of the person's profession, is bound to treat the results as confidential records.
- (4) An appointed medical practitioner must ensure that results of health surveillance are clearly identified as being for the purposes of these regulations and not for any other purpose.
- (5) Subject to subregulation (6), an appointed medical practitioner must ensure that the medical records of health surveillance prepared by the medical practitioner for the purposes of these

regulations are kept for at least 30 years from the completion of the surveillance.

- (6) If a medical practitioner to whom subregulation (5) applies ceases to practise in this State, the medical practitioner must give the records to the Commissioner.

Penalty applicable to subregulations (1), (2), (4), (5) and (6):

- (a) for a first offence, \$10 000; and
- (b) for a subsequent offence, \$12 500.

*[Regulation 5.24 amended in Gazette 14 Dec 2004 p. 6015.]*

**5.25. Employers, main contractors and self-employed persons to take remedial action**

If a person who, at a workplace, is an employer, a main contractor or a self-employed person is advised by an appointed medical practitioner of the need for remedial action in relation to the exposure of a person to a hazardous substance at the workplace, the first-mentioned person must, as soon as is practicable, undertake a further assessment of the other person's exposure to the hazardous substance and implement any necessary prevention or control measures.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.25 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.26. Periods for which records to be kept by employers, main contractors and self-employed persons**

- (1) Subject to subregulation (3), a person who, at a workplace, is an employer, a main contractor or a self-employed person must ensure that the following records and reports are kept for at least 30 years from the completion, or last entry, of the record or report —
- (a) each assessment report prepared under regulation 5.16 which gives rise to monitoring or health surveillance;

- (b) the results of all monitoring recorded under regulation 5.22;
  - (c) each report of health surveillance received under regulation 5.24(1)(d).
- (2) Subject to subregulation (3), a person who, at a workplace, is an employer, a main contractor or a self-employed person must ensure that the following records and reports are kept for at least 5 years from the completion, or last entry, of the record or report —
  - (a) each register established under regulation 5.13;
  - (b) each assessment report prepared under regulation 5.16 which does not give rise to monitoring or health surveillance;
  - (c) each record of induction and training kept under regulation 5.21(2).
- (3) If a person to whom subregulation (1) or (2) applies —
  - (a) ceases to operate in the State;
  - (b) satisfies the Commissioner that keeping, or the maintaining of, a record or report is impractical or inappropriate; or
  - (c) is requested to do so by the Commissioner,

then the person must give the records to the Commissioner.

Penalty applicable to subregulations (1), (2) and (3): the regulation 1.16 penalty.

*[Regulation 5.26 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.27. Commissioner to keep certain records as to hazardous substances**

If the Commissioner is given a record under regulation 5.24(6) or 5.26(3) then the Commissioner is to ensure that the record is kept for at least 30 years from the completion of the surveillance.

**Division 3 — Certain carcinogenic substances**

**5.28. Definitions**

In this Division, unless the contrary intention appears —

**“bona fide research”** means —

- (a) a systematic investigative or experimental activity conducted for the purpose of —
  - (i) acquiring new knowledge whether or not that knowledge will have a specific practical application; or
  - (ii) creating new materials, products, devices, processes or services or improving those things;
- and
- (b) the display in a museum or educational display of any article consisting of or containing a Schedule 5.6 substance and work necessary to prepare and maintain the display;

**“carcinogenic substance”** means a substance that is a Schedule 5.4 substance, a Schedule 5.5 substance or a Schedule 5.6 substance;

**“Schedule 5.4 substance”** means a substance set out in Schedule 5.4;

**“Schedule 5.5 substance”** means a substance set out in Schedule 5.5;

**“Schedule 5.6 substance”** means a substance set out in Schedule 5.6.

*[Regulation 5.28 amended in Gazette 30 Dec 2003 p. 5738.]*

**5.29. Concentration of substances for Division 3 to apply**

- (1) A reference in this Division to the use of a carcinogenic substance is a reference to the use of the substance or its salts —
  - (a) as a pure substance; or



- (b) in a mixture containing 0.1% or more of that substance determined as a weight/weight (w/w) concentration for solids or liquids, or a volume/volume (v/v) concentration for gases.
- (2) A reference in this Division to the use of an article containing a Schedule 5.6 substance is a reference to the use of an article consisting of or containing a Schedule 5.6 substance —
  - (a) as a pure substance; or
  - (b) in a mixture containing 0.1% or more of that substance determined as a weight/weight (w/w) concentration.

*[Regulation 5.29 inserted in Gazette 30 Dec 2003 p. 5738-9.]*

**5.30. Commissioner to be informed if carcinogenic substances intended to be used at workplaces**

- (1) A person who, at a workplace, is an employer or a self-employed person and who intends to use a Schedule 5.5 substance at the workplace must, before using the substance, notify the Commissioner of that intention and give the following information to the Commissioner —
  - (a) the name of the employer or self-employed person and of the main contractor, if any, at the workplace;
  - (b) the business address of the employer or self-employed person;
  - (c) the name of the substance;
  - (d) the name and address of the supplier or proposed supplier of the substance;
  - (e) the address of the workplace at which the substance is intended to be used;
  - (f) details of, and reasons for, the intended use or activity or process involving the substance;
  - (g) the quantity of the substance and of any carcinogenic substance intended to be used on a yearly basis at the workplace;

- (h) the name and business address of the person who is to conduct any assessment;
  - (i) sufficient information to show that it is not practicable to not use, or to substitute, the substance;
  - (j) the number of persons likely to be exposed to the substance at the workplace;
  - (k) a description of the safety measures taken to prevent or reduce the exposure of any person to the substance and to protect the health of persons generally;
  - (l) sufficient information to show that the safety measures and controls in place are the most practicable in the circumstances.
- (2) A person who, at a workplace, is an employer or a self-employed person and who intends to use a Schedule 5.4 substance, a Schedule 5.6 substance or an article consisting of or containing a Schedule 5.6 substance for analysis or bona fide research at the workplace must, before using the substance or article, notify the Commissioner of that intention and give to the Commissioner —
- (a) with any necessary changes being made, the information referred to in subregulation (1) paragraphs (a) to (l) inclusive; and
  - (b) a statement that the substance or article will only be used for analysis or bona fide research.

Penalty applicable to subregulations (1) and (2): the regulation 1.16 penalty.

*[Regulation 5.30 amended in Gazette 30 Dec 2003 p. 5739; 14 Dec 2004 p. 6018.]*

**5.31. Schedule 5.4 and 5.6 substances not to be used at workplaces**

- (1) Subject to subregulations (2) and (3) a person who, at a workplace, is an employer or a self-employed person must ensure that a Schedule 5.4 substance or a Schedule 5.6

substance is not used at the workplace, other than to remove and dispose of the substance, unless —

- (a) the Commissioner has given approval to use the substance at the workplace;
- (b) the substance is used only in analysis or bona fide research; and
- (c) the use is in accordance with any condition imposed by the Commissioner.

Penalty: the regulation 1.16 penalty.

- (2) A person does not commit an offence under subregulation (1) if the substance is a Schedule 5.6 substance that is in its natural state and has not been moved from its natural location.

*[Regulation 5.31 inserted in Gazette 30 Dec 2003 p. 5739-40; amended in Gazette 14 Dec 2004 p. 6018.]*

**5.32. Schedule 5.5 substances not to be used at workplaces unless for purpose approved by Commissioner**

A person who, at a workplace, is an employer or a self-employed person must ensure that a Schedule 5.5 substance is not used at the workplace unless —

- (a) the Commissioner has given approval to use the substance at the workplace;
- (b) the substance is used only for a purpose that has been approved by the Commissioner; and
- (c) if the Commissioner has imposed any condition on the use of the substance at the workplace, the use is in accordance with each condition.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.32 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.32A. Articles containing Schedule 5.6 substances not to be used at workplaces**

- (1) Subject to subregulations (2) to (8), a person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure that an article consisting of or containing a Schedule 5.6 substance is not used at the workplace, other than to remove and dispose of the article, unless —
  - (a) the Commissioner has given approval to use the article at the workplace;
  - (b) the article is used only in analysis or bona fide research; and
  - (c) the use is in accordance with any condition imposed by the Commissioner.
- Penalty: the regulation 1.16 penalty.
- (2) A person does not commit an offence under subregulation (1) in relation to the use with saturated steam, superheated steam or a dangerous substance, of a compressed asbestos fibre gasket consisting of or containing chrysotile (white asbestos) —
  - (a) before 1 January 2005, if the Commissioner has given written approval to use the gasket at the workplace;
  - (b) on and after 1 January 2005, if the location of the gasket in the workplace and its use are the same as they were immediately before 1 January 2005.
- (3) A person does not commit an offence under subregulation (1) in relation to the use in a plant in liquid chlorine service with design process conditions of minus 45° Celsius under 1500 kPa pressure, of a compressed asbestos fibre gasket consisting of or containing chrysotile (white asbestos) —
  - (a) before 1 January 2007, if the Commissioner has given written approval to use the gasket at the workplace;

- (b) on and after 1 January 2007, if the location of the gasket in the workplace and its use are the same as they were immediately before 1 January 2007.
- (4) A person does not commit an offence under subregulation (1) in relation to the use in an electrolyte cell in an electrolysis plant for chlor-alkali manufacture that existed on 1 January 2004, of a diaphragm consisting of or containing chrysotile (white asbestos) —
  - (a) before 1 January 2007, if the Commissioner has given written approval to use the diaphragm at the workplace;
  - (b) on and after 1 January 2007, if the location of the diaphragm in the workplace and its use are the same as they were immediately before 1 January 2007.
- (5) A person does not commit an offence under subregulation (1) in relation to the use in a rotary vacuum pump or a rotary compressor, of a vane consisting of or containing chrysotile (white asbestos) mixed with a phenol formaldehyde resin or a cresylic formaldehyde resin —
  - (a) before 1 January 2008, if the Commissioner has given written approval to use the vane at the workplace;
  - (b) on and after 1 January 2008, if the location of the vane in the workplace and its use are the same as they were immediately before 1 January 2008.
- (6) A person does not commit an offence under subregulation (1) in relation to the use of a split face seal of at least 150 mm in diameter used to prevent leakage of water from a cooling water pump in a fossil fuel powered electricity generating station, and consisting of or containing chrysotile (white asbestos) mixed with a phenol formaldehyde resin or a cresylic formaldehyde resin —
  - (a) before 1 January 2008, if the Commissioner has given written approval to use the seal at the workplace;

- (b) on and after 1 January 2008, if the location of the seal in the workplace and its use are the same as they were immediately before 1 January 2008.
- (7) A person does not commit an offence under subregulation (1) in relation to the use of an article consisting of or containing chrysotile (white asbestos) that is the subject of an exemption under Schedule 1B of the *Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994* of the Commonwealth —
  - (a) before 1 January 2008, if the Commissioner has given written approval to use the article at the workplace;
  - (b) on and after 1 January 2008, if the location of the article in the workplace and its use are the same as they were immediately before 1 January 2008.
- (8) A person does not commit an offence under subregulation (1) in relation to the use of an article as part of a thing if the location of the article in the thing and its use are the same as they were immediately before 1 January 2004.
- (9) In this regulation —
  - “**dangerous substance**” has the meaning given to “dangerous goods” in the *Dangerous Goods (Transport) Act 1998* section 3, or in any provision that on the repeal of that section corresponds to that definition.

*[Regulation 5.32A inserted in Gazette 30 Dec 2003 p. 5740-2; amended in Gazette 14 Dec 2004 p. 6018.]*

**5.33. Commissioner to acknowledge receipt of notification and information and may impose conditions**

- (1) The Commissioner is to acknowledge the receipt of the notification and information provided under regulation 5.30 within 10 days of receiving the notification.
- (2) The acknowledgment is to include either —

- (a) advice to the effect that use of the carcinogenic substance or article containing a Schedule 5.6 substance at the workplace has not been approved by the Commissioner;
  - (b) advice to the effect that use of the carcinogenic substance or article containing a Schedule 5.6 substance at the workplace has been approved by the Commissioner without conditions; or
  - (c) advice to the effect that use of the carcinogenic substance or article containing a Schedule 5.6 substance at the workplace has been approved by the Commissioner on conditions imposed or to be imposed by the Commissioner.
- (3) The Commissioner may impose any condition that the Commissioner thinks is necessary in relation to the use of any carcinogenic substance or article containing a Schedule 5.6 substance at a workplace but if the Commissioner imposes a condition then it must be communicated to the employer or self-employed person within 50 days from the day of the acknowledgment.

*[Regulation 5.33 amended in Gazette 30 Dec 2003 p. 5742.]*

**5.34. Carcinogenic substances not to be used until conditions set**

An employer or self-employed person who receives an acknowledgment under regulation 5.33 to the effect that use of a carcinogenic substance or article containing a Schedule 5.6 substance at the workplace has been approved by the Commissioner on conditions imposed or to be imposed by the Commissioner must ensure that the carcinogenic substance or article is not used at the workplace until the conditions have been communicated to the employer or self-employed person.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.34 amended in Gazette 30 Dec 2003 p. 5742;  
14 Dec 2004 p. 6018.]*

**5.35. Duties of suppliers of carcinogenic substances**

A supplier must not supply a carcinogenic substance or article containing a Schedule 5.6 substance to an employer or a self-employed person for use at a workplace unless the employer or self-employed person has given the supplier sufficient evidence to the effect that use of the carcinogenic substance or article at the workplace has been approved by the Commissioner.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 5.35 amended in Gazette 30 Dec 2003 p. 5743;  
14 Dec 2004 p. 6017.]*

**5.36. Information for Commissioner to be kept up to date**

- (1) A person who has given information under regulation 5.30 must, as soon as practicable, inform the Commissioner if —
  - (a) there is evidence to indicate that the information given is no longer valid;
  - (b) there is or has been a significant change in the use of the substance at the workplace; or
  - (c) the relevant assessment is or has been reviewed.
- (2) A person who has given information under regulation 5.30 must provide the Commissioner with an update of the information, in any event, at least every 5 years.

Penalty applicable to subregulations (1) and (2): the  
regulation 1.16 penalty.

*[Regulation 5.36 amended in Gazette 14 Dec 2004 p. 6018.]*



**5.37. Employers and self-employed persons to keep records in relation to carcinogenic substances**

- (1) A person who, at a workplace where a carcinogenic substance is used, is an employer or a self-employed person must establish and keep current for each person who is likely to be exposed to the carcinogenic substance at the workplace, a record including —
  - (a) the full name, address and date of birth of the person likely to be exposed to the carcinogenic substance; and
  - (b) the date of each period during which the person referred to in paragraph (a) was, or was likely to have been, exposed to the carcinogenic substance at the workplace,and, subject to subregulation (3), keep the record for at least 30 years from the date of the last entry.
- (2) Subject to subregulation (3), a person who, at a workplace where a carcinogenic substance is used, is an employer or a self-employed person must ensure that there is kept at the workplace —
  - (a) a copy of all information that the person has given to the Commissioner under regulation 5.30; and
  - (b) a copy of all conditions imposed by the Commissioner in relation to the use of the carcinogenic substance at the workplace,for at least 30 years from the date of the document.
- (3) If an employer or a self-employed person to whom subregulation (1) or (2) applies —
  - (a) ceases to operate in the State;
  - (b) satisfies the Commissioner that keeping, or the maintaining of, a record or report is impractical or inappropriate; or

(c) is requested to do so by the Commissioner,

then the employer or self-employed person must give the records to the Commissioner.

Penalty applicable to subregulations (1), (2) and (3): the regulation 1.16 penalty.

*[Regulation 5.37 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.38. Suppliers to keep records in relation to carcinogenic substances**

(1) A supplier of a carcinogenic substance for use at a workplace must keep a record of —

- (a) the name of the carcinogenic substance supplied;
- (b) the date of the supply; and
- (c) the name of the person to whom the carcinogenic substance was supplied,

and, subject to subregulation (2), keep the record for at least 30 years from the date of the last entry.

(2) If a person to whom subregulation (1) applies —

- (a) ceases to operate in the State;
- (b) satisfies the Commissioner that keeping, or the maintaining of, a record or report is impractical or inappropriate; or
- (c) is requested to do so by the Commissioner,

then the person must give the records to the Commissioner.

Penalty applicable to subregulations (1) and (2) for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty applicable to subregulations (1) and (2) in any other case: the regulation 1.16 penalty.

*[Regulation 5.38 amended in Gazette 14 Dec 2004 p. 6017.]*

**5.39. Commissioner to keep certain records in relation to carcinogenic substances**

If the Commissioner is given a record under regulation 5.37(3) or 5.38(2) then the Commissioner is to ensure that the record is kept for at least 30 years from the date of the last entry on the record.

**5.40. Commissioner to be informed of certain matters as to carcinogenic substances**

If —

- (a) a person is exposed at a workplace to a carcinogenic substance as a result of a spill or other incident; or
- (b) monitoring or health surveillance results indicate that a person may have had excessive exposure at a workplace to a carcinogenic substance,

then a person who, at the workplace, is an employer, the main contractor or a self-employed person must, as soon as practicable, report the matter to the Commissioner.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.40 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.41. Persons who may be exposed to carcinogenic substances to be informed of certain matters**

- (1) If a person is exposed, or is likely to have been exposed, at a workplace to a carcinogenic substance then a person who, at the workplace is an employer, the main contractor or a self-employed person must, as soon as practicable, inform the first-mentioned person of the exposure or likelihood of exposure.
- (2) An employer must ensure, in relation to each employee for whom a record is kept under regulation 5.37(1), that when the employment is terminated, the employee receives a written statement setting out the following —

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- (a) the name of any carcinogenic substance to which the employee was, or might have been, exposed at the workplace;
- (b) the date of each period during which the employee was, or was likely to have been, exposed to a carcinogenic substance at the workplace;
- (c) details of how and where the employee can obtain access to records kept under this Part; and
- (d) a recommendation that the employee has periodic health assessments, and the type of health assessments that would be appropriate for the employee.

Penalty applicable to subregulations (1) and (2): the regulation 1.16 penalty.

*[Regulation 5.41 amended in Gazette 14 Dec 2004 p. 6018.]*

**Division 4 — Further requirements in relation to certain hazardous substances**

**Subdivision 1 — Asbestos**

**5.42. Definitions**

In this Subdivision unless the contrary intention appears —

**“asbestos dust”** means airborne dust consisting of or containing a time-weighted average fibre concentration of asbestos that is in excess of the exposure standard when measured in accordance with the *Guidance Note on the Membrane Filter Method for Estimating Airborne Asbestos Fibres* 2<sup>nd</sup> Edition [NOHSC: 3003 (2005)];

**“asbestos removal area”** means the place where asbestos removal occurs and the area in the immediate vicinity of that place which is required under the *Code of Practice for the Safe Removal of Asbestos* 2<sup>nd</sup> Edition [NOHSC: 2002 (2005)] to be cordoned off;

**“asbestos removal site”** means the region surrounding, and adjacent to, an asbestos removal area;

**“asbestos removal work”** means work involving the removal or encapsulation of installed thermal or acoustic insulation materials comprising or containing asbestos;

**“licensed asbestos removalist”** means a person licensed under regulation 5.44 to do asbestos removal work.

*[Regulation 5.42 amended in Gazette 30 Dec 2003 p. 5743; 18 Nov 2005 p. 5661.]*

**5.43. Identification and assessment of asbestos hazards at workplaces**

Without limiting regulation 3.1 or 5.15, a person who, at a workplace, is an employer, the main contractor, a self-employed person or the person having control of the workplace must ensure that —

- (a) the presence and location of asbestos at the workplace is identified; and
- (b) the process of identification referred to in paragraph (a) and the assessment of risks arising from hazards in relation to asbestos at the workplace are conducted in accordance with the *Code of Practice for the Management and Control of Asbestos in Workplaces* [NOHSC: 2018 (2005)].

Penalty: the regulation 1.16 penalty.

*[Regulation 5.43 amended in Gazette 14 Dec 2004 p. 6018; 18 Nov 2005 p. 5661.]*

**5.44. Asbestos removalist licences**

- (1) A person may, in an approved form, apply to the Commissioner to be licensed as an asbestos removalist and the application is to be accompanied by the fee set out in Schedule 6.2A, which is to be refunded if the application is refused.

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- (2) On an application under subregulation (1) and if the Commissioner is satisfied that the applicant is able to conduct asbestos removal work in a safe and proper manner, the Commissioner may issue to the applicant an asbestos removalist licence.
- (3) An asbestos removalist licence may be issued subject to such conditions, if any, as the Commissioner sees fit and endorses on the licence.
- (4) An asbestos removalist licence has effect for 2 years from its issue unless it is sooner cancelled or suspended under subregulation (5).
- (5) If a licensed asbestos removalist —
  - (a) is convicted of an offence against these regulations or the Act; or
  - (b) in the opinion of the Commissioner —
    - (i) breaches a condition of the licence; or
    - (ii) is unable to comply with a condition of the licence or a provision of these regulations or the Act,

then the Commissioner may, by notice in writing, cancel or suspend the licence.

*[Regulation 5.44 amended in Gazette 10 Jun 1997 p. 2670; 9 Jun 1998 p. 3144; 2 Jun 2000 p. 2676; 30 Mar 2001 p. 1783.]*

**5.45. Asbestos removal work**

- (1) A person who, at a workplace, is an employer, the main contractor, a self-employed person or the person having control of the workplace must ensure that any asbestos removal work at the workplace —
  - (a) is done by a licensed asbestos removalist; and

- (b) is done in accordance with —
  - (i) the *Code of Practice for the Safe Removal of Asbestos* 2<sup>nd</sup> Edition [NOHSC: 2002 (2005)] unless the Commissioner has directed that the work be done in a manner set out in a direction under regulation 5.48(1); and
  - (ii) the removalist's licence and each condition (if any) endorsed on the licence.

Penalty: the regulation 1.16 penalty.

- (2) A person doing asbestos removal work at a workplace must maintain the standard of personal hygiene and use such protective equipment as is required by Part 9 of the *Code of Practice for the Safe Removal of Asbestos* 2<sup>nd</sup> Edition [NOHSC: 2002 (2005)].

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case:

- (a) for a first offence, \$25 000; and
- (b) for a subsequent offence, \$31 250.

*[Regulation 5.45 amended in Gazette 14 Dec 2004 p. 6017 and 6018; 18 Nov 2005 p. 5661-2.]*

#### **5.46. Register**

- (1) A licensed asbestos removalist —
  - (a) on being issued with the licence, must notify the Commissioner of the name, address, and date of birth of every person employed by the licensee to do asbestos removal work; and
  - (b) within 7 days of the commencement or termination of the employment by the licensee of a person as an asbestos removalist, must notify the Commissioner of the name, address, and date of birth of that person.

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Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

- (2) The Commissioner is to establish a register of the details of which the Commissioner is notified under subregulation (1) and is to keep those details for at least 40 years.

*[Regulation 5.46 amended in Gazette 14 Dec 2004 p. 6017.]*

**5.47. Licence and Codes to be available**

A licensed asbestos removalist must ensure that a copy of —

- (a) the licence;
- (b) the *Code of Practice for the Safe Removal of Asbestos* 2<sup>nd</sup> Edition [NOHSC: 2002 (2005)]; and
- (c) the *Code of Practice for the Management and Control of Asbestos in Workplaces* [NOHSC: 2018 (2005)],

is available for inspection at each place at which asbestos removal work is done under the authority of the licence and are produced upon reasonable request.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 5.47 amended in Gazette 14 Dec 2004 p. 6017;  
18 Nov 2005 p. 5662.]*

**5.48. Commissioner may give certain directions as to asbestos at workplaces**

- (1) The Commissioner may issue a written notice to a person who, at a workplace, is an employer, the main contractor, a self-employed person or the person having control of the 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 installed thermal or acoustic insulation materials comprising or containing asbestos at the workplace to be removed or encapsulated in accordance with the *Code of Practice for the Management and Control of Asbestos in Workplaces* [NOHSC: 2018 (2005)] and the *Code of Practice for the Safe Removal of Asbestos* 2<sup>nd</sup> Edition [NOHSC: 2002 (2005)] or in such other manner and within such time set out in the direction.
- (2) A person must comply with each direction issued to the person under subregulation (1).  
Penalty: the regulation 1.16 penalty.
- (3) The Commissioner may give a direction under this regulation whether or not the assessment referred to in regulation 5.43 indicates that the testing or the asbestos removal work needs to be done and the Commissioner is not liable for any costs in relation to the tests or asbestos removal work.

*[Regulation 5.48 amended in Gazette 17 Dec 1999 p. 6235; 14 Dec 2004 p. 6018; 18 Nov 2005 p. 5662.]*

**5.49. Further duties as to exposure to asbestos dust**

- (1) A person who, at a workplace that is an asbestos removal area, is an employer, the main contractor, a self-employed person or the person having control of the workplace must ensure that, as far as is practicable, no person in the asbestos removal site is exposed to asbestos dust.
- (2) Without limiting regulation 5.20, a person to whom subregulation (1) applies must ensure that if it is likely that a person in or entering the asbestos removal site may be exposed to asbestos dust then that person is provided with appropriate personal protective clothing or equipment.
- (3) A person who, at a workplace, is an employer, the main contractor, a self-employed person or the person having control of the workplace must ensure that on completion of any

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asbestos removal work at the workplace the workplace is left in a clean and safe condition either by washing or vacuuming and that any material containing asbestos is not left in such a state that asbestos dust may be dispersed into the atmosphere.

Penalty applicable to subregulations (1), (2) and (3): the regulation 1.16 penalty.

*[Regulation 5.49 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.50. Asbestos cement building materials**

A person who, at a workplace, is an employer, the main contractor, a self-employed person or the person having control of the workplace must ensure that —

- (a) any work involving asbestos cement building materials at the workplace is done in accordance with Part 9 of the *Code of Practice for the Safe Removal of Asbestos* 2<sup>nd</sup> Edition [NOHSC: 2002 (2005)]; and
- (b) any tool other than —
  - (i) a non-powered hand tool; or
  - (ii) a portable power tool incorporating dust suppression or dust extraction attachments designed to collect asbestos fibres,

is not used in any work involving asbestos cement building materials at the workplace.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.50 amended in Gazette 17 Dec 1999 p. 6235; 14 Dec 2004 p. 6018; 18 Nov 2005 p. 5662.]*

**5.51. Prohibition on use of compressed air and other techniques**

A person must not use or cause or permit to be used at a workplace compressed air or other dry brushing, shaking or dry sweeping method in any work involving the use of asbestos or in relation to any equipment or clothing used in the work.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

*[Regulation 5.51 amended in Gazette 14 Dec 2004 p. 6017.]*

**5.52. Waste asbestos material**

A person who, at a workplace at which there is asbestos waste material, is an employer, the main contractor, a self-employed person or the person having control of the workplace must ensure that the waste material is disposed of in accordance with Part 11 of the *Code of Practice for the Management and Control of Asbestos in Workplaces* [NOHSC: 2018 (2005)].

Penalty: the regulation 1.16 penalty.

*[Regulation 5.52 amended in Gazette 17 Dec 1999 p. 6235;  
14 Dec 2004 p. 6018; 18 Nov 2005 p. 5662-3.]*

**Subdivision 2 — Lead**

**5.53. Definitions**

In this Subdivision, unless the contrary intention appears —

“**atmospheric monitoring**” means determining the concentration of lead in air;

“**biological monitoring**” means determining the amount of lead in a person’s capillary or venous blood and the measurements incidental to that determination;

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

“**confirmed blood lead level**” means the concentration of lead in venous whole blood;

“**damp**” means sufficiently moist to prevent the escape of dust;

“**health surveillance**” has the meaning that it has in regulation 5.1 in relation to the hazardous substance of lead

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and includes biological monitoring and medical examination, but not atmospheric monitoring;

**“inorganic lead”** means lead metal, inorganic lead compounds and lead salts of organic acids;

**“lead material”** means material containing metallic lead or an inorganic lead compound in an amount such that the lead content of the anhydrous material is in excess of 5% by weight;

**“lead process”** means any process involving —

- (a) the use or handling of lead material;
- (b) any work which exposes a person to lead dust in air or lead fumes arising from the manufacture or handling of dry lead compounds;
- (c) any work in connection with the manufacture, assembly, handling or repair of, or parts of, electric accumulators which involves the manipulation of dry lead compounds, pasting or casting of lead;
- (d) the breaking up or dismantling of lead accumulators and the sorting, packing and handling of plates or other parts containing the lead removed or recovered from accumulators;
- (e) spraying with molten lead or alloys containing greater than 5% by weight of lead;
- (f) spray painting with paint containing greater than 1% by dry weight of lead;
- (g) the storage, manipulation, movement, or other treatment of lead material whether by means of any furnace, melting pot, retort, condensing chamber, flue, or other container;
- (h) melting or casting of lead alloys containing greater than 5% by weight of lead;
- (i) the cleaning or demolition of any furnace, melting pot, retort, condensing chamber, flue, or container in which lead material has been processed or contained;

- (j) recovery of lead from its ores, oxides or other compounds by a thermal reduction process;
- (k) using any power tool to dry machine grind, buff or cut lead or alloy containing greater than 5% by weight of lead;
- (l) hand grinding and finishing of lead or alloy containing greater than 50% by weight of lead;
- (m) using a machine to sand or buff a surface coated with paint containing greater than 1% by dry weight of lead;
- (n) the application, for the purposes of welding, cutting or cleaning, of electric arc, oxyacetylene, oxygas, plasma arc or a flame to the surface of any metal which is coated with lead or paint containing greater than 1% by dry weight of lead;
- (o) radiator repairs where exposure to lead dust or fumes may occur;
- (p) fire assay where lead is used; and
- (q) any other process determined by the Commissioner to be a lead process,

where the lead is inorganic lead;

**“lead-risk job”** means a work activity or a series of activities involving inorganic lead, in which the blood lead level of a person might reasonably be expected to be, or is —

- (a) in the case of females of reproductive capacity, at least 20 micrograms per decilitre (µg/dL); and
- (b) in any other case, at least 30 micrograms per decilitre (µg/dL);

**“removal level”** means a confirmed blood lead level concentration at which, under regulation 5.63, a person is to be transferred from a lead-risk job to a job which is not a lead-risk job.

**5.54. Lead-risk job assessment**

A person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure that before a person commences work at the workplace, it has been ascertained whether or not the proposed work is a lead-risk job.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.54 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.55. Information for prospective employees**

An employer must provide each prospective employee who, if employed, would work in a lead process, information about —

- (a) the health risks and toxic effects associated with lead exposure; and
- (b) the need for, and content of, health surveillance.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.55 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.56. Health surveillance and counselling**

A person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure that individual counselling and health surveillance supervised by an appointed medical practitioner is provided for, and at no cost to, each person who —

- (a) is about to commence work at the workplace in a lead-risk job; or
- (b) works at the workplace in a lead-risk job.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.56 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.57. Assessment of suitability for working in lead-risk jobs**

A person who, at a workplace, is an employer, the main contractor or a self-employed person must consider a person's

suitability for work in a particular lead-risk job at the workplace before the person commences the work and during the consideration must take into account, after consultation with the person —

- (a) the person's medical history and medical condition in relation to health effects associated with exposure to lead;
- (b) the removal level applicable to the person; and
- (c) the blood lead level which might reasonably be expected if a person works in a particular lead-risk job.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.57 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.58. Induction and training**

- (1) Before each employee who is likely to be exposed to lead commences work in a lead process, and at least annually after that, the employer must provide to the employee information about and training on —
  - (a) the potential health risk and toxic effects associated with lead exposure;
  - (b) the control measures used to minimise the risk to health and safety;
  - (c) the correct use of methods used to minimise lead contamination of the workplace and persons at the workplace;
  - (d) without limiting regulation 3.34, the correct care and use of personal protective equipment; and
  - (e) the need for, and details of, health surveillance,

with particular attention to the induction and training of any employee to whom regulation 5.63(1)(a), (b) or (c) applies or could apply and to the increased risks to females of reproductive capacity.

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- (2) The employer must ensure that records are kept of all induction and training undertaken by an employee for the purposes of subregulation (1) for the duration of the employee's employment.

Penalty applicable to subregulations (1) and (2): the regulation 1.16 penalty.

*[Regulation 5.58 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.59. Frequency of biological monitoring**

If a person works in a lead-risk job at a workplace then a person who, at the workplace, is an employer, the main contractor or a self-employed person must ensure that biological monitoring is conducted in relation to the first-mentioned person at the following times —

- (a) within the first month of the person's commencing the job;
- (b) 2 months after the initial monitoring;
- (c) 6 months after the initial monitoring; and
- (d) at such subsequent times as are determined by the appointed medical practitioner who is supervising the person's health surveillance.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.59 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.60. Duties of employers, main contractors and self-employed persons in relation to work with lead**

- (1) A person who, at a workplace other than a foundry, is an employer, the main contractor or a self-employed person must ensure that lead material (other than metallic lead) is not handled or moved at the workplace unless the material is damp.
- (2) A person who, at a workplace in which a lead process is conducted, is an employer, the main contractor or a self-employed person must ensure —



- (a) that protective clothing which has been provided for a person working in a lead process is washed, cleaned or renewed once a week or more frequently where necessary to protect the health or safety of persons at the workplace;
  - (b) in the case of a workplace other than a construction site, that —
    - (i) any area for eating and drinking is air-locked from any room in which a lead process is conducted and that there is no door or other means of entry directly from such room into the area set aside for eating and drinking;
    - (ii) basins with hot and cold water are provided in the ratio of one basin to every 5 (or up to 5) persons who work in the lead process; and
    - (iii) showers are provided for the use of persons who work in the lead process;
- and
- (c) in the case of a construction site, that running water is available to enable persons who work in the lead process to wash.

Penalty applicable to subregulations (1) and (2): the regulation 1.16 penalty.

*[Regulation 5.60 amended in Gazette 14 Dec 2004 p. 6018.]*

#### **5.61. Duties in relation to working with lead**

A person who works in a lead process must —

- (a) not smoke while his or her hands are contaminated with lead material;
- (b) before eating or drinking and on ceasing the work, wash his or her face, neck, hands and arms in the wash room or facilities provided for that purpose; and

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- (c) remove any contaminated clothing or personal protective equipment before entering an area set aside for the consumption of food.

Penalty for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty in any other case:

- (a) for a first offence, \$25 000; and
- (b) for a subsequent offence, \$31 250.

*[Regulation 5.61 amended in Gazette 14 Dec 2004 p. 6017.]*

**5.62. Employee to notify if pregnant or breast-feeding**

A female employee who works in a lead-risk job and who —

- (a) becomes pregnant; or
- (b) is breast-feeding,

must, as soon as practicable after becoming aware of the pregnancy or commencing the breast-feeding, as the case may be, notify her employer of the pregnancy or of the fact that she is breast-feeding.

Penalty: the regulation 1.15 penalty.

*[Regulation 5.62 amended in Gazette 14 Dec 2004 p. 6016-17.]*

**5.63. When person to be removed from lead work**

- (1) An employer must ensure that an employee is removed from a lead-risk job to a job that is not a lead-risk job if —
  - (a) the employee's confirmed blood lead level is at or above —
    - (i) in the case of a female of reproductive capacity, 30 micrograms per decilitre ( $\mu\text{g/dL}$ ); and
    - (ii) in any other case, 60 micrograms per decilitre ( $\mu\text{g/dL}$ );
  - (b) the employee is pregnant or breast-feeding; or

- (c) the employer or the employee believes that —
  - (i) the employee has had an excessive exposure to lead; or
  - (ii) the employee is experiencing adverse health effects related to lead exposure,

and that the removal takes place as soon as practicable after the employer becomes aware of the relevant event.

- (2) An employer who is required to remove an employee from a lead-risk job under paragraph (a) or (c) of subregulation (1) must also arrange for the employee to be examined by an appointed medical practitioner within 7 days of the removal.  
Penalty applicable to subregulations (1) and (2): the regulation 1.16 penalty.

*[Regulation 5.63 amended in Gazette 14 Dec 2004 p. 6018.]*

#### **5.64. Return to lead work after removal**

If an employee has been removed from a lead-risk job under regulation 5.63(1)(a) or (c), the employer must ensure that the employee does not return to any lead-risk job until the employee has been examined by an appointed medical practitioner (at the cost of the employer) and the medical practitioner has certified the employee as suitable to return to work in a lead-risk job.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.64 amended in Gazette 14 Dec 2004 p. 6018.]*

#### **5.65. Records in relation to lead**

- (1) An employer must establish and maintain for each employee who is removed from, or returned to, a lead-risk job, a record including —
  - (a) the employee's name, sex and date of birth; and
  - (b) the date of each occasion that the employee was removed from a lead-risk job together with the blood

lead level reached, and the corresponding date on which the employee was returned to a lead-risk job.

- (2) Subject to subregulation (3), an employer to whom subregulation (1) applies must keep the record for the duration of the employee's employment with the employer and for at least 30 years from the date of the last entry.
- (3) If an employer to whom subregulation (1) applies —
  - (a) ceases to operate in the State;
  - (b) satisfies the Commissioner that keeping, or the maintaining of, a record or report is impractical or inappropriate; or
  - (c) is requested to do so by the Commissioner,

then the employer must give the record to the Commissioner.

Penalty applicable to subregulations (1), (2) and (3): the regulation 1.16 penalty.

*[Regulation 5.65 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.66. Commissioner to keep certain records in relation to lead**

If the Commissioner is given a record under regulation 5.65(3) then the Commissioner is to ensure that the record is kept for at least 30 years from the date of the last entry on the record.

**5.67. Review of decisions concerning lead work**

A person who is not satisfied with a decision of an appointed medical practitioner in relation to the exclusion of a person from, the removal from or the return to a lead-risk job may seek a review by the Commissioner of the decision in accordance with regulation 2.15.

### Subdivision 3 — Styrene

**5.68. Definition**

In this Subdivision —

**“lower explosive limit”** means the minimum concentration of vapour, gas or dust in the atmosphere of a workplace that will propagate a flame.

**5.69. Styrene vapour to be minimised**

If styrene monomer vapour is present at a workplace, a person who, at the workplace, is an employer, the main contractor or a self-employed person must reduce, as far as practicable, the amount of styrene monomer vapour that is released into the workplace.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.69 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.70. Extracting styrene vapour from atmosphere**

A person who, at a workplace, is an employer, the main contractor or a self-employed person must prevent the lower explosive limit of styrene monomer from being reached in the workplace by ensuring, where it is practicable to do so, that there is in place a mechanical exhaust system arranged so as to —

- (a) prevent re-entry of the extracted air into the workplace; and
- (b) continue to extract air for at least 15 minutes after cessation of any process using styrene monomer.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.70 amended in Gazette 14 Dec 2004 p. 6018.]*

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**5.71. Emergency egress from workplaces where styrene monomer present**

A person who, at a workplace at which styrene monomer is present, is an employer, the main contractor, or a self-employed person must ensure that there is, in addition to any requirement in the Building Code in relation to exit signs for the building, a self-illuminating exit sign placed adjacent to the exit door of the workplace at a height of 1.5 metres above the level of the floor.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.71 amended in Gazette 14 Dec 2004 p. 6018.]*

**Subdivision 4 — Isocyanates**

**5.72. Definitions**

In this Subdivision —

**“curing agent”** means a chemical substance or energy source that is added to another substance or a process to change the nature of that other substance or the process and in the course of which the chemical substance or energy source is itself changed in character and wholly or partly incorporated into that other substance or process;

**“isocyanate”** includes monomeric toluene diisocyanate (TDI), monomeric hexamethylene diisocyanate (HDI), diphenyl methane diisocyanate (MDI), naphthalene diisocyanate (NDI), polymethylene polyphenyl isocyanate (PAPI), isocyanurate or any chemical commonly known as an isocyanate or as a derivative of an isocyanate;

**“polyhydroxy compound”** includes any chemical commonly known as a polyhydroxy compound or polyol that reacts with an isocyanate to form polyurethane;

**“polyurethane manufacturing process”** means any manufacturing process involving the reaction of an isocyanate or blend of differing isocyanates with a polyhydroxy compound;

**“promoter”** means the chemical cobalt naphthenate or any other chemical that assists a catalyst in a polyurethane manufacturing process;

**“resin”** means a solid, semi-solid or liquid organic material which normally has an indefinite and high molecular weight and which is used as a base in a polyurethane manufacturing process.

**5.73. Handling and using isocyanates**

Whatever the outcome of the assessment process referred to in regulations 3.1 and 3.32 and without limiting Division 3 of Part 3, a person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure —

- (a) that an isocyanate or any substance containing an isocyanate at the workplace is not —
  - (i) poured, injected, sprayed or otherwise handled or used in such a way that atomization of such a substance could occur;
  - (ii) handled or used in a form in which the temperature of such a substance is above 60°C;  
or
  - (iii) handled or used in a place that is a confined space within the meaning of regulation 3.82;
- and
- (b) that no person enters any area of the workplace that is known to be or is suspected of being contaminated with an isocyanate vapour,

unless the person handling or using the isocyanate or substance or entering the area, as the case may be, is wearing or using adequate eye, skin and respiratory protective equipment.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.73 amended in Gazette 14 Dec 2004 p. 6018.]*

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**5.74. Decanting isocyanates**

Whatever the outcome of the assessment process referred to in regulations 3.1 and 3.32 and without limiting Division 3 of Part 3, a person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure that a person who decants an isocyanate at the workplace —

- (a) wears or uses adequate eye, skin and respiratory protective equipment for protection against hazards resulting from a spillage;
- (b) does not, under any circumstances, apply positive pressure to the isocyanate container; and
- (c) does not siphon by the use of the mouth.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.74 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.75. Ventilation required if containers heated**

A person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure that no container of isocyanate is heated at the workplace unless the space in which the container is located is vented to the external atmosphere.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.75 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.76. Decontamination of isocyanate containers and utensils**

A person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure that any container or utensil at the workplace that has been used for storing or handling an isocyanate is decontaminated before the container or utensil is re-used or sold.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.76 amended in Gazette 14 Dec 2004 p. 6018.]*



**5.77. Spillage of isocyanates etc.**

A person who, at a workplace at which is conducted a process in which an isocyanate is used, is an employer, the main contractor or a self-employed person must —

- (a) display in a conspicuous place, a statement in relation to the spillage of an isocyanate, a curing agent, a promoter or resin setting out —
  - (i) the procedures to be followed by persons at the workplace in the event of a spillage; and
  - (ii) the decontaminants present at the workplace which are to be used to clean up a spillage;

and

- (b) arrange for the contents of every bin containing a mixture of an isocyanate and decontaminant or sawdust or sand obtained after cleaning up a spillage to be disposed of at a sanitary landfill site in accordance with the *Health Act 1911*.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.77 amended in Gazette 14 Dec 2004 p. 6018.]*

**5.78. Workplace requirements**

A person who, at a workplace, is an employer, the main contractor or a self-employed person must ensure that a polyurethane manufacturing process involving the use of toluene diisocyanate or any blend of isocyanates that has monomeric toluene diisocyanate as a constituent is not conducted at the workplace unless —

- (a) the workplace is divided into separate areas for the following purposes —
  - (i) administration and amenities;
  - (ii) bulk stores for raw materials that are polyhydroxy compounds;

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- (iii) bulk stores for raw materials that are isocyanates;
  - (iv) polyurethane manufacture;
  - (v) curing area;
  - (vi) bulk store for manufactured foam;
  - (vii) the making of any product derived from the process;
- (b) the areas of the workplace referred to in paragraph (a) —
  - (i) are each situated in a separate building not less than 6 metres from any other such area; or
  - (ii) are separated from each other in the same building by walls having a fire resistance level not less than that required under the Building Code in relation to the class of that building;
- (c) the areas referred to in paragraph (a)(ii) to (vii) are in a building or buildings having not more than one storey;
- (d) each area referred to in paragraph (a)(ii) to (vii) has not less than 2 exits situated so that there is at least one exit within 20 metres of any part of the area;
- (e) there is, in addition to any requirement in the Building Code in relation to exit signs for the building, a self-illuminating exit sign placed adjacent to each exit referred to in paragraph (d) at a height of 1.5 metres above the level of the floor;
- (f) there is a fire hydrant within 60 metres of each part of the workplace;
- (g) the storage of all isocyanates at the workplace is in accordance with the *Explosives and Dangerous Goods (Dangerous Goods Handling and Storage) Regulations 1992*; and
- (h) polyurethane foam produced from monomeric toluene diisocyanate is placed in the curing area for not less than 6 hours immediately after it is produced so that there is

sufficient ventilation to ensure the dispersal of heat and fumes from the curing area.

Penalty: the regulation 1.16 penalty.

*[Regulation 5.78 amended in Gazette 8 Jun 1999 p. 2525;  
14 Dec 2004 p. 6018.]*

## **Part 6 — Certificates of competency**

### **6.1. Interpretation**

- (1) In this Part, unless the contrary intention appears —
- “**assessor**” means a person registered under regulation 6.6 as an assessor;
- “**boiler**” does not include an “unattended boiler”, as referred to in Schedule C to the national standard;
- “**certificate of competency**” means a certificate issued in accordance with the national standard, and includes evidence of a satisfactory assessment referred to in clause 5.22 of the national standard;
- “**certificated person**” means a person who is using or operating industrial equipment and holds a certificate of competency to do so;
- “**industrial equipment**” means equipment to which the national standard applies;
- “**national standard**” means the *National Occupational Health and Safety Certification Standard for Users and Operators of Industrial Equipment* [NOHSC: 1006 (2001)];
- “**prescribed work**” means work to which the national standard applies;
- “**uncertificated person**” means a person who is performing prescribed work, or using or operating industrial equipment, but does not hold a certificate of competency to do so, and includes a person who is receiving training in accordance with the national standard in the performance of that work or in the use or operation of that equipment.
- (2) A reference in this Part to using or operating equipment is to be treated, if the equipment is a boiler, as including a reference to attending and checking the boiler.

*[Regulation 6.1 amended in Gazette 8 Mar 2002 p. 998.]*

**6.2. Application of national standard**

- (1) The national standard applies in relation to the obtaining and holding of certificates of competency by persons who perform prescribed work, or who use or operate industrial equipment, as if the provisions of the national standard were set out in these regulations and, for the purposes of applying the national standard, a reference in it —
  - (a) to the certifying authority, or the authorised officer of the certifying authority, is to be treated as a reference to the Commissioner;
  - (b) to a workplace, is to be treated as a reference to a workplace as defined in section 3 of the Act; and
  - (c) to a record of training is to be treated as a reference to a record of training that complies with regulation 6.2A.
- (2) A person who applies to the Commissioner in accordance with the national standard for —
  - (a) a certificate of competency; or
  - (b) a replacement for a lost, stolen or destroyed certificate of competency or a certificate issued under regulations repealed by regulation 7.3,

is to include with the application the application fee set out in item 1 or item 2 of Schedule 6.3, as the case requires, which is not refundable if the application is unsuccessful.

*[Regulation 6.2 amended in Gazette 17 Dec 1999 p. 6235;  
3 Oct 2003 p. 4362.]*

**6.2A. Record of training**

For the purposes of this Part a record of training in relation to a person who applies to the Commissioner in accordance with the national standard for a certificate of competency (the “**applicant**”) is a current English language record that —

- (a) includes the applicant’s name and address;

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- (b) includes for each specific type of industrial equipment the applicant used and operated during the training, sufficient information to show the tasks performed and the outcomes achieved by the applicant in the use and operation of the equipment;
- (c) includes for each occasion the applicant used and operated each specific type of industrial equipment —
  - (i) the date and time when the applicant used and operated the equipment;
  - (ii) the name of the person who oversighted or supervised the applicant's use and operation of the equipment, and the number of that person's certificate of competency; and
  - (iii) a signed statement by that person to the effect that he or she oversighted or supervised the applicant's use and operation of the equipment;and
- (d) otherwise complies with the national standard.

*[Regulation 6.2A inserted in Gazette 3 Oct 2003 p. 4362-3.]*

**6.3. Certificate necessary to perform prescribed work or use or operate industrial equipment**

- (1) Subject to subregulation (2) and regulation 6.4(1), a person must not perform any prescribed work, or use or operate any industrial equipment, unless the person holds a certificate of competency that the person is required by the national standard to hold to perform that work or use or operate that equipment.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case:

- (a) for a first offence, \$25 000; and
- (b) for a subsequent offence, \$31 250.

- (2) A person who does not hold a certificate of competency —
  - (a) may use or operate a materials platform hoist where the vertical travel involved does not exceed 11 metres; or
  - (b) may use or operate any industrial equipment in the course of its manufacture, maintenance or repair if —
    - (i) the equipment is not used or operated outside the bounds of the workplace at which it is being manufactured, maintained or repaired, as the case requires; and
    - (ii) the equipment is not used or operated under load conditions.

*[Regulation 6.3 amended in Gazette 14 Dec 2004 p. 6017.]*

**6.4. Uncertificated person under supervision**

- (1) An uncertificated person may perform prescribed work, or use or operate industrial equipment, if —
  - (a) the person is under the supervision of a person who holds a certificate of competency to perform that work, or use or operate that equipment; or
  - (b) the person is being assessed by an assessor in the performance of that work or the use or operation of that equipment.
- (2) A person who holds a certificate of competency to perform prescribed work, or use or operate industrial equipment, as referred to in Schedule A to the national standard, must not supervise more than 4 uncertificated persons at any one time.
- (3) A person who holds a certificate of competency to perform prescribed work, or use or operate industrial equipment, as referred to in Schedule B or C to the national standard, must not supervise more than one uncertificated person at any one time.

Penalty applicable to subregulations (2) and (3) for a person who commits the offence as an employee:

- (a) for a first offence, \$5 000; and

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- (b) for a subsequent offence, \$6 250.

Penalty applicable to subregulations (2) and (3) in any other case:

- (a) for a first offence, \$25 000; and
- (b) for a subsequent offence, \$31 250.

*[Regulation 6.4 amended in Gazette 14 Dec 2004 p. 6015.]*

**6.5. Certain industrial equipment not to be left unattended while in use**

A certificated person using or operating —

- (a) a crane, a hoist or a concrete placing boom, as referred to in Schedule B to the national standard; or
- (b) a boiler, turbine or reciprocating steam engine, as referred to in Schedule C to the national standard,

must not leave the crane, hoist, concrete placing boom, boiler, turbine or reciprocating steam engine, as the case requires, while it is in use or operation unless another certificated person has taken over control of it.

Penalty for a person who commits the offence as an employee:

- (a) for a first offence, \$5 000; and
- (b) for a subsequent offence, \$6 250.

Penalty in any other case:

- (a) for a first offence, \$25 000; and
- (b) for a subsequent offence, \$31 250.

*[Regulation 6.5 amended in Gazette 14 Dec 2004 p. 6015-16.]*

**6.6. Registration of person as assessor**

- (1) A person may, in an approved form, apply to the Commissioner to be registered as an assessor for the purposes of assessing applicants for the categories or classes of certificates of competency set out in the application form.



- (2) A person who applies under subregulation (1) is to include with the application the registration fee set out in item 3 of Schedule 6.3, which is not refundable if the application is unsuccessful.
- (3) The Commissioner may register a person as an assessor for categories or classes of certificates of competency, whether or not the person is an officer of the department if the Commissioner, having regard to the qualifications in the national standard for a person to be registered as an assessor, is satisfied that the person is qualified to be so registered.
- (4) Unless it is sooner suspended or cancelled, a person's registration as an assessor under this regulation has effect until the expiry of —
  - (a) 3 years after the person's registration as an assessor; or
  - (b) the period specified by the Commissioner under regulation 6.8(4) for the most recent renewal.

*[Regulation 6.6 amended in Gazette 23 Dec 2005 p. 6295.]*

**6.7. Variation of registration**

- (1) A person who is registered as an assessor may, in an approved form, apply to the Commissioner —
  - (a) for a change to be made to a category or class of certificate of competency for which the assessor is registered; or
  - (b) for a category or class of certificate of competency to be added to the categories or classes of certificate for which the assessor is registered.
- (2) A person who applies under subregulation (1) is to include with the application the application fee set out in item 4 of Schedule 6.3, which is not refundable if the application is unsuccessful.
- (3) The Commissioner may change or add to the category or class of certificate of competency for which an assessor is registered

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if the Commissioner, having regard to the qualifications referred to in regulation 6.6(3), is satisfied that it is appropriate to do so.

- (4) A change or addition to a category or class of certificate of competency for which an assessor is registered does not affect the period for which the assessor is registered.

**6.8. Renewal of registration as assessor**

- (1) A person may, in an approved form, apply to the Commissioner for the renewal of the person's registration as an assessor if the application is made before the expiry of the period for which the registration has effect.
- (2) A person who applies under subregulation (1) is to include with the application the application fee set out in item 5 of Schedule 6.3, which is refundable if the application is unsuccessful.
- (3) The Commissioner may renew the registration of an assessor if the Commissioner, having regard to the qualifications referred to in regulation 6.6(3), is satisfied that it is appropriate to do so.
- (4) If the Commissioner renews the registration of an assessor the Commissioner is to specify the period, not exceeding 3 years, for which the registration has effect.

*[Regulation 6.8 amended in Gazette 23 Dec 2005 p. 6295.]*

**6.9. Suspension and cancellation of registration of assessor**

If, in the opinion of the Commissioner, an assessor is no longer competent to do the work of an assessor, the Commissioner may, by notice in writing to the assessor —

- (a) suspend the registration of the assessor for any period not greater than 12 months that the Commissioner considers appropriate; or
- (b) cancel the registration of the assessor,

as the Commissioner considers appropriate.

## **Part 7 — Repeal, savings and transitional**

### **7.1. Definitions**

In this Part, unless the contrary appears —

**“classified plant”** has the meaning that it has in regulation 103 of the repealed regulations and includes plant which, under those regulations, were deemed to comply with those regulations;

**“commencement”** means the commencement of these regulations;

**“designated plant”** has the meaning that it has in regulation 103 of the repealed regulations;

**“repealed regulations”** means the regulations repealed by regulation 7.3.

### **7.2. *Interpretation Act 1984* applies**

This Part does not limit the operation of the *Interpretation Act 1984*.

### **7.3. Repeal**

The *Occupational Safety and Health Regulations 1988* are repealed.

### **7.4. Dealing with audiograms recorded under certain previously repealed regulations**

(1) In this regulation —

**“audiogram”** includes a copy of an audiogram recorded under the *Noise Abatement (Hearing Conservation in Workplaces) Regulations 1983*<sup>3</sup> and any written details or information including test results or details of a computer code, relating to, identifying or derived from an audiogram so recorded, other than any statistical summary referred to in regulation 27 of those regulations or a copy of such a statistical summary.

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- (2) Except as provided in subregulation (3), a person must not communicate —
- (a) the contents of, or any information on the contents of, an audiogram recorded under the *Noise Abatement (Hearing Conservation in Workplaces) Regulations 1983*<sup>3</sup>; or
  - (b) any information which enables or assists a person to gain access to the contents of or any information on the contents of an audiogram recorded under those regulations.

Penalty:

- (a) in the case of an individual —
    - (i) for a first offence, \$2 000; and
    - (ii) for a subsequent offence, \$2 500;or
  - (b) in the case of a body corporate —
    - (i) for a first offence, \$4 000; and
    - (ii) for a subsequent offence, \$5 000.
- (3) A person may make a communication referred to in subregulation (2) if it is made —
- (a) by, to, or with the written consent of, or at the written request of the person to whom the audiogram relates; or
  - (b) in accordance with the written approval of the Commissioner.

*[Regulation 7.4 amended in Gazette 14 Dec 2004 p. 6016.]*

**7.5. Existing accepted plant design deemed to be registered plant design under these regulations**

- (1) If —
- (a) immediately before the commencement —
    - (i) designated plant was of a design which had been accepted by the Commissioner under

regulation 603 of the repealed regulations and the design of the plant included such modifications (if any) as had been required by the Commissioner for the acceptance of the design; or

- (ii) under the repealed regulations plant was deemed to comply with those regulations,

and

- (b) the plant referred to in paragraph (a)(i) or (ii) is also of a kind set out in Schedule 4.1,

then, on the commencement, the design for that plant is to be treated as being registered for the purposes of Division 2 of Part 4.

- (2) On the commencement, the identification number which had been assigned to the design for the plant referred to in subregulation (1)(a)(i) or (ii) is to be treated as the design registration number issued under regulation 4.10 for the plant design.

**7.6. Unfinished applications for acceptance of plant design deemed to be applications for registration of plant design under these regulations**

If —

- (a) a person had applied, before the commencement, for the design of designated plant to be accepted but the application had not been determined to be successful or unsuccessful immediately before the commencement; and
- (b) the plant is also of a kind set out in Schedule 4.1,

then, on the commencement, the application is to be treated as an application for the registration of the design of the plant under regulation 4.3.

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**7.7. Existing classified plant with current certificate of inspection deemed to be registered under these regulations**

- (1) If, immediately before the commencement, a certificate of inspection was current in respect of any classified plant and that plant is also an individual item of plant of a kind set out in Schedule 4.2 then, on the commencement, the classified plant is to be treated as being a registered item of plant for the purposes of Division 2 of Part 4.
- (2) On the commencement —
  - (a) the limitations, restrictions or conditions (if any) which had been endorsed on the certificate of inspection relating to an item of classified plant referred to in subregulation (1) are to be treated as conditions imposed under regulation 4.17(1)(b); and
  - (b) the identification number which had been assigned to an item of classified plant referred to in subregulation (1) is to be treated as the registration number issued under regulation 4.19 for that item.

**7.8. Existing “Part B” plant deemed to be registered under these regulations**

- (1) If, immediately before the commencement, designated plant to which Part B of Schedule 4 of the repealed regulations applied had been inspected in accordance with regulation 603A of the repealed regulations and that plant is also an individual item of plant of a kind set out in Schedule 4.2 then, on the commencement, the plant is to be treated as being a registered item of plant for the purposes of Division 2 of Part 4.
- (2) On the commencement the identification number which had been assigned to an item of designated plant referred to in subregulation (1) is to be treated as the registration number issued under regulation 4.19 for that item.

**7.9. Certain unfinished applications for certificates of inspection deemed to be applications for registration of items of plant under these regulations**

If a person had applied, before the commencement, for the issue of a certificate of inspection in respect of an item of classified plant for which a certificate of inspection had not previously been issued but the application had not been determined to be successful or unsuccessful immediately before the commencement then, on the commencement, the application is to be treated as an application for the registration of the item of plant under regulation 4.15.

**7.10. Existing holders of certificates of competency deemed to be certificated under these regulations**

If, immediately before the commencement, a person held a certificate of competency —

- (a) within the meaning of regulation 1001(1) of the repealed regulations; or
- (b) of a kind referred to in regulation 1107(1) of the repealed regulations,

then, on the commencement, the certificate is to be treated as a certificate of competency for the purposes of Part 6.

**7.11. Existing assessors deemed to be assessors under these regulations**

If, immediately before the commencement, a person was an assessor within the meaning of regulation 1001(1) of the repealed regulations then, on the commencement, the person is to be treated as an assessor for the purposes of Part 6 in relation to the categories or classes of certificates of competency for which the person was registered as an assessor immediately before commencement.

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**7.12. Unfinished applications for certificates of competency or for registration as an assessor deemed to be made under these regulations**

If a person had applied, before the commencement —

- (a) for a certificate of competency within the meaning of regulation 1001(1) of the repealed regulations; or
- (b) to be registered as an assessor within the meaning of regulation 1001(1) of the repealed regulations,

but the application had not been determined to be successful or unsuccessful immediately before the commencement then, on the commencement, the application is to be treated as having been made for the purposes of Part 6.



## Schedule 1 — Australian Standards and Australian/New Zealand Standards

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Item	AS or AS/NZS Number	Title	Regulation Reference
1	AS/NZS 1200:2000	Pressure equipment	4.1, 4.43, Sch. 4.3
2	AS/NZS 1269	Occupational noise management	3.45, 3.47
	AS/NZS 1269.1:1998	Measurement and assessment of noise emission and exposure	
	AS/NZS 1269.3:1998	Hearing protector program	
3	AS 1319-1994	Safety signs for the occupational environment	1.3, 3.11, 3.34, 3.36, 4.1
4	AS/NZS 1337:1992	Eye protectors for industrial applications	3.33
5	AS/NZS 1338:1992	Filters for eye protectors	3.33
6	AS 1418	Cranes (including hoists and winches)	4.54, Sch. 4.3
	AS 1418.1-2002	Cranes, hoists and winches — General requirements	
	AS 1418.2-1997	Serial hoists and winches	
	AS 1418.3-1997	Bridge, gantry, portal (including container cranes) and jib cranes	
	AS 1418.4-2001	Tower cranes	
	AS 1418.5-2002	Mobile cranes	
	AS 1418.6-1988	Guided storing and retrieving appliances	
	AS 1418.7-1999	Builders' hoists and associated equipment	
	AS 1418.8-2002	Special purpose appliances	

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<b>Item</b>	<b>AS or AS/NZS Number</b>	<b>Title</b>	<b>Regulation Reference</b>
	AS/NZS 1418.9:1996	Vehicle hoists	
	AS 1418.10-1996	Elevating work platforms	
	AS 1418.12-1991	Crane collector systems	
	AS 1418.13-1996	Building maintenance units	
	AS 1418.14-1996	Requirements for cranes subject to arduous working conditions	
	AS 1418.15-1994	Concrete placing equipment	
	AS 1418.16-1997	Mast climbing work platforms	
	AS 1418.17-1996	Design and construction of workboxes	
	AS 1418.18-2001	Crane runways and monorails	
7	AS/NZS 1576	Scaffolding	3.67, 3.72, 3.128, Sch. 4.3
	AS/NZS 1576.1:1995	General requirements	
	AS 1576.2-1991	Couplers and accessories	
	AS/NZS 1576.3:1995	Prefabricated and tube-and-coupler scaffolding	
	AS 1576.4-1991	Suspended scaffolding	
	AS/NZS 1576.5:1995	Prefabricated splitheads and trestles	
	AS/NZS 1576.6:2000	Metal tube-and-coupler scaffolding — Deemed to comply with AS/NZS 1576.3	

<b>Item</b>	<b>AS or AS/NZS Number</b>	<b>Title</b>	<b>Regulation Reference</b>
8	AS 1636-1996	Agricultural wheeled tractors — Roll-over protective structures — Criteria and tests	4.44
9	AS 1674	Safety in welding and allied processes	3.96
	AS 1674.1-1997	Fire precautions	
	AS 1674.2-1990	Electrical	
10	AS/NZS 1715:1994	Selection, use and maintenance of respiratory protective devices	3.37, 3.40, 3.42
11	AS/NZS 1716:1994	Respiratory protective devices	3.40, 3.42
12	AS 1735	Lifts, escalators, and moving walks (known as the SAA Lift Code)	4.56, Sch. 4.3
	AS 1735.1-2001	General requirements	
	AS 1735.2-2001	Passenger and goods lifts — Electric	
	AS 1735.3-2001	Passenger and goods lifts — Electro-hydraulic	
	AS 1735.4-1986	Service lifts — Power-operated	
	AS 1735.5-2001	Escalators and moving walks	
	AS 1735.7-1998	Stairway lifts	
	AS 1735.8-1986	Inclined lifts	
	AS 1735.9-1994	Special purpose industrial lifts	
	AS 1735.10(Int)-1998	Tests	
	AS 1735.11-1986	Fire-rated landing doors	
	AS 1735.12-1999	Facilities for persons with disabilities	

<b>Item</b>	<b>AS or AS/NZS Number</b>	<b>Title</b>	<b>Regulation Reference</b>
	AS 1735.13-1986	Lifts for persons with limited mobility — Manually powered	
	AS 1735.14-1998	Low-rise platforms for passengers	
	AS 1735.15-2002	Lifts for people with limited mobility — Restricted use — Non-automatically controlled	
	AS 1735.16-1993	Lifts for persons with limited mobility — Restricted use — Automatically controlled	
	AS 1735.17-1995	Lifts for people with limited mobility — Restricted use — Water-drive	
	AS/NZS 1735.18:2002	Passenger lifts for private residence — Automatically controlled	
13	AS/NZS 1801:1997	Occupational protective helmets	3.33, 3.36
14	AS/NZS 1873:1994	Powder-actuated (PA) hand-held fastening tools	4.51
15	AS/NZS 1892	Portable ladders	3.26
	AS/NZS 1892.1:1996	Metal	
	AS 1892.2-1992	Timber	
16	AS 2030	The verification, filling, inspection, testing and maintenance of cylinders for storage and transport of compressed gases	4.1, 4.43, Sch. 4.2, Sch. 4.3
	AS 2030.1-1999	Cylinders for compressed gases other than acetylene	

<b>Item</b>	<b>AS or AS/NZS Number</b>	<b>Title</b>	<b>Regulation Reference</b>
	AS 2030.2-1996	Cylinders for dissolved acetylene	
	AS 2030.4-1985	Welded cylinders — Insulated	
	AS 2030 Supplement 1-1986	Foreign gas cylinder specifications	
17	AS 2106:1999	Methods for the determination of the flashpoint of flammable liquids (closed cup)	3.99
18	AS/NZS 2161	Occupational protective gloves	3.33
	AS/NZS 2161.1:2000	Selection, use and maintenance	
	AS/NZS 2161.2:1998	General requirements	
	AS/NZS 2161.3:1998	Protection against mechanical risks	
	AS/NZS 2161.4:1999	Protection against thermal risks (heat and fire)	
	AS/NZS 2161.5:1998	Protection against cold	
	AS 2161.6(Int)-2001	Laboratory test methods and performance requirements	
	AS/NZS 2161.7.1:1998	Protection against cuts and stabs by hand knives — Chainmail gloves and arm guards	
	AS/NZS 2161.8:2002	Protection against ionizing radiation and radioactive contamination	
	AS/NZS 2161.9:2002	Method of measurement and evaluation of the vibration transmissibility of gloves at the palm of the hand	

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<b>Item</b>	<b>AS or AS/NZS Number</b>	<b>Title</b>	<b>Regulation Reference</b>
	AS/NZS 2161.10.1:2002	Terminology and performance requirements	
	AS/NZS 2161.10.2:2002	Determination of resistance to penetration	
	AS/NZS 2161.10.3:2002	Determination of resistance to permeation by chemicals	
19	AS/NZS 2208:1996	Safety glazing materials in buildings	3.104
20	AS/NZS 2210	Occupational protective footwear	3.33
	AS/NZS 2210.1:1994	Guide to selection care and use	
	AS/NZS 2210.2:2000	Requirements and test methods	
	AS/NZS 2210.3:2000	Specification for safety footwear	
	AS/NZS 2210.4:2000	Specification for protective footwear	
	AS/NZS 2210.5:2000	Specification for occupational footwear	
	AS/NZS 2210.6:2001	Additional requirements and test methods	
	AS/NZS 2210.7:2001	Additional specifications for safety footwear	
	AS/NZS 2210.8:2001	Additional specifications for protective footwear	
	AS/NZS 2210.9:2001	Additional specifications for occupational footwear	
21	AS/NZS 2211	Laser safety	4.49
	AS/NZS 2211.1:1997	Equipment classification, requirements and user's guide	

<b>Item</b>	<b>AS or AS/NZS Number</b>	<b>Title</b>	<b>Regulation Reference</b>
	AS/NZS 2211.1 Supplement 1:1999	Application guidelines and explanatory notes	
22	AS 2268-1979	Electrostatic paint and powder spray guns for explosive atmospheres	3.101
23	AS 2294-1997	Earth-moving machinery — Protective structures	4.44, 4.45
24	AS/NZS 2299.1:1999	Occupational diving operations — Standard operational practice	3.29
	AS/NZS 2299.1 Supplement 1:1999	Standard operational practice — AS/NZS 2299 Diving Medical Examination Forms	
25	AS 2375-1980	Guide to the selection, care and use of clothing for protection against heat and fire	3.33
26	AS 2397-1993	Safe use of lasers in the building and construction industry	4.49
27	AS 2444-2001	Portable fire extinguishers and fire blankets — Selection and location	3.9
28	AS 2550	Cranes — Safe use	4.54
	AS 2550.1-2002	General requirements	
	AS 2550.3-2002	Bridge, gantry, portal (including container cranes), jib and monorail cranes	
	AS 2550.4-1994	Tower cranes	
	AS 2550.5-2002	Mobile cranes	
	AS 2550.6-1995	Guided storing and retrieving appliances	

<b>Item</b>	<b>AS or AS/NZS Number</b>	<b>Title</b>	<b>Regulation Reference</b>
	AS 2550.7-1996	Builders' hoists and associated equipment	
	AS/NZS 2550.9:1996	Vehicle hoists	
	AS 2550.10-1994	Elevating work platforms	
	AS 2550.13-1997	Building maintenance units	
	AS 2550.15-1994	Concrete placing equipment	
	AS 2550.16-1997	Mast climbing work platforms	
29	AS 2593-2001	Boilers — Unattended and limited attendance	4.43
30	AS 2601-2001	Demolition of structures	3.119, 3.120, 3.122, 3.123, 3.124, 3.125
31	AS/NZS 2604:1998	Sunscreen products — Evaluation and classification	3.33
32	AS/NZS 2865:2001	Safe working in a confined space	3.85
33	AS 2971-2002	Serially produced pressure vessels	Sch. 4.2
34	AS 2985-1987	Workplace atmospheres — Method for sampling and gravimetric determination of respirable dust	3.37
35	AS/NZS 3000:2000	Electrical installations — Buildings, structures and premises (known as the SAA Wiring Rules)	3.101, 4.27



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<b>Item</b>	<b>AS or AS/NZS Number</b>	<b>Title</b>	<b>Regulation Reference</b>
36	AS/NZS 3012:1995	Electrical installations — Construction and demolition sites	3.58, 3.60, 3.61, 3.62, 3.63, 3.64
37	AS/NZS 3108:1994	Approval and test specification — Particular requirements for isolating transformers and safety isolating transformers	3.60
38	AS/NZS 3509:1996	LP gas fuel vessels for automotive use	Sch. 4.2, Sch. 4.3
39	AS 3533-1997	Amusement rides and devices	4.52, Sch. 4.1, Sch. 4.2, Sch. 4.3
40	AS 3640-1989	Workplace atmospheres — Method for sampling and gravimetric determination of inspirable dust	3.37
41	AS 3765-1990	Clothing for protection against hazardous chemicals	3.33
42	AS/NZS 3788:2001	Pressure equipment — In-service inspection	4.43
43	AS 3850 – 2003	Tilt-up concrete construction	3.88, 3.88B, 3.88C, 3.88D, 3.88E
44	AS 3873-2001	Pressure equipment — Operation and maintenance	4.43
45	AS 3892-2001	Pressure equipment — Installation	4.43
46	AS 3920.1-1993	Assurance of product quality — Pressure equipment manufacture	4.3, Sch. 4.3

**Occupational Safety and Health Regulations 1996****Schedule 1** Australian Standards and Australian/New Zealand Standards

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<b>Item</b>	<b>AS or AS/NZS Number</b>	<b>Title</b>	<b>Regulation Reference</b>
47	AS/NZS 4114:1995	Spray painting booths	3.100
48	AS 4343:1999	Pressure equipment — Hazard levels	4.1, Sch. 4.1, Sch. 4.2, Sch. 4.3
49	AS/NZS 4431:1996	Guidelines for safe working on new lift installations in new constructions	4.57
50	AS/NZS 4576:1995	Guidelines for scaffolding	3.26

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*[Schedule 1 inserted in Gazette 10 Jan 2003 p. 65-75; amended in Gazette 22 Oct 2004 p. 4841.]*

## Schedule 2 — Forms relating to general provisions

### Form 1 — Notification of injury

[Regulation 2.4(2)]

#### *Occupational Safety and Health Act 1984*

WorkSafe Western Australia Commissioner  
PO Box 294  
WEST PERTH WA 6872  
Phone: (08) 9327 8777 Fax: (08) 9321 8973

INJURY REPORTING TELEPHONES:  
(08) 9327 8800  
1800 198118

#### Section 1: Employer Details

Employer Name:  
Workplace Name:  
Address:

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-----
Suburb/Town:
Postcode:
Phone Number:
Fax Number:
WorkCover Number:

Date of Injury:

\_\_/\_\_/\_\_

Time of injury:

\_\_:\_\_ am

\_\_:\_\_ pm

Address of workplace  
where injury occurred:

Phone Number:

Fax Number:

Type of workplace  
where injury occurred:

(eg. construction site, panel  
beating shop, etc)

-----	
Suburb/Town:	Postcode:

#### Section 2: Details of injured person

Surname:  
Given Names:  
Occupation:

-----
-----
-----
Date of Birth: __/__/__      Age: __
Sex:    Male: <input type="checkbox"/> Female: <input type="checkbox"/>

Estimated time  
person is unable to  
work: \_\_ days

**Section 3: Injury Details**

Nature of injury:

Brief description of how injury occurred:


Place injured person removed to:

Name of person reporting accident:

Position:

Phone Number:


Person for liaison:

Phone Number:


OFFICE USE ONLY:

Person receiving report: .....

Date: \_\_/\_\_/\_\_

Time: .....

- ☐ Nat.
- ☐ Loc.
- ☐ Ag.
- ☐ Type

*[Form 1 amended in Gazette 7 Jun 2002 p. 2735-6.]*

**Form 2 — Notification of Disease**

[Regulation 2.5(2)]

***Occupational Safety and Health Act 1984***

WorkSafe Western Australia Commissioner  
PO Box 294  
WEST PERTH WA 6872  
Phone: (08) 9327 8777 Fax: (08) 9321 8973

DISEASE REPORTING TELEPHONES:  
(08) 9327 8800  
1800 198118

**Section 1: Employer Details**

Employer Name:		
Workplace Name:		
Address:		
	Suburb/Town:	Postcode:
Phone Number:		WorkCover Number:
Fax Number:		

**Section 2: Details of person affected**

Surname:		
Given Names:		
Occupation:		
	Date of Birth: __ / __ / __	Age: __
Sex:	Male: <input type="checkbox"/> Female: <input type="checkbox"/>	

**Section 3: Diagnosis Details**

Name of Disease:		
Date of Diagnosis:		
Name of Medical Practitioner:		
Address:		
	Suburb/Town:	Postcode:
Phone Number:		
Fax Number:		

**Section 4: Description of work done by affected person.**

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**Section 5:**

Name of person reporting disease:

Position:

Phone Number:

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Person for liaison:

Phone Number:

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*[Form 2 amended in Gazette 7 Jun 2002 p. 2736.]*

*[Form 3 deleted in Gazette 6 Jan 2006 p. 12.]*

Form 4 — Reference of improvement notice for review

[Regulation 2.8(1)]

*Occupational Safety and Health Act 1984* section 51

WorkSafe Western Australia Commissioner  
PO Box 294  
WEST PERTH WA 6872  
Phone: (08) 9327 8777  
Fax: (08) 9321 8973

Take notice that I, .....  
(print name of person referring notice for review)

refer improvement notice number ☐ ☐ ☐ ☐ ☐ ☐

issued by .....  
(inspector)

on ..... to you for review.  
(date notice was issued)

The improvement notice relates to the workplace at:

.....  
(address)

of .....  
(employer)

The notice is to be complied with before .....  
(compliance date on improvement notice)

I request the review on the following grounds:

.....  
.....  
.....  
.....

Signature of person referring notice  
for review:

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Date:

NOTE: A reference of an **improvement notice** for review must be made to the Commissioner within the time specified in the notice as the time before which the notice is required to be complied with [section 51(2)(a) of the Act].

*[Form 4 amended in Gazette 7 Jun 2002 p. 2736.]*

**Form 5 — Reference of prohibition notice for review**

[Regulation 2.8(2)]

***Occupational Safety and Health Act 1984 section 51***

WorkSafe Western Australia Commissioner  
PO Box 294  
WEST PERTH WA 6872  
Phone: (08) 9327 8777  
Fax: (08) 9321 8973

Take notice that I, .....  
(print name of person referring notice for review)

refer prohibition notice number    ☐ ☐ ☐ ☐ ☐ ☐

issued by .....  
(inspector)

on ..... to you for review.  
(date notice was issued)

The prohibition notice relates to the workplace at:

.....  
(address)

of .....  
(employer)

Activity prohibited: .....

I request the review on the following grounds:

.....  
.....  
.....  
.....

Signature of person referring notice  
for review:

--

Date:

NOTE: A reference of a **prohibition notice** for review must be made to the Commissioner within 7 days of the issue of the notice or such further time as may be allowed by the Commissioner [section 51(2)(b) of the Act].

*[Form 5 amended in Gazette 7 Jun 2002 p. 2736.]*



**Form 6 — Reference to safety and health magistrate for review of decision**

[Regulation 2.16(2)]

***Occupational Safety and Health Act 1984***

OFFICE USE ONLY IN THE LOCAL COURT OF WA SITTING AT ..... PLAINT No. ....
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TO	THE SAFETY AND HEALTH MAGISTRATE SITTING AT THE LOCAL COURT AT .....
----	---

APPLICANT	TAKE NOTICE THAT I ..... (Full name) OF ..... .....(Phone no.)
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TYPE OF APPLICATION	<div style="text-align: center; border-bottom: 1px solid black; margin-bottom: 5px;">HEREBY REFER FOR REVIEW</div> <div><input type="checkbox"/> A decision of the WorkSafe Western Australia Commissioner made on ..... / ..... / ..... <input type="checkbox"/> Other matter (Provide details) ..... ..... .....</div>
---------------------------	--

	<div style="text-align: center;">THE DECISION/MATTER RELATES TO THE WORKPLACE AT</div> <div>..... ..... ..... ..... (Address of Workplace) ..... .....(Name of Employer)</div>
--	--

**Occupational Safety and Health Regulations 1996**  
**Schedule 2**      Forms relating to general provisions

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SECTION OF ACT OR REGULATION	AND CONCERNS
	SECTION/REGULATION No.

GROUNDS OF APPLICATION	AND I REQUEST THE REVIEW ON THE FOLLOWING GROUNDS

SIGNATURE OF APPLICANT AND DATE	..... (Signature of person calling for review)
	...../...../..... (Date of Application)

*[Form 6 amended in Gazette 1 Apr 2005 p. 1067.]*

**Schedule 3.1 — Guidelines and forms of guidance to be  
available for access by persons working at workplaces**

[Regulation 3.2(e)]

<b>Date of publication in <i>Gazette</i></b>	<b>Title</b>
30 July 1996	The General Duty of Care in Western Australian Workplaces
30 July 1996	Election of Safety and Health Representatives, Representatives and Committees and Resolution of Issues
30 July 1996	Guidance Note for the Assessment of Health Risks Arising from the Use of Hazardous Substances in the Workplace [NOHSC: 3017 (1994)]
30 July 1996	Guidance Note for the Control of Workplace Hazardous Substances in the Retail Sector [NOHSC: 3018 (1994)]
30 July 1996	Guidance Note on the Interpretation of Exposure Standards for Atmospheric Contaminants in the Occupational Environment [NOHSC: 3008 (1995)]
30 July 1996	National Guidelines for Occupational Health and Safety Competency Standards for the Operation of Loadshifting Equipment and Other Types of Specified Equipment [NOHSC: 7019 (1992)]
30 July 1996	Plant Design: A Guide to Risk Management for Designers, Manufacturers, Importers, Suppliers and Installers of Plant (National Occupational Health and Safety Commission)
30 July 1996	Plant in the Workplace: A Guide to Managing Risks from Plant in the Workplace for Employers and Employees (National Occupational Health and Safety Commission)

## **Schedule 3.2 — Toxic paint substances**

[Regulation 3.99]

### **Division 1 — Solid components**

1. All chromates and dichromates contained in such quantity that chromium in these forms, calculated as a percentage of the dried material, exceeds 0.1% by weight.
2. Antimony and compounds of antimony contained in such quantity that antimony, calculated as a percentage of the dried material, exceeds 5% by weight.
3. Arsenic and compounds of arsenic contained in such quantity that arsenic, calculated as a percentage of the dried material, exceeds 0.1% by weight.
4. Barium and compounds of barium (except barium sulphate and barium metaborate) contained in such quantity that barium, calculated as a percentage of the dried material, exceeds 5% by weight.
5. Cadmium and compounds of cadmium contained in such quantity that cadmium, calculated as a percentage of the dried material, exceeds 0.1% by weight.
6. Lead and compounds of lead contained in such quantity that lead, calculated as a percentage of the dried material, exceeds 1% by weight.
7. Mercury and compounds of mercury contained in such quantity that mercury, calculated as a percentage of the dried material, exceeds 0.1% by weight.
8. Selenium and compounds of selenium contained in such quantity that selenium, calculated as a percentage of the dried material, exceeds 0.1% by weight.
9. Crystalline silica contained in such quantity that silicon dioxide, calculated as a percentage of the dried material, exceeds 2% by weight.

### **Division 2 — Solvent components**

1. Benzene in a quantity that, calculated as a percentage of the material in which it is contained, exceeds 1.5% by volume.
2. Chlorinated hydrocarbons in a quantity that, calculated as a percentage of the material in which they are contained, exceeds 5% by weight.
3. Methanol in a quantity that, calculated as a percentage of the material in which it is contained, exceeds 1% by weight.

4. Nitrobenzene in a quantity that, calculated as a percentage of the material in which it is contained, exceeds 1% by weight.
5. Pyridine in a quantity that, calculated as a percentage of the material in which it is contained, exceeds 2% by weight.

**Division 3 — Curing agents**

1. Accelerators, promoters and catalysts (excluding driers).
2. Formaldehyde in a quantity that, calculated as a percentage of the material in which it is contained, exceeds 0.2% by weight.
3. Oxalic acid in a quantity that, calculated as a percentage of the material in which it is contained, exceeds 5% by weight.
4. Raw epoxide resins.
5. Uncombined organic isocyanates (as NCO) in a quantity that, calculated as a percentage of the material in which they are contained, exceeds, or may exceed upon normal storage, 0.5% by weight.

**Schedule 4.1 — Kinds of plant requiring registration of the design and alterations to design**

[Regulations 4.2, 4.3(1) and 4.12]

Amusement structures within the scope of AS 3533 other than Class 1 devices

Boom-type elevating work platforms

Bridge cranes with a safe working load greater than 10 tonnes, or which are designed to handle molten metal or dangerous goods

Building maintenance units

Gantry cranes with a safe working load greater than 5 tonnes, or which are designed to handle molten metal or dangerous goods

Gas cylinders

Hoists, other than elevating work platforms, that have a platform movement in excess of 2.4 metres and which are designed to lift people

Lifts

Mast climbing work platforms

Mobile cranes, other than tow trucks, with a safe working load greater than 10 tonnes

Pre-fabricated scaffolding systems

Pressure equipment categorized as hazard level A, B, C or D according to the criteria set out in AS 4343, but not pressure piping

Tower cranes

Vehicle hoists which, in order to work, require the supply of energy of a kind other than, or in addition to, the energy supplied by the exertion of the body of a human or an animal

Work boxes

*[Schedule 4.1 amended in Gazette 17 Dec 1999 p. 6244; 8 Mar 2002 p. 1002; 7 Jun 2002 p. 2738.]*

## **Schedule 4.2 — Individual items of plant to be registered**

[Regulations 4.14, 4.15 and 4.34(2)]

Amusement structures within the scope of AS 3533 other than Class 1 devices

Boilers categorized as hazard level A, B or C according to the criteria set out in AS 4343

Building maintenance units

Lifts

Mobile cranes, other than tow trucks, with a safe working load greater than 10 tonnes

Pressure vessels categorized as hazard level A, B or C according to the criteria set out in AS 4343, but not —

- (a) gas cylinders to which AS 2030 applies;
- (b) LP gas fuel vessels for automotive use to which AS/NZS 3509 applies; and
- (c) serially produced vessels to which AS 2971 applies

Tower cranes

Truck-mounted concrete placing units with booms

*[Schedule 4.2 amended in Gazette 17 Dec 1999 p. 6244; 8 Mar 2002 p. 1003; 7 Jun 2002 p. 2738; 10 Jan 2003 p. 75.]*

**Schedule 4.3 — Standards relating to design and other requirements in relation to certain plant**

[Regulations 4.3(2)(c), 4.23(3)(b) and 4.28(c)(i), 4.33(2)(b)]

<b>Standard</b>	<b>Plant</b>
AS/NZS 1200	Pressure equipment (known as SAA Boiler Code)
AS 1418	Cranes (including hoists and winches) (known as SAA Crane Code)
AS/NZS 1576	Scaffolding
AS 1735	Lifts, escalators and moving walks (known as SAA Lift Code)
AS 2030	The approval, filling, inspection, testing and maintenance of cylinders for the storage and transport of compressed gases (known as SAA Gas Cylinders Code)
AS/NZS 3509	LP gas fuel vessels for automotive use
AS 3533	Amusement rides and devices
AS 3920.1	Assurance of product quality — Pressure equipment manufacture
AS 4343	Pressure equipment — Hazard levels

*[Schedule 4.3 amended in Gazette 17 Dec 1999 p. 6244; 10 Jan 2003 p. 75.]*



## **Schedule 5.1 — Description of ingredients**

[Regulation 5.1]

### **Type I ingredients**

A **“type I ingredient”** is an ingredient which is present in a quantity which exceeds the lowest relevant concentration cut-off level specified for the hazards classification in the *Approved Criteria for Classifying Hazardous Substances* [3<sup>rd</sup> Edition: NOHSC: 1008 (2004)] and —

- (a) is described in the *Approved Criteria for Classifying Hazardous Substances* as carcinogenic, mutagenic, teratogenic, a skin or respiratory sensitiser, corrosive or very corrosive, toxic or very toxic, a harmful substance which can cause irreversible effects after acute exposure, or a harmful substance which can cause serious damage to health after repeated or prolonged exposure; or
- (b) has an exposure standard listed in the *National Exposure Standards* [NOHSC: 1003 (1995)].

### **Type II ingredients**

A **“type II ingredient”** is an ingredient which is present in a quantity which exceeds the lowest relevant concentration cut-off level specified for the hazard classification in the *Approved Criteria for Classifying Hazardous Substances* [3<sup>rd</sup> Edition: NOHSC: 1008 (2004)] and is described in the *Approved Criteria for Classifying Hazardous Substances* as a harmful substance, but which does not meet the criteria for a type I ingredient.

### **Type III ingredients**

A **“type III ingredient”** is an ingredient which does not meet the criteria for either a type I ingredient or a type II ingredient.

*[Schedule 5.1 amended in Gazette 7 Jan 2005 p. 77.]*

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**Schedule 5.2 — Hazardous substances prohibited for specified uses or methods of handling**

[Regulation 5.14]

<b>Hazardous Substance Column 1</b>	<b>Prohibited use or handling Column 2</b>
Any substance that consists of or contains asbestos	Application by spraying or installation as insulation
Any material that consists of or contains asbestos	High pressure cleaning of any such material
Installed insulation that consists of or contains asbestos	Sealing of such insulation
A substance that consists of or contains crystalline silicon dioxide	As an abrasive material in abrasive blasting except where less than 2% dry weight of crystalline silicon dioxide is present as a contaminant
A recycled material that has not been treated to remove respirable dust	As an abrasive material in dry abrasive blasting
A substance capable of causing harm to the upper respiratory tract of a person	As an abrasive material in dry abrasive blasting

<b>Hazardous Substance Column 1</b>	<b>Prohibited use or handling Column 2</b>
Any substance that contains more than — 0.1% antimony 0.1% arsenic 0.1% beryllium 0.1% cadmium 0.5% chromium 0.5% cobalt 0.1% lead 0.5% nickel 1.0% tin	As an abrasive material in abrasive blasting
Any substance that contains chromate, nitrate or nitrite	As a wet abrasive blasting inhibitor in wet abrasive blasting
Polychlorinated biphenyls (PCBs)	All uses and handling except for bona fide research or analysis, handling for storage awaiting disposal, handling for removal and disposal, handling for repairs*, and when contained in existing electrical equipment and construction materials

\* **“Repairs”** in relation to PCBs includes —

- (a) the controlled removal of PCBs from a piece of equipment to undertake repairs followed by the replacement of PCBs with non-PCB fluid and then the separate disposal of the PCBs;
  - (b) the clean-up and disposal of PCBs that have spilled, leaked or otherwise escaped from the containment;
  - (c) the clean-up and disposal of materials contaminated with PCBs during a process referred to in paragraph (a) or (b),
- but does not include the return of spilled PCBs back into the container from which there was an uncontrolled loss of containment, or into any other container except if placed in that container for disposal.

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**Schedule 5.3 — Hazardous substances for which health surveillance is required**

[Regulation 5.23(1)]

<b>Hazardous Substance</b>	<b>Type of Health Surveillance</b>
acrylonitrile	<ul style="list-style-type: none"><li>• Demography, occupational and medical history and health advice.</li><li>• Physical examination if indicated.</li><li>• Records of personal exposure.</li></ul>
inorganic arsenic	<ul style="list-style-type: none"><li>• Demography, occupational and medical history and health advice.</li><li>• Physical examination with emphasis on the peripheral nervous system and skin.</li><li>• Urinary total arsenic.</li><li>• Records of personal exposure.</li></ul>
asbestos	<ul style="list-style-type: none"><li>• Demography, occupational and medical history and health advice.</li><li>• Physical examination if indicated.</li><li>• Records of personal exposure.</li></ul>
benzene	<ul style="list-style-type: none"><li>• Demography, occupational and medical history and health advice.</li><li>• Baseline blood sample for haematological profile.</li><li>• Records of personal exposure.</li></ul>

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<b>Hazardous Substance</b>	<b>Type of Health Surveillance</b>
cadmium	<ul style="list-style-type: none"><li>• Demography, occupational and medical history.</li><li>• Health advice, including counselling on additional cadmium burden from smoking.</li><li>• Physical examination with emphasis on the respiratory system.</li><li>• Completion of a standardized respiratory questionnaire.</li><li>• Standardized respiratory function tests such as FEV<sub>1</sub>, FVC and FEV<sub>1</sub>/FVC.</li><li>• Urinary cadmium and <math>\beta_2</math>-microglobulin.</li><li>• Records of personal exposure.</li></ul>
inorganic chromium	<ul style="list-style-type: none"><li>• Demography, occupational and medical history and health advice.</li><li>• Physical examination with emphasis on the respiratory system and skin.</li><li>• Weekly skin inspection of hands and forearms by a responsible person.</li></ul>
creosote	<ul style="list-style-type: none"><li>• Demography, occupational and medical history.</li><li>• Health advice, including recognition of photosensitivity and skin changes.</li><li>• Physical examination with emphasis on the neurological system and skin, noting any abnormal lesions, and evidence of skin sensitisation.</li><li>• Records of personal exposure, including photosensitivity.</li></ul>

**Occupational Safety and Health Regulations 1996**

**Schedule 5.3** Hazardous substances for which health surveillance is required

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<b>Hazardous Substance</b>	<b>Type of Health Surveillance</b>
isocyanates	<ul style="list-style-type: none"><li>• Demography, occupational and medical history and health advice.</li><li>• Completion of a standardized respiratory questionnaire.</li><li>• Physical examination of the respiratory system and skin.</li><li>• Standardized respiratory function tests such as FEV<sub>1</sub>, FVC and FEV<sub>1</sub>/FVC.</li></ul>
inorganic mercury	<ul style="list-style-type: none"><li>• Demography, occupational and medical history and health advice.</li><li>• Physical examination with emphasis on neurological, renal and gastrointestinal systems and skin.</li><li>• Urinary inorganic mercury.</li></ul>
4,4'- methylene bis 2- chloroaniline (MOCA)	<ul style="list-style-type: none"><li>• Demography, occupational and medical history and health advice.</li><li>• Urinary total MOCA.</li><li>• Dipstick analysis of urine for haematuria.</li><li>• Urine cytology.</li></ul>
organophosphate pesticides	<ul style="list-style-type: none"><li>• Demography, occupational and medical history and health advice.</li><li>• Physical examination.</li><li>• Baseline estimation of red cell and plasma cholinesterase activity levels by the Ellman method. Estimation of red cell and plasma cholinesterase activity towards the end of the working day.</li></ul>

<b>Hazardous Substance</b>	<b>Type of Health Surveillance</b>
pentachlorophenol (PCP)	<ul style="list-style-type: none"><li>• Demography, occupational and medical history and health advice.</li><li>• Physical examination with emphasis on skin, noting any abnormal lesions or effects of irritancy.</li><li>• Urinary total pentachlorophenol.</li><li>• Dipstick urinalysis for haematuria and proteinuria.</li><li>• Records of personal exposure.</li></ul>
polycyclic aromatic hydrocarbons (PAH)	<ul style="list-style-type: none"><li>• Demography, occupational and medical history.</li><li>• Health advice, including recognition of photosensitivity and skin changes.</li><li>• Physical examination if indicated.</li><li>• Records of personal exposure, including photosensitivity.</li></ul>
crystalline silica	<ul style="list-style-type: none"><li>• Demography, occupational and medical history and health advice.</li><li>• Completion of a standardized respiratory questionnaire.</li><li>• Standardized respiratory function tests such as FEV<sub>1</sub>, FVC and FEV<sub>1</sub>/FVC.</li><li>• Chest X-ray, full size PA view.</li><li>• Records of personal exposure.</li></ul>
thallium	<ul style="list-style-type: none"><li>• Demography, occupational and medical history and health advice.</li><li>• Physical examination if indicated.</li><li>• Urinary thallium.</li></ul>
vinyl chloride	<ul style="list-style-type: none"><li>• Demography, occupational and medical history and health advice.</li><li>• Physical examination if indicated.</li><li>• Records of personal exposure.</li></ul>

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**Schedule 5.3** Hazardous substances for which health surveillance is required

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## **Schedule 5.4 — Carcinogenic substances to be used only for bona fide research**

[Regulation 5.28]

**Note:** The number in square brackets is the substance's chemical abstract number.

2-Acetylaminofluorene [53-96-3]

Aflatoxins

4-Aminodiphenyl [92-67-1]

Benzidine [92-87-5] and its salts (including benzidine dihydrochloride [531-85-1])

bis(chloromethyl) ether [542-88-1]

Chloromethyl methyl ether [107-30-2] (technical grade containing bis(chloromethyl) ether)

4-Dimethylaminoazobenzene [60-11-7]

2-Naphthylamine [91-59-8] and its salts

4-Nitrodiphenyl [92-93-3]

*[Schedule 5.4 amended in Gazette 30 Dec 2003 p. 5743.]*

**Schedule 5.5 — Carcinogenic substances to be used only for purposes approved by the Commissioner**

[Regulation 5.28]

**Note:** The substance's chemical abstract number appears in square brackets.

Acrylonitrile [107-13-1]

Benzene [71-43-2] when used as a feedstock and containing more than 50% of benzene by volume

Cyclophosphamide [50-18-0] (cytotoxic drug) when used in preparation for therapeutic use in hospitals and oncological treatment facilities and in manufacturing operations

3,3-Dichlorobenzidine [91-94-1] and its salts (including 3,3-dichlorobenzidine dihydrochloride [612-83-9])

Diethyl sulfate [64-67-5]

Dimethyl sulfate [77-78-1]

Ethylene dibromide [106-93-4] when used as a fumigant

4,4'-Methylene bis(2-chloroaniline) [101-14-4]-MOCA

Beta-Propiolactone [57-57-8] (2-propiolactone)

o-Toluidine [95-53-4] and o-Toluidine hydrochloride [636-21-5]

Vinyl chloride monomer [75-01-4]

*[Schedule 5.5 amended in Gazette 30 Dec 2003 p. 5743.]*

## **Schedule 5.6 — Carcinogenic substances — asbestos**

[Regulation 5.28]

**Note:** The number in square brackets is the substance's chemical abstract number.

Actinolite asbestos [77536-66-5]

Amosite [12172-73-5] (brown asbestos)

Anthophyllite asbestos [77536-67-5]

Crocidolite [12001-28-4] (blue asbestos)

Chrysotile [12001-29-5] (white asbestos)

Tremolite asbestos [77536-68-6]

*[Schedule 5.6 inserted in Gazette 30 Dec 2003 p. 5743.]*

**Schedule 6.1 — Rate payable for assessments and tests**

[Regulations 4.5, 4.8, 4.9(b) and 4.18.]

The rate payable for —

- (a) the provision of a design verification statement;
- (b) an assessment for the purposes of regulation 4.8 and regulation 4.18; and
- (c) the witnessing of a test specified under regulation 4.7(1)(c)(ii),

is \$26.25 for every quarter hour it takes to prepare the statement or in which the assessment is conducted or the test is witnessed.

*[Schedule 6.1 amended in Gazette 10 Jun 1997 p. 2671; 9 Jun 1998 p. 3144; 2 Jun 2000 p. 2677; 13 Jul 2001 p. 3477; 21 May 2002 p. 2595; 27 Jun 2003 p. 2433; 25 Jun 2004 p. 2294; 28 Jun 2005 p. 2912; 27 Jun 2006 p. 2281.]*

**Schedule 6.1A — Fees under Part 3 Division 9**

		[r. 3.116.]
1.	Application for class 1 demolition work licence (reg. 3.116(1))	\$3 465
2.	Application for class 2 demolition work licence (reg. 3.116(1))	\$2 300
3.	Application for class 3 demolition work licence (reg. 3.116(1))	\$1 150

*[Schedule 6.1A inserted in Gazette 30 Mar 2001 p. 1783; amended in Gazette 21 May 2002 p. 2595; 27 Jun 2003 p. 2433; 25 Jun 2004 p. 2294; 28 Jun 2005 p. 2912; 27 Jun 2006 p. 2281.]*

**Schedule 6.2 — Fees under Part 4 Division 2**

[Regulations 4.3(2)(e) and 4.15(2)(d)]

- |    |   |         |
|----|---|---------|
| 1. | Application for registration of plant design<br>(reg. 4.3(2)(e))                                    | \$75.00 |
| 2. | Application for registration or re-registration of an<br>individual item of plant (reg. 4.15(2)(d)) | \$68.00 |

*[Schedule 6.2 amended in Gazette 10 Jun 1997 p. 2671; 2 Jun 2000  
p. 2677; 13 Jul 2001 p. 3477; 21 May 2002 p. 2596; 27 Jun 2003  
p. 2433; 25 Jun 2004 p. 2294; 28 Jun 2005 p. 2913; 27 Jun 2006  
p. 2281.]*

**Schedule 6.2A — Fees under Part 5 Division 4**

1. Application for asbestos removalist licence (reg. 5.44(1)) [r. 5.44.] \$3 553

*[Schedule 6.2A inserted in Gazette 30 Mar 2001 p. 1783; amended in Gazette 13 Jul 2001 p. 3477; 21 May 2002 p. 2596; 27 Jun 2003 p. 2433; 25 Jun 2004 p. 2295; 28 Jun 2005 p. 2913; 27 Jun 2006 p. 2281.]*

**Schedule 6.3 — Fees under Part 6**

- |    |   |          |
|----|---|----------|
| 1. | Application for certificate of competency (reg. 6.2(2)(a))  | \$68.00  |
| 2. | Application for replacement certificate of competency (reg. 6.2(2)(b))                              | \$36.25  |
| 3. | Application to be registered as an assessor (reg. 6.6(2))   | \$818.00 |
| 4. | Application for variation of registration as an assessor — for each category or class (reg. 6.7(2)) | \$136.00 |
| 5. | Application for renewal of registration as an assessor (reg. 6.8(2))                                | \$409.00 |

*[Schedule 6.3 amended in Gazette 10 Jun 1997 p. 2671; 9 Jun 1998 p. 3144-5; 2 Jun 2000 p. 2677; 13 Jul 2001 p. 3477; 21 May 2002 p. 2596; 27 Jun 2003 p. 2433-4; 25 Jun 2004 p. 2295; 28 Jun 2005 p. 2913; 27 Jun 2006 p. 2281-2.]*



### Notes

- <sup>1</sup> This is a compilation of the *Occupational Safety and Health Regulations 1996* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

### Compilation table

Citation	Gazettal	Commencement
<i>Occupational Safety and Health Regulations 1996</i>	27 Sep 1996 p. 4837-5080	1 Oct 1996 (see r. 1.2)
<i>Occupational Safety and Health Amendment Regulations 1997</i>	10 Jun 1997 p. 2670-1	1 Jul 1997 (see r. 2)
<i>Occupational Safety and Health Amendment Regulations (No. 2) 1997</i>	22 Jul 1997 p. 3839-41	29 Mar 1999 (see r. 2 and <i>Gazette</i> 17 Jul 1998 p. 3804 and 31 Dec 1998 p. 7405)
<i>Occupational Safety and Health Amendment Regulations (No. 3) 1997</i>	12 Sep 1997 p. 5176-8	12 Sep 1997
<i>Occupational Safety and Health Amendment Regulations 1998</i>	6 Feb 1998 p. 665	6 Feb 1998
<i>Occupational Safety and Health Amendment Regulations (No. 3) 1998</i>	9 Jun 1998 p. 3144-5	1 Jul 1998 (see r. 2)
<i>Occupational Safety and Health Amendment Regulations (No. 2) 1999</i>	26 Mar 1999 p. 1281-4	29 Mar 1999 (see r. 2 and <i>Gazette</i> 31 Dec 1998 p. 7405)
<i>Occupational Safety and Health Amendment Regulations 1999</i>	8 Jun 1999 p. 2525-6	9 Jun 1999 (see r. 2 and <i>Gazette</i> 8 Jun 1999 p. 2469)
<b>Reprint of the Occupational Safety and Health Regulations 1996 as at 15 Oct 1999</b> (includes amendments listed above)		
<i>Occupational Safety and Health Amendment Regulations (No. 3) 1999</i>	17 Dec 1999 p. 6228-44	1 Jan 2000 (see r. 2)
<i>Occupational Safety and Health Amendment Regulations 2000</i>	2 Jun 2000 p. 2676-7	1 Jul 2000 (see r. 2)
<i>Occupational Safety and Health Amendment Regulations 2001</i>	30 Mar 2001 p. 1767-83	1 Jul 2001 (see r. 2)
<i>Occupational Safety and Health Amendment Regulations (No. 2) 2001</i>	13 Jul 2001 p. 3476-7	13 Jul 2001
<i>Occupational Safety and Health Amendment Regulations (No. 2) 2002</i>	8 Mar 2002 p. 959-1003	1 Jul 2002 (see r. 2)
<i>Occupational Safety and Health Amendment Regulations (No. 3) 2002</i>	21 May 2002 p. 2595-6	1 Jul 2002 (see r. 2)

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Citation	Gazettal	Commencement
<i>Occupational Safety and Health Amendment Regulations 2002</i>	7 Jun 2002 p. 2733-6	7 Jun 2002
<i>Occupational Safety and Health Amendment Regulations (No. 4) 2002</i>	7 Jun 2002 p. 2736-8	1 Jul 2002 (see r. 2 and <i>Gazette</i> 8 Mar 2002 p. 961)
<i>Occupational Safety and Health Amendment Regulations (No. 5) 2002</i>	28 Jun 2002 p. 3121	1 Jul 2002 (see r. 2 and <i>Gazette</i> 8 Mar 2002 p. 961)
<b>Reprint of the Occupational Safety and Health Regulations 1996 as at 19 Jul 2002</b> (includes amendments listed above)		
<i>Occupational Safety and Health Amendment Regulations (No. 7) 2002</i>	10 Jan 2003 p. 61-75	10 Jan 2003
<i>Occupational Safety and Health Amendment Regulations (No. 3) 2003</i>	8 Apr 2003 p. 1108-12	1 Jul 2003 (see r. 2)
<i>Occupational Safety and Health Amendment Regulations (No. 4) 2003</i>	27 Jun 2003 p. 2432-4	1 Jul 2003 (see r. 2)
<i>Labour Relations Reform (Consequential Amendments) Regulations 2003 r. 10</i>	15 Aug 2003 p. 3685-92	15 Sep 2003 (see r. 2)
<i>Occupational Safety and Health Amendment Regulations 2003</i>	3 Oct 2003 p. 4356-8	3 Apr 2004 (see r. 2)
<i>Occupational Safety and Health Amendment Regulations (No. 2) 2003</i>	3 Oct 2003 p. 4358-63	3 Oct 2003 (see r. 2)
<i>Occupational Safety and Health Amendment Regulations (No. 6) 2003</i>	30 Dec 2003 p. 5737-43	1 Jan 2004 (see r. 2)
<i>Occupational Safety and Health Amendment Regulations 2004</i>	25 Jun 2004 p. 2291-3	25 Jun 2004
<i>Occupational Safety and Health Amendment Regulations (No. 4) 2004</i>	25 Jun 2004 p. 2294-5	1 Jul 2004 (see r. 2)
<b>Reprint 3: The Occupational Safety and Health Regulations 1996 as at 9 Jul 2004</b> (includes amendments listed above)		
<i>Occupational Safety and Health Amendment Regulations (No. 3) 2004</i>	22 Oct 2004 p. 4834-41	1 Jan 2005 (see r. 2)
<i>Occupational Safety and Health Amendment Regulations (No. 6) 2004<sup>4</sup></i>	14 Dec 2004 p. 6009-18	1 Jan 2005 (see r. 2)
<i>Occupational Safety and Health Amendment Regulations 2005</i>	7 Jan 2005 p. 76-7	7 Jan 2005
<i>Occupational Safety and Health Amendment Regulations (No. 3) 2005</i>	4 Mar 2005 p. 881-3	4 Mar 2005

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<i>Occupational Safety and Health Amendment Regulations (No. 4) 2005</i>	1 Apr 2005 p. 1066-7	4 Apr 2005 (see r. 2)
<i>Occupational Safety and Health Amendment Regulations (No. 8) 2005</i>	28 Jun 2005 p. 2912-13	1 Jul 2005 (see r. 2)
<i>Occupational Safety and Health Amendment Regulations (No. 2) 2005</i>	26 Jul 2005 p. 3403-5	26 Jul 2005

**Reprint 4: The Occupational Safety and Health Regulations 1996 as at 2 Sep 2005**  
(includes amendments listed above)

<i>Occupational Safety and Health Amendment Regulations (No. 5) 2005</i>	9 Sep 2005 p. 4158-9	9 Sep 2005
<i>Occupational Safety and Health Amendment Regulations (No. 10) 2005</i>	18 Nov 2005 p. 5660-3	1 Dec 2005 (see r. 2)
<i>Occupational Safety and Health Amendment Regulations (No. 11) 2005</i>	9 Dec 2005 p. 5897-8	9 Dec 2005
<i>Occupational Safety and Health Amendment Regulations (No. 12) 2005</i>	23 Dec 2005 p. 6294-5	23 Dec 2005
<i>Occupational Safety and Health Amendment Regulations (No. 6) 2005</i>	6 Jan 2006 p. 11-12	6 Jan 2006
<i>Electricity Corporations (Consequential Amendments) Regulations 2006 r. 83</i>	31 Mar 2006 p. 1299-357	1 Apr 2006 (see r. 2)

**Reprint 5: The Occupational Safety and Health Regulations 1996 as at 2 Jun 2006**  
(includes amendments listed above)

<i>Occupational Safety and Health Amendment Regulations (No. 2) 2006</i>	27 Jun 2006 p. 2280-2	1 Jul 2006 (see r. 2)
<i>Occupational Safety and Health Amendment Regulations (No. 2) 2007</i>	27 Apr 2007 p. 1775-7	27 Apr 2007

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- <sup>2</sup> Repealed by the *Health (Smoking in Enclosed Public Places) Regulations 2003*.
- <sup>3</sup> The regulations ceased to have effect on the commencement of the *Acts Amendment (Occupational Health, Safety and Welfare) Act 1987*.
- <sup>4</sup> The amendment to r. 3.88 in the *Occupational Safety and Health Amendment Regulations (No. 6) 2004* r. 24(5) is not included because it would conflict with the amendment in the *Occupational Safety and Health Amendment Regulations (No. 3) 2004* r. 7.