Queensland

Work Health and Safety Act 2011

Work Health and Safety Regulation 2011

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Reprint note
Warning—Some provisions of this legislation are not in operation. These provisions are italicised. For details, see the List of legislation.

Queensland

Work Health and Safety Regulation 2011

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Work Health and Safety Regulation 2011

Chapter 1 Preliminary

Part 1.1 Introductory matters

1 Short title

This regulation may be cited as the *Work Health and Safety Regulation 2011*.

2 Commencement

(1) Section 142 commences on 1 July 2012.

(2) Section 343 commences on 1 January 2013.

(2A) The following provisions commence on 1 January 2014—

(a) section 48;

(b) sections 432 and 433.

(2B) The following provisions commence on 1 January 2016—

(d) part 8.5, division 1;

(e) chapter 14.

(2C) The following provisions commence on 1 January 2019—

(a) section 272;

(b) section 279(2)(d).

(3) The following provisions commence on the commencement of the *Waste Reduction and Recycling Act 2011*, section 103—

(a) section 492(2)(i)(ii);

(b) section 500(b)(ii).

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(4) The remaining provisions commence on the commencement of section 277 (Repeal of Workplace Health and Safety Act 1995) of the Act.

3 Section number not used

Note—

The numbering of provisions of this regulation closely corresponds to the same numbering of regulations in model regulations prepared for and approved by the Council of Australian Governments. To maximise uniformity between this regulation and the model regulations, the numbers of some regulations in the model regulations that are not relevant have not been used in the numbering of provisions of this regulation, unless required for provisions particular to the State. Adoption of the numbering of the model regulations also results in alphanumeric numbering being used to insert further provisions particular to the State.

4 Section number not used

See note to section 3.

5 Definitions

The dictionary in schedule 19 defines particular words used in this regulation.

6 Determination of safety management system

The regulator may make a determination for the purposes of the definition of *certified safety management system*.

7 Meaning of *person conducting a business or undertaking*—persons excluded

(1) For section 5(6) of the Act, a strata title body corporate that is responsible for any common areas used only for residential purposes may be taken not to be a person conducting a business or undertaking in relation to those premises.

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(2) Subsection (1) does not apply if the strata title body corporate engages any worker as an employee.

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

(a) the incorporated association consists of a group of volunteers working together for 1 or more community purposes; and

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

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

(4) In this section—

strata title body corporate means a body corporate under—

(a) the *Body Corporate and Community Management Act 1997*, schedule 6; or

(b) the *Integrated Resort Development Act 1987*, schedule 3, section 1; or

(c) the *Mixed Use Development Act 1993*; or

(d) the *Registration of Plans (H.S.P. (Nominees) Pty. Limited) Enabling Act 1980*; or

(e) the *Registration of Plans (Stage 2) (H.S.P. (Nominees) Pty. Limited) Enabling Act 1984*; or

(f) the *Sanctuary Cove Resort Act 1985*, schedule 3, section 1.

8 Meaning of *supply*

For section 6(3)(b) of the Act, a supply of a thing does not include the supply of a thing by a person who does not control

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the supply and has no authority to make decisions about the supply.

Examples—

- an auctioneer who auctions a thing without having possession of the thing
- real estate agent acting in his or her capacity as a real estate agent

9 Provisions linked to health and safety duties in Act

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

Note—

A failure to comply with a duty or obligation under a section of the Act mentioned in a 'WHS Act' note is an offence to which a penalty applies.

Part 1.2 Application

10 Application of the Act to dangerous goods and high risk plant

The following provisions of the Act are excluded from the operation of schedule 1 to the Act—

(a) part 5, divisions 2 to 8;

(b) part 6;

(c) part 7.

11 Application of this regulation

A duty imposed on a person under a provision of this regulation in relation to health and safety does not limit or affect any duty the person has under the Act or, unless

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otherwise expressly provided, any other provision of this regulation.

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

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

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

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

Part 1.3 Incorporated documents

13 Documents incorporated as in force when incorporated

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

14 Inconsistencies between provisions

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

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15 References to standards

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

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

Chapter 2 Representation and participation

Part 2.1 Representation

Division 1 Work groups

16 Negotiations for and determination of work groups

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

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

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

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Note—

Under the Act, a work group may be determined for workers at more than one workplace (section 51(3)) or for workers carrying out work for two or more persons conducting businesses or undertakings at one or more workplaces (part 5, division 3, subdivision 3).

17 Matters to be taken into account in negotiations

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

(a) the number of workers;

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

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

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

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

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

(g) the diversity of workers and their work;

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

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

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

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

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

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

Division 2 Health and safety representatives

18 Procedures for election of health and safety representatives

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

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

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

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

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

(ii) vote in the election;

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

19 Person conducting business or undertaking must not delay election

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

Maximum penalty—36 penalty units.

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20 Removal of health and safety representatives

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

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

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

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

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

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

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

21 Training for health and safety representatives

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

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

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

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

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

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

Notes—

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

2 Under the *Acts Interpretation Act 1954*, section 24AA, the power to make an instrument or decision includes the power to amend or repeal the instrument or decision, that is, the power to approve training includes a power to revoke or vary the approval.

Part 2.2 Issue resolution

22 Agreed procedure—minimum requirements

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

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

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

(a) complies with subsection (2); and

(b) is set out in writing; and

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

Maximum penalty—36 penalty units.

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23 Default procedure

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

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

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

(b) the nature and scope of the issue.

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

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

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

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

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

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

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

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

Note—

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

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

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

(a) all parties to the issue; and

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

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

Part 2.3 Cessation of unsafe work

24 Continuity of engagement of worker

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

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

(b) superannuation benefits;

(c) leave entitlements;

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

Part 2.4 Workplace entry by WHS entry permit holders

25 Training requirements for WHS entry permits

(1) The prescribed training for sections 131 and 133 of the Act is training, that is provided or approved by the regulator, in relation to the following matters—

(a) the right of entry requirements under part 7 of the Act;

(b) the issue resolution requirements under the Act and this regulation;

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(c) the duties under, and the framework of, the Act and this regulation;

(d) the requirements for the management of risks under section 17 of the Act;

(e) the meaning of *reasonably practicable* as set out in section 18 of the Act;

(f) the relationship between the Act and this regulation and the *Fair Work Act 2009* (Cwlth) or any relevant State or Territory industrial laws.

(2) The training must include providing the participant with information about the availability of any guidance material published by the regulator in relation to the Act and this regulation.

(3) For the purpose of approving training, the regulator may have regard to any relevant matter including—

(a) the content and quality of the curriculum, including its relevance to the powers and functions of a WHS permit holder;

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

Note—

Under the *Acts Interpretation Act 1954*, section 24AA, the power to make an instrument or decision includes the power to amend or repeal the instrument or decision, that is, the power to approve training includes a power to revoke or vary the approval.

26 Form of WHS entry permit

A WHS entry permit must include the following—

(a) the section of the Act under which the WHS entry permit is issued;

(b) the full name of the WHS entry permit holder;

(c) the name of the union that the WHS entry permit holder represents;

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(d) a statement that the WHS entry permit holder is entitled, while the WHS entry permit is in force, to exercise the rights given to the WHS entry permit holder under the Act;

(e) the date of issue of the WHS entry permit;

(f) the expiry date for the WHS entry permit;

(g) the signature of the WHS entry permit holder;

(h) any conditions on the WHS entry permit.

27 Notice of entry—general

A notice of entry under part 7 of the Act must—

(a) be written; and

(b) include the following—

(i) the full name of the WHS entry permit holder;

(ii) the name of the union that the WHS entry permit holder represents;

(iii) the section of the Act under which the WHS entry permit holder is entering or proposing to enter the workplace;

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

(v) the date of entry or proposed entry;

(vi) the additional information and other matters required under section 28, 29 or 30 (as applicable).

28 Additional requirements—entry under section 117

A notice of entry under section 119 of the Act in relation to an entry under section 117 of the Act must also include the following—

(a) so far as is practicable, the particulars of the suspected contravention to which the notice relates;

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(b) a declaration stating—

(i) that the union is entitled to represent the industrial interests of a worker who carries out work at the workplace entered and is a member, or eligible to be a member, of that union; and

(ii) the provision in the union's rules that entitles the union to represent the industrial interests of that worker; and

(iii) that the suspected contravention relates to, or affects, that worker.

Note—

Section 130 of the Act provides that a WHS entry permit holder is not required to disclose the name of any worker to the person conducting the business or undertaking, and may do so only with the consent of the worker.

29 Additional requirements—entry under section 120

A notice of entry under section 120 of the Act in relation to an entry under that section must also include the following—

(a) so far as is practicable, the particulars of the suspected contravention to which the notice relates;

(b) a description of the employee records and other documents, or of the classes of records and documents, directly relevant to the suspected contravention, that are proposed to be inspected;

(c) a declaration stating—

(i) that the union is entitled to represent the industrial interests of a worker who is a member, or eligible to be a member, of that union; and

(ii) the provision in the union's rules that entitles the union to represent the industrial interests of that worker; and

(iii) that the suspected contravention relates to, or affects, that worker; and

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(iv) that the records and documents proposed to be inspected relate to that contravention.

Note—

Section 130 of the Act provides that a WHS entry permit holder is not required to disclose the name of any worker to the person conducting the business or undertaking, and may do so only with the consent of the worker.

30 Additional requirements—entry under section 121

A notice of entry under section 122 of the Act in relation to an entry under section 121 of the Act must also include a declaration stating—

(a) that the union is entitled to represent the industrial interests of a worker who carries out work at the workplace proposed to be entered and is a member, or eligible to be a member, of that union; and

(b) the provision in the union's rules that entitles the union to represent the industrial interests of that worker.

Note—

Section 130 of the Act provides that a WHS entry permit holder is not required to disclose the name of any worker to the person conducting the business or undertaking, and may do so only with the consent of the worker.

31 Register of WHS entry permit holders

For section 151 of the Act, the commission must publish on its website—

(a) an up-to-date register of WHS entry permit holders; and

(b) the date on which the register was last updated.

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Chapter 3 General risk and workplace management

Part 3.1 Managing risks to health and safety

32 Application of pt 3.1

This part applies to a person conducting a business or undertaking who has a duty under this regulation to manage risks to health and safety.

33 Specific requirements must be complied with

Any specific requirements under this regulation for the management of risk must be complied with when implementing the requirements of this part.

Examples—

- a requirement not to exceed an exposure standard
- a duty to implement a specific control measure
- a duty to assess risk

34 Duty to identify hazards

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

35 Management of risk

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

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

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

36 Hierarchy of control measures

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

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

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

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

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

(c) implementing engineering controls.

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

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

Note—

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

37 Maintenance of control measures

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

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(a) fit for purpose; and

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

(c) installed, set up and used correctly.

38 Review of control measures

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

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

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

Examples—

- the results of monitoring show that the control measure does not control the risk
- a notifiable incident occurs because of the risk

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

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

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

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

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

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

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

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

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

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

Part 3.2 General workplace management

Division 1 Information, training and instruction

39 Provision of information, training and instruction

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

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

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

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

(c) the control measures implemented.

(3) The person must ensure, so far as is reasonably practicable, that the information, training and instruction is provided in a way that is readily understandable by any person to whom it is provided.

Maximum penalty—60 penalty units.

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Division 2 General working environment

40 Duty in relation to general workplace facilities

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

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

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

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

(d) lighting enables—

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

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

(iii) safe evacuation in an emergency;

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

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

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

Maximum penalty—60 penalty units.

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41 Duty to provide and maintain adequate and accessible facilities

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

Maximum penalty—60 penalty units.

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

(a) in good working order; and

(b) clean, safe and accessible.

Maximum penalty—60 penalty units.

(3) For this section, a person conducting a business or undertaking must have regard to all relevant matters including—

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

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

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

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

Division 3 First aid

42 Duty to provide first aid

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

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

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

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

Maximum penalty—60 penalty units.

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

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

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

Maximum penalty—60 penalty units.

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

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

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

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

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

Division 4 Emergency plans

43 Duty to prepare, maintain and implement emergency plan

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

(a) emergency procedures, including—

(i) an effective response to an emergency; and

(ii) evacuation procedures; and

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

(iv) medical treatment and assistance; and

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

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

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

Maximum penalty—60 penalty units.

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

Maximum penalty—60 penalty units.

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

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

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

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

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

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

Maximum penalty—60 penalty units.

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Division 5 Personal protective equipment

44 Provision to workers and use of personal protective equipment

(1) This section applies if personal protective equipment is to be used to minimise a risk to health and safety in relation to work at a workplace under section 36.

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

Maximum penalty—60 penalty units.

Example—

equipment that has been provided by a labour hire company

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

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

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

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

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

(i) clean and hygienic; and

(ii) in good working order; and

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

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

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

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

Maximum penalty for subsection (4)—60 penalty units.

Note—

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

45 Personal protective equipment used by other persons

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

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

(b) the person uses or wears the equipment.

Maximum penalty—60 penalty units.

46 Duties of worker

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

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

Maximum penalty—36 penalty units.

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

Maximum penalty—36 penalty units.

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

Maximum penalty—36 penalty units.

47 Duty of person other than worker

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

Maximum penalty—36 penalty units.

Division 6 Remote or isolated work

48 Remote or isolated work

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

Notes—

1 WHS Act—section 19 (see section 9).

2 For general risk management requirements, see part 3.1.

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

Maximum penalty—60 penalty units.

(3) In this section—

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

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

Division 7 Managing risks from airborne contaminants

49 Ensuring exposure standards for substances etc. not exceeded

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

Maximum penalty—60 penalty units.

50 Monitoring airborne contaminant levels

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

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

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

Maximum penalty—60 penalty units.

(2) A person conducting a business or undertaking at a workplace must ensure that the results of air monitoring carried out under subsection (1) are—

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(a) recorded, and kept for 30 years after the date the record is made; and

(b) readily accessible to persons at the workplace who may be exposed to the substance or mixture.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units; or

Note—

A penalty provision under this regulation generally does not expressly prescribe a maximum fine for a body corporate different from the maximum fine for an individual and therefore under the *Penalties and Sentences Act 1992*, section 181B, the maximum fine is taken to be for an individual and a court may impose on a body corporate a maximum fine of an amount equal to 5 times the maximum fine for an individual.

Division 8 Hazardous atmospheres

51 Managing risks to health and safety

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

Notes—

1 WHS Act—section 19 (see section 9).

2 For general risk management requirements, see part 3.1.

(2) An atmosphere is a ***hazardous atmosphere*** if—

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

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

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

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

52 Ignition sources

(1) A person conducting a business or undertaking at a workplace must manage risks to health and safety associated with an ignition source in a hazardous atmosphere at the workplace under part 3.1.

Note—

WHS Act—section 19 (see section 9).

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

Division 9 Storage of flammable or combustible substances

53 Flammable and combustible material not to be accumulated

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

Maximum penalty—60 penalty units.

(2) In this section—

flammable or combustible substances include—

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

(b) gas cylinders, whether empty or full.

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Division 10 Falling objects

54 Management of risk of falling objects

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

Notes—

1 WHS Act—section 19 (see section 9).

2 For general risk management requirements, see part 3.1.

55 Minimising risk associated with falling objects

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

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

Maximum penalty—60 penalty units.

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

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

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

Examples—

- providing a secure barrier
- providing a safe means of raising and lowering objects
- providing an exclusion zone persons are prohibited from entering

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Chapter 4 Hazardous work

Part 4.1 Noise

56 Meaning of *exposure standard for noise*

(1) In this regulation, ***exposure standard for noise***, in relation to a person, means—

(a) $L_{Aeq,8h}$ of 85 dB(A); or

(b) $L_{C,peak}$ of 140 dB(C).

(2) For subsection (1)—

$L_{Aeq,8h}$ means the eight-hour equivalent continuous A-weighted sound pressure level in decibels (dB(A)) referenced to 20 micropascals, determined in accordance with AS/NZS 1269.1:2005 (Occupational noise management—Measurement and assessment of noise immission and exposure).

$L_{C,peak}$ means the C-weighted peak sound pressure level in decibels (dB(C)) referenced to 20 micropascals, determined in accordance with AS/NZS 1269.1:2005 (Occupational noise management—Measurement and assessment of noise immission and exposure).

57 Managing risk of hearing loss from noise

(1) A person conducting a business or undertaking at a workplace must manage, under part 3.1, risks to health and safety relating to hearing loss associated with noise.

Notes—

1 WHS Act—section 19 (see section 9).

2 For general risk management requirements, see part 3.1.

(2) A person conducting a business or undertaking at a workplace must ensure that the noise that a worker is exposed to at the workplace does not exceed the exposure standard for noise.

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Maximum penalty—60 penalty units.

59 Duties of designers, manufacturers, importers and suppliers of plant

(1) A designer of plant must ensure that the plant is designed so that its noise emission is as low as is reasonably practicable.

Maximum penalty—60 penalty units.

(2) A designer of plant must give to each person who is provided with the design for the purpose of giving effect to it adequate information about—

(a) the noise emission values of the plant; and

(b) the operating conditions of the plant when noise emission is to be measured; and

(c) the methods the designer has used to measure the noise emission of the plant.

Maximum penalty—60 penalty units.

(3) A manufacturer of plant must ensure that the plant is manufactured so that its noise emission is as low as is reasonably practicable.

Maximum penalty—60 penalty units.

(4) A manufacturer of plant must give to each person to whom the manufacturer provides the plant adequate information about—

(a) the noise emission values of the plant; and

(b) the operating conditions of the plant when noise emission is to be measured; and

(c) the methods the manufacturer has used to measure the noise emission of the plant.

Maximum penalty—60 penalty units.

(5) An importer of plant must take all reasonable steps to—

(a) obtain the information the manufacturer is required to give an importer under subsection (4); and

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(b) give that information to any person to whom the importer supplies the plant.

Maximum penalty—60 penalty units.

(6) A supplier of plant must take all reasonable steps to—

(a) obtain the information the designer, manufacturer or importer is required to give a supplier under subsection (3), (4) or (5); and

(b) give that information to any person to whom the supplier supplies the plant.

Maximum penalty—60 penalty units.

Part 4.2 Hazardous manual tasks

60 Managing risks to health and safety

(1) A person conducting a business or undertaking must manage risks to health and safety relating to a musculoskeletal disorder associated with a hazardous manual task, under part 3.1.

Note—

WHS Act—section 19 (see section 9).

(2) In determining what control measures to implement under subsection (1), the person conducting the business or undertaking must have regard to all relevant matters that may contribute to a musculoskeletal disorder, including—

(a) postures, movements, forces and vibration relating to the hazardous manual task; and

(b) the duration and frequency of the hazardous manual task; and

(c) workplace environmental conditions that may affect the hazardous manual task or the worker performing it; and

(d) the design of the work area; and

(e) the layout of the workplace; and

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(f) the systems of work used; and

(g) the nature, size, weight or number of persons, animals or things involved in carrying out the hazardous manual task.

61 Duties of designers, manufacturers, importers and suppliers of plant or structures

(1) A designer of plant or a structure must ensure that the plant or structure is designed so as to eliminate the need for any hazardous manual task to be carried out in connection with the plant or structure.

Maximum penalty—60 penalty units.

(2) If it is not reasonably practicable to comply with subsection (1), the designer must ensure that the plant or structure is designed so that the need for any hazardous manual task to be carried out in connection with the plant or structure is minimised so far as is reasonably practicable.

Maximum penalty—60 penalty units.

(3) The designer must give to each person who is provided with the design for the purpose of giving effect to it adequate information about the features of the plant or structure that eliminate or minimise the need for any hazardous manual task to be carried out in connection with the plant or structure.

Maximum penalty—60 penalty units.

(4) A manufacturer of plant or a structure must ensure that the plant or structure is manufactured so as to eliminate the need for any hazardous manual task to be carried out in connection with the plant or structure.

Maximum penalty—60 penalty units.

(5) If it is not reasonably practicable to comply with subsection (4), the manufacturer must ensure that the plant or structure is manufactured so that the need for any hazardous manual task to be carried out in connection with the plant or structure is minimised so far as is reasonably practicable.

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Maximum penalty—60 penalty units.

(6) The manufacturer must give to each person to whom the manufacturer provides the plant or structure adequate information about the features of the plant or structure that eliminate or minimise the need for any hazardous manual task to be carried out in connection with the plant or structure.

Maximum penalty—60 penalty units.

(7) An importer of plant or a structure must take all reasonable steps to—

(a) obtain the information the designer or manufacturer is required to give under subsection (3) or (6); and

(b) give that information to any person to whom the importer supplies the plant.

Maximum penalty—60 penalty units.

(8) A supplier of plant or a structure must take all reasonable steps to—

(a) obtain the information the designer, manufacturer or importer is required to give under subsection (3), (6) or (7); and

(b) give that information to any person to whom the supplier supplies the plant.

Maximum penalty—60 penalty units.

Part 4.3 Confined spaces

Division 1 Preliminary

62 Confined spaces to which this part applies

(1) This part applies to confined spaces that—

(a) are entered by any person; or

(b) are intended or likely to be entered by any person; or

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(c) could be entered inadvertently by any person.

(2) In this part, a reference to a ***confined space*** in relation to a person conducting a business or undertaking is a reference to a confined space that is under the person's management or control.

63 Application to emergency service workers

Sections 67 and 68 do not apply to the entry into a confined space by an emergency service worker if, at the direction of the emergency service organisation, the worker is—

(a) rescuing a person from the space; or

(b) providing first aid to a person in the space.

Division 2 Duties of designer, manufacturer, importer, supplier, installer and constructor of plant or structure

64 Duty to eliminate or minimise risk

(1) This section applies in relation to plant or a structure that includes a space that is, or is intended to be, a confined space.

(2) A designer, manufacturer, importer or supplier of the plant or structure, and a person who installs or constructs the plant or structure, must ensure that—

(a) the need for any person to enter the space and the risk of a person inadvertently entering the space are eliminated, so far as is reasonably practicable; or

(b) if it is not reasonably practicable to eliminate the need to enter the space or the risk of a person inadvertently entering the space—

(i) the need or risk is minimised so far as is reasonably practicable; and

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(ii) the space is designed with a safe means of entry and exit; and

(iii) the risk to the health and safety of any person who enters the space is eliminated so far as is reasonably practicable or, if it is not reasonably practicable to eliminate the risk, the risk is minimised so far as is reasonably practicable.

Note—

WHS Act—section 22, 23, 24, 25 or 26 as applicable (see section 9).

Division 3 Duties of person conducting business or undertaking

65 Entry into confined space must comply with this division

A person conducting a business or undertaking must ensure, so far as is reasonably practicable, that a worker does not enter a confined space before this division has been complied with in relation to that space.

Maximum penalty—60 penalty units.

66 Managing risks to health and safety

(1) A person conducting a business or undertaking must, under part 3.1, manage risks to health and safety associated with a confined space at a workplace including risks associated with entering, working in, on or in the vicinity of the confined space (including a risk of a person inadvertently entering the confined space).

Notes—

1 WHS Act—section 19 (see section 9).

2 For general risk management requirements, see part 3.1.

(2) A person conducting a business or undertaking must ensure that a risk assessment is conducted by a competent person for the purpose of subsection (1).

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Maximum penalty—36 penalty units.

(3) The person must ensure that the risk assessment conducted under subsection (2) is recorded in writing.

Maximum penalty—

(a) for an individual—12$^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(4) For subsections (1) and (2), the person conducting a business or undertaking must have regard to all relevant matters, including—

(a) whether the work can be carried out without the need to enter the confined space; and

(b) the nature of the confined space; and

(c) if the hazard is associated with the concentration of oxygen or the concentration of airborne contaminants in the confined space—any change that may occur in that concentration; and

(d) the work required to be carried out in the confined space, the range of methods by which the work can be carried out and the proposed method of working; and

(e) the type of emergency procedures, including rescue procedures, required.

(5) The person conducting a business or undertaking must ensure that a risk assessment under this section is reviewed and as necessary revised by a competent person to reflect any review and revision of control measures under part 3.1.

Maximum penalty for subsection(5)—36 penalty units.

67 Confined space entry permit

(1) A person conducting a business or undertaking at a workplace must not direct a worker to enter a confined space to carry out

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work unless the person has issued a confined space entry permit for the work.

Maximum penalty—60 penalty units.

(2) A confined space entry permit must—

(a) be completed by a competent person; and

(b) be in writing; and

(c) state the following—

(i) the confined space to which the permit relates;

(ii) the names of persons permitted to enter the space;

(iii) the period of time during which the work in the space will be carried out;

(iv) measures to control risk associated with the proposed work in the space; and

(d) contain space for an acknowledgement that work in the confined space has been completed and that all persons have left the confined space.

(3) The control measures stated in a confined space permit must—

(a) be based on a risk assessment conducted under section 66; and

(b) include—

(i) control measures to be implemented for safe entry; and

(ii) details of the system of work provided under section 69.

(4) The person conducting a business or undertaking must ensure that, when the work for which the entry permit was issued is completed—

(a) all workers leave the confined space; and

(b) the acknowledgement mentioned in subsection (2)(d) is completed by the competent person.

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Maximum penalty for subsection (4)—60 penalty units.

68 Signage

(1) A person conducting a business or undertaking must ensure that signs that comply with subsection (2) are erected—

(a) immediately before work in a confined space commences and while the work is being carried out; and

(b) while work is being carried out in preparation for, and in the completion of, work in a confined space.

Maximum penalty—36 penalty units.

(2) The signs must—

(a) identify the confined space; and

(b) inform workers that they must not enter the space unless they have a confined space entry permit; and

(c) be clear and prominently located next to each entry to the space.

69 Communication and safety monitoring

A person conducting a business or undertaking must ensure that a worker does not enter a confined space to carry out work unless the person provides a system of work that includes—

(a) continuous communication with the worker from outside the space; and

(b) monitoring of conditions within the space by a standby person who is in the vicinity of the space and, if practicable, observing the work being carried out.

Maximum penalty—60 penalty units.

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70 Specific control—connected plant and services

(1) A person conducting a business or undertaking must, so far as is reasonably practicable, eliminate any risk associated with work in a confined space in either of the following circumstances—

(a) the introduction of any substance or condition into the space from or by any plant or services connected to the space;

(b) the activation or energising in any way of any plant or services connected to the space.

Maximum penalty—36 penalty units.

(2) If it is not reasonably practicable for the person to eliminate risk under subsection (1), the person must minimise that risk so far as is reasonably practicable.

Maximum penalty—36 penalty units.

71 Specific control—atmosphere

(1) A person conducting a business or undertaking must ensure, in relation to work in a confined space, that—

(a) purging or ventilation of any contaminant in the atmosphere of the space is carried out, so far as is reasonably practicable; and

(b) pure oxygen or gas mixtures with oxygen in a concentration exceeding 21% by volume are not used for purging or ventilation of any airborne contaminant in the space.

Maximum penalty—60 penalty units.

(2) The person must ensure that, while work is being carried out in a confined space—

(a) the atmosphere of the space has a safe oxygen level; or

(b) if it is not reasonably practicable to comply with paragraph (a) and the atmosphere in the space has an oxygen level less than 19.5% by volume—any worker

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carrying out work in the space is provided with air supplied respiratory equipment.

Maximum penalty—60 penalty units.

(3) In this section—

purging means the method used to displace any contaminant from a confined space.

Notes—

1 Section 44 applies to the use of personal protective equipment, including the equipment provided under subsection (2).

2 Section 50 also applies to airborne contaminants.

72 Specific control—flammable gases and vapours

(1) A person conducting a business or undertaking must ensure, so far as is reasonably practicable, that while work is being carried out in a confined space, the concentration of any flammable gas, vapour or mist in the atmosphere of the space is less than 5% of its LEL.

Maximum penalty—60 penalty units.

(2) If it is not reasonably practicable to limit the atmospheric concentration of a flammable gas, vapour or mist in a confined space to less than 5% of its LEL and the atmospheric concentration of the flammable gas, vapour or mist in the space is—

(a) equal to or greater than 5% but less than 10% of its LEL—the person must ensure that any worker is immediately removed from the space unless a suitably calibrated, continuous-monitoring flammable gas detector is used in the space; or

(b) equal to or greater than 10% of its LEL—the person must ensure that any worker is immediately removed from the space.

Maximum penalty—60 penalty units.

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73 Specific control—fire and explosion

A person conducting a business or undertaking must ensure that an ignition source is not introduced into a confined space (from outside or within the space) if there is a possibility of the ignition source causing a fire or explosion in the space.

Maximum penalty—60 penalty units.

74 Emergency procedures

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

(a) establish first aid procedures and rescue procedures to be followed in the event of an emergency in a confined space; and

(b) ensure that the procedures are practised as necessary to ensure that they are efficient and effective.

Maximum penalty—60 penalty units.

(2) The person must ensure that first aid and rescue procedures are initiated from outside the confined space as soon as practicable in an emergency.

Maximum penalty—60 penalty units.

(3) The person must ensure, in relation to any confined space, that—

(a) the entry and exit openings of the confined space are large enough to allow emergency access; and

(b) the entry and exit openings of the space are not obstructed; and

(c) plant, equipment and personal protective equipment provided for first aid or emergency rescue are maintained in good working order.

Maximum penalty—60 penalty units.

Note—

See part 3.2 for general provisions relating to first aid, personal protective equipment and emergency plans.

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75 Personal protective equipment in emergencies

(1) This section applies in relation to a worker who is to enter a confined space in order to carry out first aid or rescue procedures in an emergency.

(2) The person conducting the business or undertaking for which the worker is carrying out work must ensure that air supplied respiratory equipment is available for use by, and is provided to, the worker in an emergency in which—

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

(b) the atmosphere in the space has a harmful concentration of an airborne contaminant; or

(c) there is a serious risk of the atmosphere in the space becoming affected in the way mentioned in paragraph (a) or (b) while the worker is in the space.

Maximum penalty—60 penalty units.

(3) The person conducting the business or undertaking for which the worker is carrying out work must ensure that suitable personal protective equipment is available for use by, and is provided to, the worker in an emergency in which—

(a) an engulfment has occurred inside the confined space; or

(b) there is a serious risk of an engulfment occurring while the worker is in the space.

Maximum penalty—60 penalty units.

Note—

Section 44 applies to the use of personal protective equipment, including the equipment provided under this section.

76 Information, training and instruction for workers

(1) A person conducting a business or undertaking must ensure that relevant workers are provided with suitable and adequate information, training and instruction in relation to the following—

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(a) the nature of all hazards relating to a confined space;

(b) the need for, and the appropriate use of, control measures to control risks to health and safety associated with those hazards;

(c) the selection, fit, use, wearing, testing, storage and maintenance of any personal protective equipment;

(d) the contents of any confined space entry permit that may be issued in relation to work carried out by the worker in a confined space;

(e) emergency procedures.

Maximum penalty—60 penalty units.

(2) The person must ensure that a record of all training provided to a worker under this section is kept for 2 years.

Maximum penalty—

(a) for an individual—12$^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(3) In this section—

relevant worker means—

(a) a worker who, in carrying out work for the business or undertaking, could—

(i) enter or work in a confined space; or

(ii) carry out any function in relation to work in a confined space or the emergency procedures established under section 74, but who is not required to enter the space; or

(b) any person supervising a worker mentioned in paragraph (a).

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77 Confined space entry permit and risk assessment must be kept

(1) This section applies if a person conducting a business or undertaking—

(a) prepares a risk assessment under section 66; or

(b) issues a confined space entry permit under section 67.

(2) Subject to subsection (3), the person must keep—

(a) a copy of the risk assessment until at least 28 days after the work to which it relates is completed; and

(b) a copy of the confined space entry permit at least until the work to which it relates is completed.

Maximum penalty—

(a) for an individual—$12^1/_2$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(3) If a notifiable incident occurs in connection with the work to which the assessment or permit relates, the person must keep the copy of the assessment or permit (as applicable) for at least 2 years after the incident occurs.

Maximum penalty—

(a) for an individual—$12^1/_2$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(4) The person must ensure that, for the period for which the assessment or permit must be kept under this section, a copy is available for inspection under the Act.

Maximum penalty—

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(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(5) The person must ensure that, for the period for which the assessment or permit must be kept under this section, a copy is available to any relevant worker on request.

Maximum penalty—36 penalty units.

Part 4.4 Falls

78 Management of risk of fall

(1) A person conducting a business or undertaking at a workplace must, under part 3.1, manage risks to health and safety associated with a fall by a person from one level to another that is reasonably likely to cause injury to the person or any other person.

Notes—

1 WHS Act—section 19 (see section 9).

2 For general risk management requirements, see part 3.1.

(2) Subsection (1) includes the risk of a fall—

(a) in or on an elevated workplace from which a person could fall; or

(b) in the vicinity of an opening through which a person could fall; or

(c) in the vicinity of an edge over which a person could fall; or

(d) on a surface through which a person could fall; or

(e) in any other place from which a person could fall.

(3) A person conducting a business or undertaking must ensure, so far as is reasonably practicable, that any work that involves

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the risk of a fall to which subsection (1) applies is carried out on the ground or on a solid construction.

Maximum penalty—60 penalty units.

(4) A person conducting a business or undertaking must provide safe means of access to and exit from—

(a) the workplace; and

(b) any area within the workplace mentioned in subsection (2).

Maximum penalty—60 penalty units.

(5) In this section—

solid construction means an area that has—

(a) a surface that is structurally capable of supporting all persons and things that may be located or placed on it; and

(b) barriers around its perimeter and any openings to prevent a fall; and

(c) an even and readily negotiable surface and gradient; and

(d) a safe means of entry and exit.

79 Specific requirements to minimise risk of fall

(1) This section applies if it is not reasonably practicable for the person conducting a business or undertaking at a workplace to eliminate the risk of a fall to which section 78 applies.

(2) The person conducting the business or undertaking at a workplace must minimise the risk of a fall by providing adequate protection against the risk under this section.

Maximum penalty—60 penalty units.

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

(a) providing a fall prevention device if it is reasonably practicable to do so; or

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(b) if it is not reasonably practicable to provide a fall prevention device, providing a work positioning system; or

(c) if it is not reasonably practicable to comply with either paragraph (a) or (b), providing a fall arrest system, so far as is reasonably practicable.

Examples of a safe system of work could include—

- providing temporary work platforms
- providing training in relation to the risks involved in working at the workplace
- providing safe work procedures, safe sequencing of work, safe use of ladders, permit systems and appropriate signs

Note—

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

(4) This section does not apply in relation to the following work—

(a) the performance of stunt work;

(b) the performance of acrobatics;

(c) a theatrical performance;

(d) a sporting or athletic activity;

(e) horse riding.

Note—

Section 35 applies to the management of risk in relation to this work.

(5) In this section—

fall prevention device includes—

(a) a secure fence; and

(b) edge protection; and

(c) working platforms; and

(d) covers.

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Note—

See schedule 19 for definitions of *fall arrest system* and *work positioning system*.

80 Emergency and rescue procedures

(1) This section applies if a person conducting a business or undertaking implements a fall arrest system as a measure to control risk.

(2) Without limiting section 79, the person must establish emergency procedures, including rescue procedures, in relation to the use of the system.

Maximum penalty—60 penalty units.

(3) The person must ensure that the emergency procedures are tested so that they are effective.

Maximum penalty—60 penalty units.

(4) The person must provide relevant workers with suitable and adequate information, training and instruction in relation to the emergency procedures.

Maximum penalty—60 penalty units.

(5) In this section—

relevant worker means—

(a) a worker who, in carrying out work in the business or undertaking, uses or is to use a fall arrest system; and

(b) a worker who may be involved in initiating or implementing the emergency procedures.

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Part 4.5 High risk work

Division 1 Licensing of high risk work

Subdivision 1 Requirement to be licensed

81 Licence required to carry out high risk work

A person must not carry out a class of high risk work unless the person holds a high risk work licence for that class of high risk work, except as provided in section 82.

Notes—

1 See section 43 of the Act.

2 Schedule 3 sets out the high risk licences and classes of high risk work that are within the scope of each licence. Schedule 4 sets out the qualifications required for a high risk work licence.

82 Exceptions

(1) A person who carries out high risk work is not required to be licensed if the work is carried out—

(a) in the course of training towards a certification in order to be licensed to carry out the high risk work; and

(b) under the supervision of a person who is licensed to carry out the high risk work.

(1A) A person who holds a certification for a specified VET course for high risk work is not required to be licensed to carry out the work—

(a) during the period of 60 days starting on the issue of the certification; and

(b) if, within that 60-day period, the person applies for the relevant high risk work licence for the work, until—

(i) the grant of the licence; or

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(ii) the expiry of a period of 28 days starting on the day the person is given written notice under section 91(2)(c) for the application.

(1B) A person who carries out high risk work is not required to be licensed to carry out the work if the work is carried out while an accredited assessor is conducting an assessment of the person's competency in relation to the work.

(2) A person who carries out high risk work involving plant is not required to be licensed if—

(a) the work is carried out at a workplace solely for the purpose of the manufacture, testing, trialling, installation, commissioning, maintenance, servicing, repair, alteration, demolition or disposal of the plant at that workplace or moving the plant within the workplace; and

(b) the plant is operated or used without a load except when standard weight loads with predetermined fixing points are used for calibration of the plant.

(3) For subsection (2)(a), moving includes operating plant in order to load it on to, or unload it from, a vehicle or equipment used to move it.

(4) A person who carries out high risk work with a crane or hoist is not required to be licensed as a crane operator if—

(a) the work is limited to setting up or dismantling the crane or hoist; and

(b) the person carrying out the work holds a licence in relation to rigging, which qualifies the person to carry out the work.

Note—

See schedule 3 for the classes of crane operator licence.

(5) A person who carries out high risk work with a heritage boiler is not required to be licensed as a boiler operator.

(6) Subsection (7) applies if, immediately before the repeal of the repealed WHS regulation, a person held an earthmoving or particular crane work certificate to perform work as an

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operator of a bridge and gantry crane (remote control only) under the repealed WHS regulation.

(7) The person is not required to have a high risk work licence to carry out licence class dogging if—

(a) the person will operate a bridge crane or gantry crane that can perform 3 or fewer powered operations; and

(b) the load is being lifted by remote control; and

(c) the load being lifted is lifted within the view of the person.

(8) A person is not required to be licensed to carry out high risk work for the licence class advanced boiler operator if—

(a) the person holds a high risk work licence for the licence class standard boiler operation; and

(b) the person held a licence class intermediate boiler operator under the repealed WHS regulation immediately before the regulation was repealed; and

(c) the person does not operate a boiler that has multiple fuel sources.

83 Recognition of high risk work licences in other jurisdictions

(1) In this subdivision, a reference to a high risk work licence includes a reference to an equivalent licence—

(a) that was issued under a corresponding WHS law; and

(b) that is being used in accordance with the terms and conditions under which it was granted.

(2) Subsection (1) does not apply to a licence that is suspended or cancelled or has expired in the corresponding jurisdiction.

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84 Duty of person conducting business or undertaking to ensure direct supervision

(1) A person conducting a business or undertaking must ensure that a person supervising the work of a person carrying out high risk work as required by section 82(1) provides direct supervision of the person except in the circumstances set out in subsection (2).

Maximum penalty—60 penalty units.

(2) Direct supervision of a person is not required if—

(a) the nature or circumstances of a particular task make direct supervision impracticable or unnecessary; and

(b) the reduced level of supervision will not place the health or safety of the supervised person or any other person at risk.

(3) In this section—

direct supervision of a person means the oversight by the supervising person of the work of that person for the purposes of—

(a) directing, demonstrating, monitoring and checking the person's work in a way that is appropriate to the person's level of competency; and

(b) ensuring a capacity to respond in an emergency situation.

85 Evidence of licence—duty of person conducting business or undertaking

(1) A person conducting a business or undertaking at a workplace must not direct or allow a worker to carry out high risk work for which a high risk work licence is required unless the person sees written evidence provided by the worker that the worker has the relevant high risk work licence for that work.

Maximum penalty—36 penalty units.

(2) A person conducting a business or undertaking at a workplace must not direct or allow a worker to carry out high risk work

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under section 82(1) or (1A) unless the person sees written evidence provided by the worker that the worker—

(a) for work carried out under section 82(1)—is undertaking the course of training mentioned in section 82(1)(a); or

(b) for work carried out under section 82(1A)(a)—holds the certification mentioned in section 82(1A); or

(c) for work carried out under section 82(1A)(b)—has applied for the licence mentioned in that paragraph.

Maximum penalty—36 penalty units.

(3) A person conducting a business or undertaking at a workplace must not direct or allow a worker to supervise high risk work as mentioned in sections 82(1) and 84 unless the person sees written evidence that the worker holds the relevant high risk work licence for that high risk work.

Maximum penalty—36 penalty units.

(4) A person conducting a business or undertaking at a workplace must keep a record of the written evidence provided to the person—

(a) under subsection (1) or (2)—for at least 1 year after the high risk work is carried out;

(b) under subsection (3)—for at least 1 year after the last occasion on which the worker performs the supervision work.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

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Subdivision 2 Licensing process

86 Who may apply for a licence

Only a person who holds a qualification set out in schedule 4 may apply for a high risk work licence.

87 Application for high risk work licence

(1) An application for a high risk work licence must be made in the way and in the form approved by the regulator.

(2) The application must include the following information—

(a) the applicant's name and residential address;

(b) evidence of the applicant's identity;

(c) evidence of the applicant's age;

(d) a photograph of the applicant in the form required by the regulator;

(e) the class of high risk work licence to which the application relates;

(f) a copy of a certification—

(i) that is held by the applicant in relation to the specified VET course, or each of the specified VET courses, for the high risk licence applied for; and

(ii) that was issued not more than 60 days before the application is made;

(g) a declaration that the applicant does not hold an equivalent licence granted by a corresponding regulator under a corresponding WHS law;

(h) a declaration as to whether or not the applicant has any relevant WHS conviction;

(i) details of any relevant WHS conviction declared under paragraph (h);

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(j) a declaration as to whether or not the applicant has entered into an enforceable undertaking under a relevant WHS law;

(k) details of any enforceable undertaking declared under paragraph (j);

(l) if the applicant has previously been refused an equivalent licence under a relevant WHS law, a declaration giving details of that refusal;

(m) if the applicant has previously held an equivalent licence under a relevant WHS law, a declaration—

(i) describing any condition imposed on that licence; and

(ii) stating whether or not that licence had been suspended or cancelled and, if so, whether or not the applicant had been disqualified from applying for a similar licence; and

(iii) giving details of any suspension, cancellation or disqualification;

(n) a declaration that the information contained in the application is, to the best of the applicant's knowledge, true and correct.

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

88 Additional information

(1) If an application for a high risk work licence does not contain sufficient information to enable the regulator to make a decision whether or not to grant the licence, the regulator may ask the applicant to provide additional information.

(2) A request for additional information must—

(a) state the date (not being less than 28 days after the request) by which the additional information is to be given; and

(b) be confirmed in writing.

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(3) If an applicant does not provide the additional information by the date stated, the application is to be taken to have been withdrawn.

(4) The regulator may make more than one request for additional information under this section.

89 Decision on application

(1) Subject to subsection (3), the regulator must grant a high risk work licence if satisfied about the matters mentioned in subsection (2).

(2) The regulator must be satisfied about the following—

(a) the application has been made under this regulation;

(b) the applicant does not hold an equivalent licence under a corresponding WHS law unless that licence is due for renewal;

(c) the applicant—

(i) resides in Queensland; or

(ii) resides outside Queensland and circumstances exist that justify the grant of the licence;

(d) the applicant is at least 18 years of age;

(e) the applicant has provided the certification required under section 87(2)(f);

(f) the applicant is able to carry out the work to which the licence relates safely and competently;

(g) the applicant is able to comply with any conditions that will apply to the licence.

(3) The regulator must refuse to grant a high risk work licence if satisfied that—

(a) the applicant is disqualified under a corresponding WHS law from holding an equivalent licence; or

(b) the applicant, in making the application, has—

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(i) given information that is false or misleading in a material particular; or

(ii) failed to give any material information that should have been given.

(4) If the regulator decides to grant the licence, it must notify the applicant within 14 days after making the decision.

(5) If the regulator does not make a decision within 120 days after receiving the application or the additional information requested under section 88, the regulator is taken to have refused to grant the licence applied for.

Note—

A refusal to grant a high risk work licence (including under subsection (5)) is a reviewable decision, see section 676.

90 Matters to be taken into account

For section 89(2)(f), the regulator must have regard to any relevant matter, including the following—

(a) any relevant WHS conviction of the applicant;

(b) the cancellation or suspension of any equivalent licence held by the applicant, or any refusal to issue an equivalent licence to the applicant, under a relevant WHS law;

(c) any enforceable undertaking the applicant has entered into under a relevant WHS law;

(d) the applicant's record in relation to any matters arising under a relevant WHS law.

91 Refusal to grant high risk work licence—process

(1) If the regulator proposes to refuse to grant a licence, the regulator must provide a written notice to the applicant—

(a) informing the applicant of the reasons for the proposed refusal; and

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(b) advising the applicant that the applicant may, by a stated date (being not less than 28 days after giving the notice), make a submission to the regulator in relation to the proposed refusal.

(2) After the date stated under subsection (1)(b), the regulator must—

(a) if the applicant has made a submission in relation to the proposed refusal to grant the licence—consider that submission; and

(b) whether or not the applicant has made a submission, decide whether to grant or refuse to grant the licence; and

(c) within 14 days after making that decision, give the applicant written notice of the decision, including the reasons for the decision.

Note—

A decision to refuse to grant a licence is a reviewable decision, see sections 89 and 676.

91A Conditions of licence

(1) The regulator may impose conditions on a high risk work licence when granting the licence.

(2) Without limiting subsection (1), the regulator may impose conditions in relation to any of the following matters—

(a) control measures that must be implemented in relation to the carrying out of work or activities under the licence;

(b) the circumstances in which work or activities authorised by the licence may be carried out.

(3) The regulator must give the licence holder written notice of any conditions imposed on the licence.

Notes—

1 A person must comply with the conditions of a licence, see section 45 of the Act.

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2 A decision to impose a condition on a licence is a reviewable decision, see section 676.

92 Duration of licence

Subject to this part, a high risk work licence takes effect on the day it is granted and, unless cancelled earlier, expires 5 years after that day.

93 Licence document

(1) If the regulator grants a high risk work licence, the regulator must issue to the applicant a licence document in the form approved by the regulator.

(2) The licence document must include—

(a) the name of the licence holder; and

(b) a photograph of the licence holder; and

(c) the date of birth of the licence holder; and

(d) a copy of the signature of the licence holder or provision for the inclusion of a copy signature; and

(e) the class of high risk work licence and a description of the work within the scope of the licence; and

(f) the date on which the licence was granted; and

(g) the expiry date of the licence.

(3) For subsection (2)(e), if the regulator grants more than one class of high risk work licence to a person, the licence document must contain a description of each class of licence and the work that is within the scope of each licence.

(4) If a licence holder holds more than one high risk work licence, the regulator may issue to the licence holder one licence document in relation to some or all those licences.

(5) Despite section 92, if a licence document is issued under subsection (4), the licences to which that licence document related expire on the date that the first of those licences expires.

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94 Licence document to be available

(1) A licence holder must keep the licence document available for inspection under the Act.

Maximum penalty—12½ penalty units.

(2) Subsection (1) does not apply if the licence document is not in the licence holder's possession because—

(a) it has been returned to the regulator under section 97; or

(b) the licence holder has applied for, but has not received, a replacement licence document under section 98.

95 Reassessment of competency of licence holder

The regulator may direct a licence holder to obtain a reassessment of the competency of the licence holder to carry out the high risk work covered by the licence if the regulator reasonably believes that the licence holder may not be competent to carry out that work.

Examples—

1 The training or competency assessment of the licence holder did not meet the standard required to hold the licence.

2 The regulator receives information that the licence holder has carried out high risk work incompetently.

Subdivision 3 Amendment of licence document

96 Notice of change of address

The licence holder of a high risk work licence must notify the regulator of a change of residential address, within 14 days of the change occurring.

Maximum penalty—12½ penalty units.

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97 Licence holder to return licence

If a high risk work licence is amended, the licence holder must return the licence document to the regulator for amendment at the written request of the regulator and within the time stated in the request.

Maximum penalty—$12^1/_2$ penalty units.

98 Replacement licence document

(1) A licence holder must notify the regulator as soon as practicable if the licence document is lost, stolen or destroyed.

Maximum penalty—$12^1/_2$ penalty units.

(2) If a licence document is lost, stolen or destroyed, the licence holder may apply to the regulator for a replacement document.

Note—

A licence holder is required to keep the licence document available for inspection, see section 94.

(3) The application must be made in the way and in the form approved by the regulator.

(4) The application must include—

(a) a declaration describing the circumstances in which the original document was lost, stolen or destroyed; and

(b) a declaration that the information contained in the application is, to the best of the applicant's knowledge, true and correct; and

(c) the relevant fee.

(5) The regulator must issue a replacement licence document if satisfied that the original document was lost, stolen or destroyed.

(6) If the regulator refuses to issue a replacement licence document, it must give the licence holder written notice of this decision, including the reasons for the decision, within 14 days after making the decision.

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Note—

A decision to refuse to replace a licence is a reviewable decision, see section 676.

99 Voluntary surrender of licence

(1) A licence holder may voluntarily surrender the licence document to the regulator.

(2) The licence expires on the surrender of the licence document.

Subdivision 4 Renewal of high risk work licence

100 Regulator may renew licence

The regulator may renew a high risk work licence on application by the licence holder.

101 Application for renewal

(1) An application for renewal of a high risk work licence must be made in the way and in the form approved by the regulator.

(2) The application must include the following information—

(a) the name and residential address of the applicant;

(b) if required by the regulator, a photograph of the applicant in the form required by the regulator;

(c) any other evidence of the applicant's identity required by the regulator;

(d) a declaration by the applicant that he or she has maintained his or her competency to carry out the high risk work;

(e) if the applicant was directed by the regulator to obtain a reassessment of competency under section 95, a declaration by the applicant that he or she has obtained the reassessment of competency.

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

(4) The application must be made before the expiry of the licence.

102 Licence continues in force until application is decided

If a licence holder applies under section 101 for the renewal of a high risk work licence, the licence is taken to continue in force from the day it would, apart from this section, have expired until the licence holder is given notice of the decision on the application.

103 Renewal of expired licence

(1) A person whose high risk work licence has expired may apply for a renewal of that licence—

(a) within 12 months after the expiry of the licence; or

(b) if the person satisfies the regulator that exceptional circumstances exist—within any longer period that the regulator allows.

(2) An application under subsection (1) must include a declaration that the information contained in the application is, to the best of the applicant's knowledge, true and correct.

Note—

As the licence has expired, the applicant cannot carry out the work covered by the licence until the licence is renewed. An application made after a period mentioned in paragraph (a) or (b) would be an application for a new licence under section 87.

104 Provisions relating to renewal of licence

(1) For this subdivision—

(a) section 88 applies as if a reference in that section to an application for a licence were a reference to an application to renew a licence; and

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(b) sections 89 (except subsection (5)), 91A and 92 apply as if a reference in those sections to the grant of a licence were a reference to the renewal of a licence; and

(c) section 90 applies as if a reference in section 89 to the grant of a licence were a reference to the renewal of a licence; and

(d) section 91 applies as if a reference in that section to a refusal to grant a licence were a reference to a refusal to renew a licence.

(2) The regulator may renew a high risk work licence granted to a person under a corresponding WHS law unless that licence is renewed under that law.

Note—

A refusal to renew a high risk work licence is a reviewable decision, see section 676.

105 Status of licence during review

(1) This section applies if the regulator gives a licence holder written notice of its decision to refuse to renew the licence.

(2) If the licence holder does not apply for internal review of the decision, the licence continues to have effect until the last of the following events—

(a) the expiry of the licence;

(b) the end of the period for applying for an internal review.

(3) If the licence holder applies for an internal review of the decision, the licence continues to have effect until the earlier of the following events—

(a) the licence holder withdraws the application for review;

(b) the regulator makes a decision on the review.

(4) If the licence holder does not apply for an external review, the licence continues to have effect until the end of the time for applying for an external review.

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(5) If the licence holder applies for an external review, the licence continues to have effect until the earlier of the following events—

(a) the licence holder withdraws the application for review; or

(b) QCAT makes a decision on the review.

(6) The licence continues to have effect under this section even if its expiry date passes.

Subdivision 5 Suspension and cancellation of high risk work licence

106 Suspension or cancellation of licence

(1) The regulator may suspend or cancel a high risk work licence if satisfied that—

(a) the licence holder has failed to take reasonable care to carry out the high risk work safely and competently; or

(aa) the licence holder has failed to comply with a condition of the licence; or

(b) the licence holder, in the application for the grant or renewal of the licence or on request by the regulator for additional information—

(i) gave information that was false or misleading in a material particular; or

(ii) failed to give any material information that should have been given in that application or on that request; or

(c) the licence was granted or renewed on the basis of a certification that was obtained on the basis of the giving of false or misleading information by any person or body or that was obtained improperly through a breach of a condition of accreditation by the accredited assessor who conducted the competency assessment; or

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(d) the licence holder has failed to obtain a reassessment of the holder's competency directed under section 95.

(2) If the regulator suspends or cancels a licence, the regulator may disqualify the licence holder from applying for—

(a) a further high risk work licence of the same class; or

(b) another licence under this regulation to carry out work which requires skills that are the same as or similar to those required for the work authorised by the licence that has been suspended or cancelled.

Note—

A decision to suspend a licence, to cancel a licence or to disqualify the licence holder from applying for a further licence is a reviewable decision, see section 676.

(3) If the regulator suspends a licence, the regulator may vary the conditions of the licence, including by imposing different or additional conditions.

(4) A variation of conditions under subsection (3) takes effect when the suspension of the licence ends.

Note—

A decision to vary a condition of a licence is a reviewable decision, see section 676.

107 Matters taken into account

(1) In making a decision under section 106, the regulator must have regard to—

(a) any submissions made by the licence holder under section 108; and

(b) any advice received from a corresponding regulator.

(2) For section 106(1)(a), (aa) and (b), the regulator must have regard to any relevant matter, including the following—

(a) any relevant WHS conviction of the licence holder;

(b) any suspension or cancellation of an equivalent licence held by the licence holder, or a refusal to issue an

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equivalent licence to the licence holder, under a relevant WHS law;

(c) any enforceable undertaking that has been entered into by the licence holder under a relevant WHS law;

(d) the licence holder's record in relation to any matters arising under a relevant WHS law.

108 Notice to and submissions by licence holder

(1) Before suspending or cancelling a high risk work licence, the regulator must give the licence holder written notice of—

(a) the proposed suspension or cancellation; and

(b) any proposed disqualification; and

(c) any proposed variation of licence conditions.

(2) A notice under subsection (1) must—

(a) outline all relevant allegations, facts and circumstances known to the regulator; and

(b) advise the licence holder that the licence holder may, by a specified date that is not less than 28 days after the notice is given to the licence holder, make a submission to the regulator in relation to the proposed suspension or cancellation, any proposed disqualification, and any proposed variation of licence conditions.

109 Notice of decision

(1) The regulator must give the licence holder written notice of a decision under section 106 to cancel or suspend a high risk work licence within 14 days after making the decision.

(2) The notice must—

(a) state that the licence is to be suspended or cancelled; and

(b) if the licence is to be suspended, state—

(i) when the suspension begins and ends; and

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(ii) the reasons for the suspension; and

(iii) whether the licence holder is required to undergo retraining before the suspension ends; and

(iv) whether or not the licence holder is disqualified from applying for a further licence during the period of suspension; and

(v) if licence conditions are to be varied—

(A) the variation; and

(B) that the variation will take effect when the suspension ends; and

(c) if the licence is to be cancelled, state—

(i) when the cancellation takes effect; and

(ii) the reasons for the cancellation; and

(iii) whether or not the licence holder is disqualified from applying for a further licence; and

(d) if the licence holder is to be disqualified from applying for a further licence, state—

(i) when the disqualification begins and ends; and

(ii) whether or not the disqualification ending is conditional upon the licence holder undergoing retraining or reassessment or taking any other action; and

(iii) the reasons for the disqualification; and

(iv) any class of high risk work licence or other licence under this regulation that the licence holder must not apply for during the period of suspension or disqualification; and

(e) state when the licence document must be returned to the regulator.

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110 Immediate suspension

(1) The regulator may suspend a high risk work licence on a ground mentioned in section 106 without giving notice under section 108 if satisfied that—

(a) work carried out under the high risk work licence should cease because the work may involve an imminent serious risk to the health or safety of any person; or

(b) a corresponding regulator has suspended an equivalent licence held by the licence holder under this section as applying in the corresponding jurisdiction.

(2) If the regulator decides to suspend a licence under this section—

(a) the regulator must give the licence holder written notice of the suspension and the reasons for the suspension; and

(b) the suspension of the licence takes effect on the giving of the notice.

(3) The regulator must then give notice under section 108 within 14 days after giving the notice under subsection (2).

(4) If the regulator does not give notice under subsection (3), the suspension ends at the end of the 14 day period.

(5) If the regulator gives the notice under section 108, the licence remains suspended until the decision is made under section 106.

111 Licence holder to return licence document

A licence holder, on receiving a notice under section 109(2)(e), must return the licence document to the regulator in accordance with the notice.

Maximum penalty—$12^1/_2$ penalty units.

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112 Regulator to return licence document after suspension

When the period of suspension of a licence ends, the regulator must return the licence document to the licence holder within 14 days after the suspension ends.

Division 2 Accreditation of assessors

Subdivision 1 Requirement to be accredited

113 Accreditation required to assess competency for high risk work licence

A person who is not an accredited assessor must not—

(a) conduct a competency assessment; or

(b) issue a notice of satisfactory assessment; or

(c) in any other way hold himself or herself out to be an accredited assessor.

Note—

See section 43 of the Act.

114 Accredited assessor must act in accordance with accreditation

(1) An accredited assessor must not conduct a competency assessment unless—

(a) the competency assessment relates to a class of high risk work for which the assessor is accredited; and

(b) the accredited assessor conducts the competency assessment for or on behalf of an RTO.

(2) An accredited assessor must not issue a notice of satisfactory assessment unless the competency assessment relates to a class of high risk work for which the assessor is accredited.

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(3) An accredited assessor who conducts a competency assessment must do so in accordance with the conditions of accreditation imposed under section 121.

(4) An accredited assessor who issues a notice of satisfactory assessment must do so in accordance with the conditions of accreditation imposed under section 121.

(5) Subsections (1) to (4) do not apply if the regulator is the accredited assessor.

Note—

See section 43 of the Act.

Subdivision 2 Accreditation process

115 Regulator may accredit assessors

The regulator may, under this division, accredit persons to conduct assessments.

116 Application for accreditation

(1) An application for accreditation must be made in the way and in the form approved by the regulator.

(2) The application must include the following information—

(a) the name and address of the applicant;

(b) evidence of the applicant's identity;

(c) details of the class of high risk work to which the application relates;

(d) evidence that the applicant is qualified to conduct the type of competency assessment in relation to the class of high risk work to which the application relates;

(e) details of any current equivalent accreditation under a corresponding WHS law;

(f) a declaration as to whether or not the applicant has any relevant WHS conviction;

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(g) details of any relevant WHS conviction declared under paragraph (f);

(h) a declaration as to whether or not the applicant has entered into an enforceable undertaking under a relevant WHS law;

(i) details of any enforceable undertaking declared under paragraph (h);

(j) if the applicant has previously been refused an equivalent accreditation under a relevant WHS law, a declaration giving details of that refusal;

(k) if the applicant has previously held an equivalent accreditation under a relevant WHS law, a declaration—

(i) describing any condition imposed on that accreditation; and

(ii) stating whether or not that accreditation had been suspended or cancelled and, if so, whether or not the applicant had been disqualified from applying for a similar accreditation; and

(iii) giving details of any suspension, cancellation or disqualification;

(l) a declaration that the information contained in the application is, to the best of the applicant's knowledge, true and correct.

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

117 Additional information

(1) If an application for accreditation does not contain sufficient information to enable the regulator to make a decision whether or not to grant the accreditation, the regulator may ask the applicant to provide additional information.

(2) A request for additional information must—

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(a) state the date (being not less than 28 days after the request) by which the additional information is to be given; and

(b) be confirmed in writing.

(3) If an applicant does not provide the additional information by the date specified, the application is taken to have been withdrawn.

(4) The regulator may make more than one request for additional information under this section.

118 Decision on application

(1) Subject to subsection (3), the regulator must grant an accreditation if satisfied about the matters mentioned in subsection (2).

(2) The regulator must be satisfied about the following—

(a) the applicant—

(i) is qualified to conduct the competency assessment to which the application relates; and

(ii) is able to conduct the competency assessment to which the application relates competently; and

(iii) is able to ensure compliance with any conditions that will apply to the accreditation; or

(b) the applicant holds a current equivalent accreditation under a corresponding WHS law.

(3) The regulator must refuse to grant an accreditation if satisfied that—

(a) the applicant is disqualified under a corresponding WHS law from holding an equivalent accreditation; or

(b) the applicant, in making the application, has—

(i) given information that is false or misleading in a material particular; or

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(ii) failed to give any material information that should have been given.

(4) If the regulator decides to grant the accreditation, it must notify the applicant within 14 days after making the decision.

(5) If the regulator does not make a decision within 120 days after receiving the application or the additional information requested under section 117, the regulator is taken to have refused to grant the accreditation applied for.

(6) For subsection (2)(a)(i), an applicant is ***qualified*** to provide the competency assessment if—

(a) the applicant's competencies, skills and knowledge are in accordance with the *Standards for NVR Registered Training Organisations 2011* published by the Commonwealth; and

(b) the applicant holds a current high risk work licence for the class of high risk work to which the competency assessment relates.

Note—

A refusal to grant accreditation (including a refusal under subsection (5)) is a reviewable decision, see section 676.

119 Matters to be taken into account

For section 118(2)(a)(ii) and (iii), the regulator may have regard to any relevant matter, including the following—

(a) any relevant WHS conviction of the applicant;

(b) the cancellation or suspension of any equivalent accreditation held by the applicant, or any refusal to issue an equivalent accreditation to the applicant, under a relevant WHS law;

(c) any enforceable undertaking the applicant has entered into under a relevant WHS law;

(d) the applicant's record in relation to any matters arising under a relevant WHS law.

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120 Refusal to grant accreditation—process

(1) If the regulator proposes to refuse to grant an accreditation, the regulator must provide a written notice to the applicant—

(a) informing the applicant of the reasons for the proposed refusal; and

(b) advising the applicant that the applicant may by a stated date (being not less than 28 days after the notice is given), make a submission to the regulator in relation to the proposed refusal.

(2) After the date stated in a notice under subsection (1)(b), the regulator must—

(a) if the applicant has made a submission in relation to the proposed refusal to grant the accreditation—consider that submission; and

(b) whether or not the applicant has made a submission, decide whether to grant or refuse to grant the accreditation; and

(c) within 14 days after making that decision, give the applicant written notice of the decision, including the reasons for the decision.

Notes—

A refusal to grant an accreditation is a reviewable decision, see section 676.

121 Conditions of accreditation

(1) In granting an accreditation, the regulator may impose conditions on the accreditation.

(2) Without limiting subsection (1), the regulator may impose conditions—

(a) relating to the competency assessments and assessment activities that may be carried out; and

(b) relating to the circumstances in which competency assessments or assessment activities may be carried out; and

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(c) requiring the accredited assessor to keep stated information; and

(d) requiring the accredited assessor to give stated information to the regulator.

Notes—

1 A person must comply with the conditions of accreditation, see section 45 of the Act.

2 A decision to impose a condition on an accreditation is a reviewable decision, see section 676.

122 Duration of accreditation

An accreditation takes effect on the day it is granted and, unless cancelled earlier, expires 3 years after that day.

123 Accreditation document

(1) If the regulator grants an accreditation, it must issue to the applicant an accreditation document in the form approved by the regulator.

(2) An accreditation document must include—

(a) the name of the accredited assessor; and

(b) the class of high risk work to which the accreditation relates; and

(c) any conditions imposed by the regulator under section 121; and

(d) the date on which the accreditation was granted; and

(e) the expiry date of the accreditation.

(3) If an assessor is accredited to conduct a competency assessment in relation to more than one class of high risk work, the regulator may issue to the accredited assessor one accreditation document in relation to some or all of those classes of high risk work.

(4) If 2 or more of the classes of high risk work mentioned in subsection (3) represent levels of the same type of work, it is

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sufficient if the accreditation document contains a description of the class of work that represents the highest level.

124 Accreditation document to be available

(1) An accredited assessor must keep the accreditation document available for inspection under the Act.

Maximum penalty—12½ penalty units.

(2) An accredited assessor must make the accreditation document available for inspection by any person in relation to whom the assessor is conducting, or is to conduct, a competency assessment.

Maximum penalty—12½ penalty units.

(3) Subsection (1) does not apply if the accreditation document is not in the accredited assessor's possession because—

(a) it has been returned to the regulator under section 126; or

(b) the accreditation assessor has applied for, but has not received, a replacement accreditation document under section 127.

Subdivision 3 Amendment of accreditation document

125 Changes to information

(1) An accredited assessor must give the regulator written notice of any change to any material particular in any information given at any time by the assessor to the regulator in relation to the accreditation within 14 days after the assessor becomes aware of the change.

Maximum penalty—12½ penalty units.

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(2) Subsection (1) applies whether the information was given in the application for grant or renewal of the accreditation or in any other circumstance.

126 Accredited assessor to return accreditation document

If an accreditation is amended, the accredited assessor must return the accreditation document to the regulator for amendment at the written request of the regulator and within the time specified in the request.

Maximum penalty—12½ penalty units.

127 Replacement accreditation document

(1) An accredited assessor must notify the regulator as soon as practicable if the accreditation document is lost, stolen or destroyed.

Maximum penalty—12½ penalty units.

(2) If an accreditation document is lost, stolen or destroyed an accredited assessor may apply to the regulator for a replacement accreditation document.

Note—

An accreditation holder is required to keep the accreditation document available for inspection, see section 124.

(3) The application must be made in the way and in the form approved by the regulator.

(4) The application must include—

(a) a declaration describing the circumstances in which the original document was lost, stolen or destroyed; and

(b) a declaration that the information contained in the application is, to the best of the applicant's knowledge, true and correct; and

(c) the relevant fee.

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(5) The regulator must issue a replacement accreditation document if satisfied that the original document was lost, stolen or destroyed.

(6) If the regulator refuses to issue a replacement accreditation document, it must give the accredited assessor written notice of this decision, including the reasons for the decision, within 14 days after making the decision.

Note—

A refusal to issue a replacement accreditation document is a reviewable decision, see section 676.

128 Voluntary surrender of accreditation

(1) An accredited assessor may voluntarily surrender the accreditation document to the regulator.

(2) The accreditation expires on the surrender of the accreditation document.

Subdivision 4 Renewal of accreditation

129 Regulator may renew accreditation

The regulator may renew an accreditation on the application of the accredited assessor.

130 Application for renewal

(1) An application for renewal of accreditation must be made in the way and in the form approved by the regulator.

(2) An application must—

(a) include the information mentioned in section 116(2); and

(b) be accompanied by the relevant fee.

(3) The application must be made before the expiry of the accreditation.

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131 Accreditation continues in force until application is decided

If an accredited assessor applies under section 130 for the renewal of accreditation, the accreditation is taken to continue in force from the day it would, apart from this section, have expired until the accredited assessor is given notice of the decision on the application.

132 Provisions relating to application

For this division—

(a) section 117 applies as if a reference in that section to an application for accreditation were a reference to an application to renew an accreditation; and

(b) sections 118 (except subsection (5)), 121 and 122 apply as if a reference in those sections to the grant of an accreditation were a reference to the renewal of an accreditation; and

(c) section 119 applies as if a reference in section 118 to the grant of an accreditation were a reference to the renewal of an accreditation; and

(d) section 120 applies as if a reference in that section to a refusal to grant an accreditation were a reference to a refusal to renew an accreditation.

Note—

A refusal to renew an accreditation is a reviewable decision, see section 676.

Subdivision 5 Suspension and cancellation

133 Regulator may suspend or cancel accreditation

(1) The regulator may, under this division—

(a) suspend or cancel an accreditation; and

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(b) if suspending an accreditation, vary the conditions of the accreditation, including by imposing different or additional conditions.

(2) If the regulator cancels an accreditation, the regulator may disqualify the accredited assessor from applying for a further accreditation for a specified period.

Note—

A decision under this section to suspend or cancel an accreditation, to vary the conditions of an accreditation or to disqualify an accredited assessor from applying for a further accreditation is a reviewable decision, see section 676.

134 Suspension or cancellation of accreditation

(1) The regulator may suspend or cancel an accreditation if satisfied about one or more of the following—

(a) the accredited assessor is no longer qualified to conduct the competency assessment stated in the assessor's accreditation document;

(b) the accredited assessor is not able to conduct the competency assessment to which the accreditation relates competently;

(c) the accredited assessor has failed to comply with a condition imposed on the accreditation under section 121;

(d) the accredited assessor, in the application for the grant or renewal of accreditation or on request by the regulator for additional information—

(i) gave information that was false or misleading in a material particular; or

(ii) failed to give any material information that should have been given in that application or on that request.

(2) In this section—

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qualified has the same meaning in relation to an accredited assessor as it has in section 118 in relation to an applicant for accreditation.

135 Notice to and submissions by accredited assessor

Before suspending or cancelling an accreditation, the regulator must—

(a) give the accredited assessor a written notice of the proposed suspension or cancellation and any proposed variation of conditions of accreditation or disqualification that outlines all relevant allegations, facts and circumstances known to the regulator; and

(b) give the accredited assessor not less than 28 days to make submissions to the regulator in relation to the proposed suspension or cancellation and any proposed variation of conditions or disqualification.

136 Matters to be taken into account

(1) In making a decision under section 133, the regulator must have regard to—

(a) any submissions made by the accredited assessor under section 135; and

(b) any advice received from a corresponding regulator.

(2) For section 134(1)(b) and (c), the regulator may have regard to any relevant matter, including the following—

(a) any relevant WHS conviction of the accredited assessor;

(b) any suspension or cancellation of an equivalent accreditation held by the accredited assessor, or a refusal to issue an equivalent accreditation to the accredited assessor under relevant WHS law;

(c) any suspension of a high risk work licence held by the accredited assessor under a relevant WHS law;

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(d) any enforceable undertaking the accredited assessor has entered into under a relevant WHS law;

(e) the accredited assessor's record in relation to any matters arising under a relevant WHS law.

137 Notice of decision

(1) The regulator must give the accredited assessor written notice of a decision under section 134 to cancel or suspend the accreditation within 14 days after making the decision.

(2) The notice must—

(a) state that the accreditation is to be suspended or cancelled; and

(b) if the accreditation is to be suspended, state—

(i) when the suspension begins and ends; and

(ii) the reasons for the suspension; and

(iii) whether or not the suspension ending is conditional upon the accredited assessor undergoing retraining or reassessment or taking any other action; and

(iv) whether any variation is to be made to the conditions of accreditation; and

(c) if the accreditation is to be cancelled, state—

(i) when the cancellation takes effect; and

(ii) the reasons for the cancellation; and

(iii) whether or not the accredited assessor is disqualified from applying for a further accreditation; and

(d) if the accredited assessor is to be disqualified from obtaining a further accreditation, state—

(i) when the disqualification begins and ends; and

(ii) the reasons for the disqualification; and

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(iii) whether or not the disqualification ending is conditional upon the accredited assessor obtaining retraining or reassessment or taking any other action; and

(e) when the accreditation document must be returned to the regulator.

138 Immediate suspension

(1) The regulator may suspend an accreditation on a ground mentioned in section 134 without giving notice under section 135 if satisfied that a person may be exposed to an imminent serious risk to his or her health or safety if the accreditation were not suspended.

(2) If the regulator decides to suspend an accreditation under this section—

(a) the regulator must give the accredited assessor written notice of the suspension and the reasons for the suspension; and

(b) the suspension takes effect on the giving of the notice.

(3) The regulator must then give the notice under section 135 within 14 days after giving the notice under subsection (2).

(4) If the regulator does not give notice under subsection (2), the suspension ends at the end of the 14 day period.

(5) If the regulator gives the notice under section 135, the accreditation remains suspended until the decision is made under section 134.

139 Accredited assessor to return accreditation document

An accredited assessor, on receiving a notice under section 137, must return the accreditation document to the regulator in accordance with that notice.

Maximum penalty—$12^1/_2$ penalty units.

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140 Regulator to return accreditation document after suspension

The regulator must return the accreditation document to the accredited assessor within 14 days after the suspension ends.

Subdivision 5

141 Subdivision and section number not used

See note to section 3.

Division 3 Licence and accreditation register

141A Regulator may keep register

(1) The regulator may keep a register containing information about—

(a) high risk work licences; and

(b) accreditations under division 2 to conduct assessments.

(2) The regulator may include in the register information about high risk work licences or accreditations the regulator considers appropriate, including, for example, the following—

(a) the full name of the licence holder or accredited assessor;

(b) an identifying number for the licence or the accreditation;

(c) the class or classes of high risk work for which the licence is granted or to which the accreditation relates;

(d) the day the licence or accreditation expires;

(e) whether the licence or accreditation has been cancelled or suspended;

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(f) the conditions or restrictions on the licence or accreditation.

(3) The regulator may—

(a) keep the register in a form the regulator considers appropriate to ensure the information in the register can be efficiently recorded and accessed; and

(b) publish the information, or part of it, contained in the register in the way the regulator considers appropriate including, for example, by publishing the information on the internet.

Part 4.6 Demolition work

Division 1 Notice of demolition work

142 Notice of demolition work

(1) Subject to subsection (4), a person conducting a business or undertaking who proposes to carry out any of the following demolition work must ensure that written notice is given to the regulator under this section at least 5 days before the work commences—

(a) demolition of a structure, or a part of a structure that is load-bearing or otherwise related to the physical integrity of the structure, that is at least 6m in height;

(b) demolition work involving load-shifting machinery on a suspended floor;

(c) demolition work involving explosives.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

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Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) The notice must be given in the way and in the form approved by the regulator.

(3) Subsection (4) applies to an emergency service organisation in relation to demolition work carried out by an emergency service worker who, at the direction of the emergency service organisation, is—

(a) rescuing a person; or

(b) providing first aid to a person.

(4) An emergency service organisation must give notice under subsection (1) as soon as practicable (whether before or after the work is carried out).

(5) In this section a reference to the height of a structure is a reference to the height of the structure measured from the lowest level of the ground immediately adjacent to the base of the structure at the point at which the height is to be measured to its highest point.

Division 2 Licence to carry out demolition work

143 Requirement to hold a licence to carry out demolition work

(1) A person conducting a business or undertaking that commissions demolition work to be carried out at a workplace must ensure that the demolition work is carried out in compliance with subsection (2).

Maximum penalty—40 penalty units.

(2) A person must not carry out demolition work at a workplace unless the person, or the person on whose behalf the work is carried out, holds a licence to carry out demolition work.

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Maximum penalty—40 penalty units.

(3) A person who conducts a business or undertaking must not direct or allow a worker to carry out demolition work unless the person holds a licence to carry out demolition work.

Maximum penalty—40 penalty units.

144 Nominated competent person must be present or readily available

(1) A person holding a licence to carry out demolition work must ensure that a person nominated to supervise the demolition work under section 144D is readily available to a worker carrying out demolition work whenever the work is being carried out.

Maximum penalty—60 penalty units.

(2) A person holding a licence to carry out demolition work must provide appropriate training to a worker carrying out demolition work at a workplace to ensure that the work is carried out safely and competently.

Maximum penalty—60 penalty units.

144A Recognition of licences to carry out demolition work issued in other jurisdictions

(1) In this division, a reference to a licence to carry out demolition work includes a reference to an equivalent licence—

(a) that was issued by a corresponding regulator under a corresponding WHS law; and

(b) that is being used in accordance with the terms and conditions under which it was granted.

(2) Subsection (1) does not apply to a licence that is suspended or cancelled or has expired in the corresponding jurisdiction.

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Division 3 Licensing process

144B Who may apply for a licence

Only a person who conducts, or proposes to conduct, a business or undertaking may apply for a licence to carry out demolition work.

144C Application for licence to carry out demolition work

(1) An application for a licence to carry out demolition work must be made in the way and in the form approved by the regulator.

(2) The application must include the following information—

(a) the applicant's name and address;

(b) evidence of the applicant's identity;

(c) if required by the regulator of an applicant who is an individual, a recent photograph of the applicant;

(d) if the applicant conducts the business or undertaking under a business name—the business name and a certificate or other written evidence of the registration of the business name;

(e) a declaration that the applicant does not hold an equivalent licence under a corresponding WHS law;

(f) a declaration as to whether or not the applicant (and in the case of a body corporate, any officer of the body corporate) has any relevant WHS conviction;

(g) details of any relevant WHS conviction declared under paragraph (f);

(h) a declaration as to whether or not the applicant (and in the case of a body corporate, any officer of the body corporate) has any conviction for any offence against either of the following Acts in relation to the unlawful disposal of hazardous waste—

(i) the *Environmental Protection Act 1994*;

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Note—

See sections 437 (Offences of causing serious environmental harm), 438 (Offences of causing material environmental harm) of that Act for examples of relevant provisions.

(ii) the *Waste Reduction and Recycling Act 2011*;

Note—

See sections 103 (General littering provision) and 104 (Illegal dumping of waste provision) of that Act for examples of relevant provisions.

(i) details of any conviction declared under paragraph (h);

(j) a declaration as to whether or not the applicant (and in the case of a body corporate, any officer of the body corporate) has entered into an enforceable undertaking under a relevant WHS law;

(k) details of any enforceable undertaking declared under paragraph (j);

(l) if the applicant (and in the case of a body corporate, any officer of the body corporate) has previously been refused a similar licence under a relevant WHS law, a declaration giving details of that refusal;

(m) if the applicant (and in the case of a body corporate, any officer of the body corporate) has previously held a similar licence under a relevant WHS law, a declaration—

(i) describing any condition imposed on that licence; and

(ii) stating whether or not that licence had been suspended or cancelled and, if so, whether or not the applicant (and in the case of a body corporate, any officer of the body corporate) had been disqualified from applying for a similar licence; and

(iii) giving details of any suspension, cancellation or disqualification;

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(n) the additional information and evidence mentioned in section 144D;

(o) evidence that the applicant meets the approved criteria stated in Information Paper D1 (Approved criteria for a certificate to carry out demolition work) issued by the regulator;

(p) a declaration that the information contained in the application is, to the best of the applicant's knowledge, true and correct.

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

144D Content of application

(1) For section 144C(2)(n), an application for a licence to carry out demolition work must include the following—

(a) the names of 1 or more competent persons who have been engaged by the applicant to supervise the demolition work to be authorised by the licence;

(b) evidence, as required by the regulator, that each named supervisor is at least 18 years of age;

(c) evidence that each named supervisor meets the requirements stated in Information Paper D2 (Requirements to supervise demolition work) issued by the regulator.

(2) If the applicant is an individual who proposes to supervise the demolition work, the information and evidence mentioned in subsection (1)(b) and (c) must relate to the applicant.

144E Additional information

(1) If an application for a licence does not contain sufficient information to enable the regulator to make a decision whether or not to grant the licence, the regulator may ask the applicant to provide additional information.

(2) A request for additional information must—

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(a) state the date (not being less than 28 days after the request) by which the additional information is to be given; and

(b) be confirmed in writing.

(3) If an applicant does not provide the additional information by the date stated, the application is to be taken to have been withdrawn.

(4) The regulator may make more than 1 request for additional information.

144F Decision on application

(1) Subject to subsection (3), the regulator must grant a licence to carry out demolition work if satisfied about—

(a) the matters mentioned in subsection (2); and

(b) the additional matters mentioned in section 144D.

(2) The regulator must be satisfied about the following—

(a) the application has been made as required under this regulation;

(b) the applicant does not hold an equivalent licence under a corresponding WHS law unless that licence is due for renewal;

(c) if the applicant is an individual, the applicant—

(i) resides in Queensland; or

(ii) resides outside Queensland and circumstances exist that justify the grant of the licence;

(d) if the applicant is a body corporate, the applicant's registered office—

(i) is located in Queensland; or

(ii) is located outside Queensland and circumstances exist that justify the grant of the licence;

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(e) the applicant will be able to ensure that the work or other activities to which the licence relates are carried out safely and competently;

(f) the applicant will be able to ensure compliance with any conditions that will apply to the licence.

(3) The regulator must refuse to grant a licence if satisfied that—

(a) the applicant is disqualified under a corresponding WHS law from holding an equivalent licence; or

(b) the applicant, in making the application, has—

(i) given information that is false or misleading in a material particular; or

(ii) failed to give any material information that should have been given.

(4) If the regulator decides to grant the licence, the regulator must notify the applicant within 14 days after making the decision.

(5) If the regulator does not make a decision within 120 days after receiving the application or the additional information requested under section 144E, the regulator is taken to have refused to grant the licence applied for.

Note—

A refusal to grant a licence (including under subsection (5)) is a reviewable decision, see section 676.

144G Regulator to be satisfied about additional matters

For section 144F(1)(b), the regulator must be satisfied that each supervisor named by the applicant—

(a) is at least 18 years of age; and

(b) satisfies the requirements mentioned in section 144D(1)(c).

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144H Matters to be taken into account

For section 144F(2)(e) and (f), the regulator must have regard to all relevant matters including the following—

(a) any relevant WHS conviction of the applicant (or in the case of a body corporate, any officer of the body corporate);

(b) any offence in relation to the unlawful disposal of hazardous waste against either of the following Acts for which the applicant (or in the case of a body corporate, any officer of the body corporate) has a conviction—

(i) the *Environmental Protection Act 1994*;

Note—

See sections 437 (Offences of causing serious environmental harm), 438 (Offences of causing material environmental harm) of that Act for examples of relevant provisions.

(ii) the *Waste Reduction and Recycling Act 2011*;

Note—

See sections 103 (General littering provision) and 104 (Illegal dumping of waste provision) of that Act for examples of relevant provisions.

(c) the cancellation or suspension of any equivalent licence held by the applicant (or in the case of a body corporate, any officer of the body corporate), or any refusal to grant an equivalent licence to the applicant (or officer), under a relevant WHS law;

(d) any enforceable undertaking the applicant (or in the case of a body corporate, any officer of the body corporate) has entered into under a relevant WHS law;

(e) the record of applicant (or in the case of a body corporate, any officer of the body corporate) in relation to any matters arising under a relevant WHS law.

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144I Refusal to grant licence—process

(1) If the regulator proposes to refuse to grant a licence, the regulator must provide a written notice to the applicant—

(a) informing the applicant of the reasons for the proposed refusal; and

(b) advising the applicant that the applicant may, by a stated date, being not less than 28 days after giving the notice, make a submission to the regulator in relation to the proposed refusal.

(2) After the date stated under subsection (1)(b), the regulator must—

(a) if the applicant has made a submission in relation to the proposed refusal to grant the licence—consider that submission; and

(b) whether or not the applicant has made a submission—decide whether to grant or refuse to grant the licence; and

(c) within 14 days after making the decision—give the applicant written notice of the decision, including the reasons for the decision.

Note—

A refusal to grant a licence is a reviewable decision, see section 676.

144J Conditions of licence

(1) The regulator may impose conditions on a licence to carry out demolition work when granting the licence.

(2) Without limiting subsection (1), the regulator may impose conditions in relation to any of the following matters—

(a) control measures that must be implemented in relation to the carrying out of work or activities under the licence;

(b) the recording or keeping of information;

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(c) requiring the licence holder to undertake training and instruction or obtain information;

(d) the provision of information to the regulator;

(e) the nature of work or activities authorised by the licence;

(f) the circumstances in which work or activities authorised by the licence ma be carried out.

Notes—

1 A person must comply with the conditions of a licence, see section 45 of the Act.

2 A decision to impose a condition on a licence is a reviewable decision, see section 676.

144K Duration of licence

Subject to this part, a licence to carry out demolition work takes effect on the day it is granted and, unless cancelled earlier, expires 2 years after that day.

144L Licence document

(1) If the regulator grants a licence to carry out demolition work, the regulator must issue to the applicant a licence document in the form approved by the regulator.

(2) The licence document must include—

(a) the name of the licence holder; and

(b) if the licence holder conducts the business or undertaking under a business name—that business name; and

(c) a description of the work within the scope of the licence; and

(d) any licence conditions imposed by the regulator; and

(e) the day on which the licence was granted; and

(f) the expiry day of the licence.

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144M Licence document to be available

(1) A licence holder must keep the licence document available for inspection under the Act.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) Subsection (1) does not apply if the licence document is not in the licence holder's possession because—

(a) it has been returned to the regulator under section 144T; or

(b) the licence holder has applied for, but has not received, a replacement licence document under section 144U.

Division 4 Amendment of licence document

144N Changes to information

The holder of a licence to carry out demolition work must give the regulator written notice of any change to any material particular in any information given at any time by the licence holder to the regulator in relation to the licence within 14 days after the licence holder becomes aware of the change.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

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144O Change to nominated supervisor

(1) If there is a change in relation to a supervisor named to the regulator by the holder of a licence to carry out demolition work, the licence holder must—

(a) if the change is to remove a supervisor—within 14 days after the change, ask the regulator to amend the licence under section 144Q to make that change; and

(b) if the change is to add a supervisor—give the regulator the information about the supervisor mentioned in section 144D.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) If the change mentioned in subsection (1) is to add a supervisor, that supervisor is not a nominated supervisor for the purposes of this regulation until the regulator has approved the nomination.

144P Amendment imposed by regulator

(1) The regulator may, on the regulator's own initiative, amend a licence to carry out demolition work, including amending the licence to—

(a) vary or delete a condition of the licence; or

(b) impose a new condition on the licence.

(2) If the regulator proposes to amend a licence under subsection (1), the regulator must provide a written notice to the licence holder—

(a) informing the licence holder of the reasons for the proposed amendment; and

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(b) advising the licence holder that the licence holder may, by a stated day, being not less than 28 days after giving the notice, make a submission to the regulator in relation to the proposed amendment.

(3) After the day stated under subsection (2)(b), the regulator must—

(a) if the licence holder has made a submission in relation to the proposed amendment, consider that submission; and

(b) whether or not the licence holder has made a submission—decide—

(i) to make the proposed amendment; or

(ii) not to make the proposed amendment; or

(iii) to make a different amendment that results from consideration of any submission made by the licence holder; and

(c) within 14 days after making that decision, give the licence holder written notice that—

(i) sets out the amendment; and

(ii) if a submission was made in relation to the proposed amendment—sets out the regulator's reasons for making the amendment; and

(iii) states the day, being not less than the 28 days after the licence holder is given the notice, on which the amendment takes effect.

Note—

A decision to amend a licence is a reviewable decision, see section 676.

144Q Amendment on application by licence holder

(1) The regulator may, on application by the licence holder, amend a licence to carry out demolition work, including amending the licence to vary or delete a condition of the licence.

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(2) If the regulator proposes to refuse to amend the licence under subsection (1), the regulator must provide a written notice to the licence holder—

(a) informing the licence holder of the intention to refuse to amend the licence and the reasons for the proposed refusal; and

(b) advising the licence holder that the licence holder may, by a stated date, being not less than 28 days after giving the notice, make a submission to the regulator in relation to the proposed refusal.

(3) After the day stated under subsection (2)(b), the regulator must—

(a) if the licence holder has made a submission in relation to the proposed refusal—consider that submission; and

(b) whether or not the licence holder has made a submission—decide to—

(i) make the amendment; or

(ii) refuse to make the amendment; or

(iii) make a different amendment that results from consideration of any submission made by the licence holder; and

(c) within 14 days after making that decision, give the licence holder written notice of the decision under this section.

(4) If the regulator makes the amendment, the notice under subsection (3) must state the day, being not less than 28 days after the licence holder is given the decision notice, on which the amendment takes effect.

(5) If the regulator refuses to make the amendment or makes a different amendment, the notice under subsection (3) must—

(a) if a submission was made in relation to the proposed amendment—set out the reasons for the regulator's decision; and

(b) if the regulator makes a different amendment—

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(i) set out the amendment; and

(ii) state the day, being not less than 28 days after the licence holder is given the notice, on which the amendment takes effect.

Note—

A refusal to make the amendment applied for, or a decision to make a different amendment, is a reviewable decision, see section 676.

144R Minor corrections to licence

The regulator may make minor amendments to a licence, including an amendment—

(a) to correct an obvious error; or

(b) to change an address; or

(c) that imposes no significant burden on the licence holder.

144S Regulator to provide amended licence

If the regulator amends a licence to carry out demolition work and considers that the licence document requires amendment, the regulator must give the licence holder an amended licence document within 14 days of making the decision.

144T Licence holder to return licence

The holder of a licence to carry out demolition work that has been amended must return the licence document to the regulator for amendment at the written request of the regulator and within the time stated in the request.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

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144U Replacement licence document

(1) A holder of a licence to carry out demolition work must notify the regulator as soon as practicable if the licence document is lost, stolen or destroyed.

Maximum penalty—

(a) for an individual—$12^1/_2$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) If a licence document is lost, stolen or destroyed, the licence holder may apply to the regulator for a replacement document.

Note—

A licence holder is required to keep the licence document available for inspection, see section 144M.

(3) An application for a replacement licence document must be made in the way and in the form approved by the regulator.

(4) The application must include—

(a) a declaration describing the circumstances in which the original document was lost, stolen or destroyed; and

(b) a declaration that the information contained in the application is, to the best of the applicant's knowledge, true and correct; and

(c) the relevant fee.

(5) The regulator may issue a replacement licence document if satisfied that the original document was lost, stolen or destroyed.

(6) If the regulator refuses to issue a replacement licence document, it must give the licence holder written notice of this decision, including the reasons for the decision, within 14 days after making the decision.

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Note—

A refusal to issue a replacement licence document is a reviewable decision, see section 676.

144V Voluntary surrender of licence

(1) A licence holder may voluntarily surrender the licence document to the regulator.

(2) The licence expires on the surrender of the licence document.

Division 4A Renewal of licence

144VA Regulator may renew licence

The regulator may renew a licence to carry out demolition work on application by the licence holder.

144VB Application for renewal

(1) An application for renewal of a licence to carry out demolition work must be made in the way and in the form approved by the regulator.

(2) The application must include the following information—

(a) the name and address of the applicant;

(b) if required by the regulator of an applicant who is an individual, a photograph of the applicant in the form required by the regulator;

(c) any other evidence of the applicant's identity required by the regulator;

(d) written evidence that the applicant has undertaken any training and instruction, obtained any information or taken any other action required under section 144J;

(e) a declaration by the applicant that the applicant or a supervisor named by the applicant, as applicable, has

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maintained the competency required to carry out the work covered by the licence.

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

(4) The application must be made before the expiry of the licence.

144VC Provisions relating to renewal of licence

(1) For this division—

(a) section 144E applies as if a reference in that section to an application for a licence were a reference to an application to renew a licence; and

(b) sections 144F (except subsection (5)) and 144K apply as if a reference in those sections to the grant of a licence were a reference to the renewal of a licence; and

(c) section 144H applies as if a reference in section 144F to the grant of a licence were a reference to the renewal of a licence; and

(d) section 144I applies as if a reference in that section to a refusal to grant a licence were a reference to a refusal to renew a licence.

(2) The regulator must not renew a licence to carry out demolition work unless the regulator is satisfied about the matters mentioned in section 144VD.

(3) If a licence holder applies under section 144VB for the renewal of a licence to carry out demolition work, the licence is taken to continue in force from the day it would, apart from this subsection, have expired until the licence holder is given notice of the decision on the application.

Note—

A refusal to renew a licence is a reviewable decision, see section 676.

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144VD Renewal of licence—regulator to be satisfied about particular matters

For section 144VC, the regulator must not renew a licence to carry out demolition work unless satisfied—

(a) that demolition work of the type authorised by the licence has been carried out by or on behalf of the applicant during the term of the licence; and

(b) about the matters mentioned in section 144D.

144VE Status of licence during review

(1) This section applies if the regulator gives a licence holder written notice of its decision to refuse to renew the licence.

(2) If the licence holder does not apply for internal review of the decision, the licence continues to have effect until the last of the following events—

(a) the expiry of the licence;

(b) the end of the time for applying for an internal review.

(3) If the licence holder applies for an internal review of the decision, the licence continues to have effect until the earlier of the following events—

(a) the licence holder withdraws the application for review;

(b) the regulator makes a decision on the review.

(4) If the licence holder does not apply for an external review, the licence continues to have effect until the end of the time for applying for an external review.

(5) If the licence holder applies for an external review, the licence continues to have effect until the earlier of the following events—

(a) the licence holder withdraws the application for review; or

(b) QCAT makes a decision on the review.

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(6) The licence continues to have effect under this section even if its expiry date passes.

Division 5 Suspension and cancellation of licence

144W Suspension or cancellation of licence

(1) The regulator may suspend or cancel a licence to carry out demolition work is satisfied about 1 or more of the following—

(a) the licence holder has failed to ensure that the work or other activities authorised by the licence are carried out safely and competently;

(b) the licence holder has failed to ensure compliance with a condition of the licence, including a condition requiring the licence holder, or a nominated supervisor of the licence holder, to undergo retraining or reassessment during the term of the licence;

(c) the licence holder, in the application for the grant or renewal of the licence or on request by the regulator for additional information—

(i) gave information that was false or misleading in a material particular; or

(ii) failed to give any material information that should have been given in that application or on that request;

(d) the licence was granted on the basis of a certification that was obtained by a nominated supervisor or the licence holder if an individual, on the basis of the giving of false or misleading information by any person or body;

(e) the licence holder no longer satisfies the requirements of section 144C(2)(o);

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(f) a nominated supervisor no longer satisfies the requirements mentioned in section 144D(1)(c).

(2) It is a ground for the suspension or cancellation of a licence to carry out demolition work if the licence holder does not have a qualified nominated supervisor.

Note—

Section 144O (Change to nominated supervisor) provides for a licence holder to notify the regulator of any change in a nominated supervisor.

(3) For the purposes of subsection (1)(b), a licence holder complies with a condition on the licence that requires the licence holder or a nominated supervisor of the licence holder to undergo retraining or reassessment during the term of the licence if the licence holder provides a certification in relation to that retraining or reassessment.

(4) If the regulator suspends or cancels a licence, the regulator may disqualify the licence holder from applying for—

(a) a further licence of the same type; or

(b) another licence under this regulation to carry out work which requires skills that are the same as or similar to those required for the work authorised by the licence that has been suspended or cancelled.

Note—

A decision to suspend a licence, to cancel a licence or to disqualify the licence holder from applying for a further licence is a reviewable decision, see section 676.

144X Matters taken into account

(1) In making a decision under section 144W, the regulator must have regard to—

(a) any submissions made by the licence holder under section 144Y; and

(b) any advice received from a corresponding regulator.

(2) For section 144W(1)(a) and (b), the regulator must have regard to all relevant matters, including the following—

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(a) any relevant WHS conviction of the licence holder (or in the case of a body corporate, any officer of the body corporate);

(b) any suspension or cancellation of an equivalent licence held by the licence holder (or in the case of a body corporate, any officer of the body corporate), or any refusal to grant an equivalent licence to the applicant (or officer), under a relevant WHS law;

(c) any enforceable undertaking the licence holder (or in the case of a body corporate, any officer of the body corporate) has entered into under a relevant WHS law;

(d) the record of the licence holder (or officer) in relation to any matters arising under a relevant WHS law.

144Y Notice to and submissions by licence holder

Before suspending or cancelling a licence to carry out demolition work the regulator must—

(a) give the licence holder a written notice of the proposed suspension or cancellation and any proposed disqualification that outlines all relevant allegations, facts and circumstances known to the regulator; and

(b) give the licence holder not less than 28 days to make submissions to the regulator in relation to the proposed suspension or cancellation and any proposed disqualification.

144Z Notice of decision

(1) The regulator must give the licence holder written notice of a decision under section 144W to suspend or cancel licence to carry out demolition work within 14 days after the decision.

(2) The notice must—

(a) state that the licence is to be suspended or cancelled; and

(b) if the licence is to be suspended, state—

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(i) when the suspension starts and ends; and

(ii) the reasons for the suspension; and

(iii) whether the licence holder is required to undergo retraining or reassessment or take any other action before the suspension ends; and

(iv) whether or not the licence holder is disqualified from applying for a further licence during the suspension; and

(c) if the licence is to be cancelled, state—

(i) when the cancellation takes effect; and

(ii) the reasons for the cancellation; and

(iii) whether or not the licence holder is disqualified from applying for a further licence; and

(d) if the licence holder is disqualified from applying for a further licence, state—

(i) when the disqualification starts and ends; and

(ii) the reasons for the disqualification; and

(iii) whether or not the disqualification ending is conditional upon the licence holder undergoing retraining or reassessment or taking any other action; and

(iv) any other class of licence under this regulation that the licence holder is disqualified from applying for during the suspension or disqualification; and

(e) state when the licence document must be returned to the regulator.

144ZA Immediate suspension

(1) The regulator may suspend a licence to carry out demolition work on a ground mentioned in section 144W without giving notice under section 144Y, if satisfied that—

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(a) work carried out under the licence should stop because the work may involve an imminent serious risk to the health or safety of any person; or

(b) a corresponding regulator has suspended an equivalent licence held by the licence holder under this section as applying in the corresponding jurisdiction.

(2) If the regulator decides to suspend a licence under this section—

(a) the regulator must give the licence holder written notice of the suspension and the reasons for the suspension; and

(b) the suspension of the licence takes effect on the giving of the notice.

(3) The regulator must then give notice under section 144Y within 14 days after giving the notice under subsection (2) and must make a decision under section 144W as soon as practicable.

(4) If the regulator does not give notice under subsection (3), the suspension ends at the end of the 14 day period.

(5) If the regulator gives the notice under section 144Y, the licence remains suspended until the decision is made under section 144W.

144ZB Licence holder to return licence document

A licence holder, on receiving a notice under section 144Z, must return the licence document to the regulator as required under the notice.

Maximum penalty—

(a) for an individual—12$^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

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144ZC Regulator to return licence document after suspension

The regulator must return the licence document to the licence holder within 14 days after the licence suspension ends.

Part 4.7

145 Part number and section numbers 145–166 not used

See note to section 3.

Part 4.8 Diving work

Division 1 Preliminary

167 Purpose of part 4.8

The purpose of this part is to impose duties on a person carrying out a business or undertaking at a workplace to ensure—

(a) the fitness and competence of persons who carry out general diving work and high risk diving work; and

(b) the health and safety of persons who carry out general diving work and high risk diving work; and

(c) the health and safety of other persons at workplaces where general diving work or high risk diving work is carried out.

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Division 2 General diving work—fitness and competence of worker

168 Person conducting business or undertaking must ensure fitness of workers

(1) A person conducting a business or undertaking at a workplace must not direct or allow a worker to carry out general diving work or undergo training for general diving work unless the worker holds a current certificate of medical fitness.

Maximum penalty—60 penalty units.

(2) The person must not direct or allow a worker to carry out general diving work or undergo training for diving work unless the work or training complies with any conditions on the current certificate of medical fitness of the worker.

Maximum penalty—60 penalty units.

169 Certificate of medical fitness

A certificate of medical fitness must—

(a) be issued by a registered medical practitioner with training in underwater medicine; and

(b) state the following—

(i) the name of the person to whom it is issued;

(ii) its date of issue and its expiry date;

(iii) whether or not the person to whom it is issued is, in accordance with the fitness criteria, medically fit to carry out diving work;

(iv) any conditions in relation to the type of diving work the person to whom it is issued is fit to carry out, or the circumstances in which the person is fit to carry out general diving work, including, in the case of a person who is under 18 years of age, any particular conditions applicable to the age of the person.

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170 Duty to keep certificate of medical fitness

A person conducting a business or undertaking at a workplace must keep the certificate of medical fitness of a worker who carries out general diving work for 1 year after the work is carried out.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

171 Competence of worker—general diving work

A person must not carry out general diving work (other than incidental diving work and limited scientific diving work) unless—

(a) the person has one or more of the following qualifications—

(i) a statement of attainment for a specified VET course for general diving work that includes the type of general diving work to be carried out by the person;

(ii) a certificate for general diving work, issued by a training organisation, that mentions the subject areas covered in AS/NZS 4005.2:2000 (Training and certification of—recreational divers—Recreational SCUBA dive supervisor); and

(b) the person has, through training, qualification or experience, acquired sound knowledge and skill in relation to the following—

(i) the application of diving physics;

(ii) the use, inspection and maintenance of diving equipment (including emergency equipment) and

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air supply of the type to be used in the proposed general diving work;

(iii) the use of decompression tables or dive computers;

(iv) dive planning;

(v) ways of communicating with another diver and with persons at the surface during general diving work;

(vi) how to safely carry out general diving work of the type proposed to be carried out;

(vii) diving physiology and first aid.

Note—

See section 44 of the Act.

172 Competence of worker—incidental diving work

(1) A person must not carry out incidental diving work unless the person has—

(a) the training, qualification or experience mentioned in section 171(b); and

(b) relevant diving experience.

Note—

See section 44 of the Act.

(2) In this section, a person has ***relevant diving experience*** if the person has logged at least 15 hours of diving, of which at least 8 hours and 20 minutes were spent diving between 10 metres above and any depth below the maximum depth at which the diving work is to be carried out.

173 Competence of worker—limited scientific diving work

(1) A person who is not permanently resident in Australia must not carry out limited scientific diving work unless the person has—

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(a) the training, qualification or experience mentioned in section 171(b); and

(b) relevant diving experience, including relevant diving experience obtained outside Australia.

Note—

See section 44 of the Act.

(2) In this section, a person has ***relevant diving experience*** if the person has logged at least 60 hours diving of which at least 8 hours and 20 minutes were spent diving between 10 metres above and any depth below the maximum depth at which the limited scientific diving work is to be carried out.

174 Competence of competent person supervising general diving work

A person appointed under section 177 must not perform any function associated with that appointment unless the person has—

(a) the qualification stated in section 171(a); and

(b) experience in the type of diving work to be supervised.

Note—

See section 44 of the Act.

175 Evidence of competence—duty of person conducting business or undertaking

(1) A person conducting a business or undertaking at a workplace must not direct or allow a worker to carry out general diving work unless the person sees written evidence provided by the worker that the worker has the relevant competence required under this division.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

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Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) A person conducting a business or undertaking at a workplace must not direct or allow a person appointed under section 177 to perform any of the functions associated with that appointment unless the person conducting the business or undertaking sees written evidence provided by the worker that the person appointed has the competence required under section 174.

Maximum penalty—

(a) for an individual—12$^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(3) A person conducting a business or undertaking must keep the written evidence obtained—

(a) under subsection (1)—for at least 1 year after the diving work is carried out;

(b) under subsection (2)—for at least 1 year after the last occasion on which the person performs a function associated with the appointment.

Maximum penalty—

(a) for an individual—12$^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

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Division 3 Managing risks—general diving work

176 Management of risks to health and safety

(1) A person conducting a business or undertaking at a workplace must manage risks to health and safety associated with general diving work, under part 3.1.

Note—

WHS Act—section 19 (see section 9).

(2) A person conducting a business or undertaking must ensure that a risk assessment is conducted by a competent person for the purpose of subsection (1).

Maximum penalty—36 penalty units.

(3) The person must ensure that the risk assessment conducted under subsection (2) is recorded in writing.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

177 Appointment of competent person to supervise diving work

A person conducting a business or undertaking at a workplace must appoint one or more competent persons to—

(a) supervise general diving work carried out in the business or undertaking; and

(b) perform other functions under this division.

Maximum penalty—60 penalty units.

Note—

See section 174 for the qualifications of the competent person.

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178 Additional control—dive plan

(1) A person conducting a business or undertaking at a workplace must not direct or allow general diving work to be carried out unless a dive plan for the dive—

(a) is prepared by a person appointed under section 177; or

(b) has been prepared by a person appointed under section 177 on an earlier occasion for a similar dive.

Maximum penalty—60 penalty units.

(2) A dive plan must state the following—

(a) the method of carrying out the diving work to which it relates;

(b) the tasks and duties of each person involved in the dive;

(c) the diving equipment, breathing gases and procedures to be used in the dive;

(d) as applicable, dive times, bottom times and decompression profiles;

(e) hazards relating to the dive and measures to be implemented in the control of risks associated with those hazards;

(f) emergency procedures.

179 Dive plan must be complied with

(1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that general diving work is carried out in accordance with the dive plan prepared for it.

Maximum penalty—60 penalty units.

(2) A person conducting a business or undertaking must ensure that a competent person appointed by the person under section 177 gives workers instruction in relation to the dive plan before commencing the diving work to which the plan relates.

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Maximum penalty—60 penalty units.

180 Additional control—dive safety log to be kept

A person conducting a business or undertaking at a workplace where general diving work is carried out must keep a dive safety log that contains the following information about each dive carried out by a worker—

(a) the name of the worker who carries out the dive;

(b) the name of any other person with whom the dive is carried out;

(c) the name of the person appointed under section 177 to supervise the diving work;

(d) the date and location of the dive;

(e) the time each diver enters and leaves the water;

(f) the maximum depth of the dive;

(g) any incident, difficulty, discomfort or injury that occurs or is experienced during the dive;

(h) if the dive was carried out using a dive computer—the dive time;

(i) if the dive was carried out using dive tables—the repetitive dive group, if available, and either the bottom time or the dive time;

(j) if the repetitive group and surface interval result in a repetitive factor—the surface interval and the repetitive factor;

(k) if the dive is carried out using EANx—

  (i) the oxygen content of the EANx; and

  (ii) the maximum operating depth of the EANx;

(l) if the dive is carried out using mixed gas—

  (i) the oxygen content and the nitrogen content (if any) of the gas; and

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(ii) the maximum operating depth of the mixed gas; and

(iii) the minimum operating depth of the bottom mix.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

181 Use of dive safety log

(1) This section applies to a person conducting a business or undertaking at a workplace where general diving work is carried out.

(2) The person conducting the business or undertaking must ensure that, after each dive carried out in connection with the general diving work is completed, the return of each diver is verified in the dive safety log, as soon as practicable after the return, by—

(a) the diver; and

(b) a person appointed under section 177 to supervise the diving work.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(3) If workers are carrying out general diving work from a vessel, the person conducting the business or undertaking must ensure that a person appointed under section 177 to supervise the diving work makes and verifies entries in the dive safety

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log of the number of workers and other persons on board the vessel—

(a) before the diving work commences; and

(b) before the vessel leaves the location after the diving work is completed.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(4) The person conducting the business or undertaking must ensure that the dive safety log is kept for at least 1 year after the last entry is made.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(5) In this section—

verified means an event is verified in the dive safety log—

(a) by signing; or

(b) if the log is electronic, by entering the verifier's unique identifier.

182 Record keeping

(1) This section applies if a person conducting a business or undertaking prepares—

(a) a risk assessment under section 176; or

(b) a dive plan under section 178.

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(2) Subject to subsection (3), the person must keep—

(a) a copy of the risk assessment until at least 28 days after the work to which it relates is completed; and

(b) a copy of the dive plan until the work to which it relates is completed.

Maximum penalty—

(a) for an individual—12 1/2 penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(3) If a notifiable incident occurs in connection with the work to which the assessment or dive plan relates, the person must keep the assessment or dive plan (as the case requires) for at least 2 years after the incident occurs.

Maximum penalty—

(a) for an individual—12 1/2 penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(4) The person must ensure that for the period for which the assessment or dive plan must be kept under this section, a copy is readily accessible to any worker engaged by the person to carry out the work to which the assessment or dive plan relates.

Maximum penalty—36 penalty units.

(5) The person must ensure that for the period for which the assessment or dive plan must be kept under this section, a copy is available for inspection under the Act.

Maximum penalty—

(a) for an individual—12 1/2 penalty units; or

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(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

Division 4 High risk diving work

183 Duties of person conducting business or undertaking

A person conducting a business or undertaking at a workplace where high risk diving work is carried out must ensure that the following are in accordance with AS/NZS 2299.1:2007 (Occupational diving operations—Standard operational practice)—

(a) the fitness of persons carrying out the work;

(b) the competence of persons carrying out the work;

Note—

See section 44 of the Act.

(c) the carrying out of the work.

Maximum penalty—60 penalty units.

184 Duty of worker—competence

A person must not carry out high risk diving work unless the person has the qualifications, knowledge, skills and experience required by AS/NZS 2299.1:2007 (Occupational diving operations—Standard operational practice) for work of the kind to be carried out by the person.

Note—

See section 44 of the Act.

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Chapter 5 Plant and structures

Part 5.0 Preliminary

184A Definition for ch 5

In this chapter—

maintain, for a plant or structure, includes repair and service.

Part 5.1 General duties for plant and structures

Note—

If a jurisdiction enacts schedule 1 of the Act, this part will extend to plant outside the workplace as provided for in that schedule.

Division 1 Preliminary

185 Application of part 5.1 to plant

(1) Subject to this section, this part applies to all plant.

(2) Subject to subsection (3), this part does not apply to plant that—

(a) relies exclusively on manual power for its operation; and

(b) is designed to be primarily supported by hand.

(3) This part applies to explosive power tools that are designed to be supported by hand.

186 Application of part 5.1 to structures

This part applies to structures as provided in this part.

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Division 2 Duties of persons conducting businesses or undertakings that design plant

187 Provision of information to manufacturer

A designer of plant must ensure, when the design of the plant is made available to the manufacturer of the plant, that the manufacturer is provided with—

(a) information to enable the plant to be manufactured in accordance with the design specifications; and

(b) if applicable, information about—

(i) the installation, commissioning, decommissioning, use, handling, storage and, if the plant is capable of being dismantled, dismantling of the plant; and

(ii) the hazards and risks associated with the use of the plant that the designer has identified; and

(iii) testing or inspections to be carried out on the plant; and

(iv) the systems of work and competency of operators that are necessary for the safe use of the plant; and

(v) the emergency procedures (if any) that are required to be implemented if there is a malfunction of the plant.

Maximum penalty—36 penalty units.

Note—

A designer also has duties under section 22 of the Act.

188 Hazard identified in design during manufacture

If a manufacturer of plant advises the designer of the plant that there is a hazard in the design of plant for which the designer has not provided a control measure, the designer must—

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(a) revise the information originally supplied to the manufacturer to ensure that—

(i) the risk is eliminated so far as is reasonably practicable; or

(ii) if it is not reasonably practicable to eliminate the risk, the risk is minimised so far as is reasonably practicable; or

(b) notify the manufacturer, in writing, that the designer is of the opinion that it is not necessary to revise the information originally supplied to the manufacturer to ensure compliance with this part.

Maximum penalty—36 penalty units.

Note—

A designer also has duties under section 22 of the Act.

189 Guarding

(1) This section applies if a designer of plant uses guarding as a measure to control risk.

(2) The designer must ensure, so far as is reasonably practicable, that the guarding designed for that purpose will prevent access to the danger point or danger area of the plant.

Maximum penalty—60 penalty units.

(3) The designer must ensure that—

(a) if access to the area of the plant requiring guarding is not necessary during operation, maintenance or cleaning of the plant—the guarding is a permanently fixed physical barrier; or

(b) if access to the area of the plant requiring guarding is necessary during operation, maintenance or cleaning of the plant—the guarding is an interlocked physical barrier that allows access to the area being guarded at times when that area does not present a risk and prevents access to that area at any other time; or

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(c) if it is not reasonably practicable to use guarding mentioned in paragraph (a) or (b)—the guarding used is a physical barrier that can only be altered or removed by the use of tools; or

(d) if it is not reasonably practicable to use guarding mentioned in paragraph (a), (b) or (c)—the design includes a presence-sensing safeguarding system that eliminates any risk arising from the area of the plant requiring guarding while a person or any part of a person is in the area being guarded.

Maximum penalty—60 penalty units.

(4) The designer must ensure that the guarding is designed—

(a) to be of solid construction and securely mounted so as to resist impact or shock; and

(b) to make bypassing or disabling of the guarding, whether deliberately or by accident, as difficult as is reasonably practicable; and

(c) so as not to cause a risk in itself.

Maximum penalty—60 penalty units.

(5) If the plant to be guarded contains moving parts and those parts may break or cause workpieces to be ejected from the plant, the designer must ensure, so far as is reasonably practicable, that the guarding will control any risk from those broken or ejected parts and workpieces.

Maximum penalty—60 penalty units.

(6) Despite anything to the contrary in this section, the designer must ensure—

(a) that the guarding is of a kind that can be removed to allow maintenance and cleaning of the plant at any time that the plant is not in normal operation; and

(b) if the guarding is removed, that, so far as is reasonably practicable, the plant cannot be restarted unless the guarding is replaced.

Maximum penalty—60 penalty units.

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190 Operational controls

(1) A designer of plant must ensure that the design provides for any operator's controls for the plant to be—

(a) identified on the plant so as to indicate their nature and function and direction of operation; and

(b) located so as to be readily and conveniently operated by each person using the plant; and

(c) located or guarded to prevent unintentional activation; and

(d) able to be locked into the "off" position to enable the disconnection of all motive power.

Maximum penalty—60 penalty units.

(2) If the need for plant to be operated during maintenance or cleaning cannot be eliminated, the designer of the plant must ensure that the design provides for operator's controls that—

(a) permit operation of the plant while a person is undertaking the maintenance or cleaning of the plant; and

(b) while the plant is being maintained or cleaned, cannot be operated by any person other than the person who is carrying out the maintenance or cleaning of the plant; and

(c) will allow operation of the plant in such a way that any risk associated with the activities in relation to any person who is carrying out the maintenance or cleaning—

(i) is eliminated so far as is reasonably practicable; or

(ii) if it is not reasonably practicable to eliminate the risk, is minimised so far as is reasonably practicable.

Maximum penalty—60 penalty units.

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191 Emergency stop controls

(1) If plant is designed to be operated or attended by more than one person and more than one emergency stop control is fitted, the designer of the plant must ensure that the design provides for the multiple emergency stop controls to be of the "stop and lock-off" type so that the plant cannot be restarted after an emergency stop control has been used unless that emergency stop control is reset.

Maximum penalty—60 penalty units.

(2) If the design of the plant includes an emergency stop control for the plant, the designer of the plant must ensure that the design provides—

(a) for the stop control to be prominent, clearly and durably marked and immediately accessible to each operator of the plant; and

(b) for any handle, bar or push button associated with the stop control to be coloured red; and

(c) that the stop control cannot be adversely affected by electrical or electronic circuit malfunction.

Maximum penalty—60 penalty units.

192 Warning devices

(1) This section applies if the design of plant includes an emergency warning device or it is necessary to include an emergency warning device to minimise risk.

(2) The designer of the plant must ensure that the design provides for the device to be positioned on the plant to ensure the device will work to best effect.

Maximum penalty—60 penalty units.

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Division 3 Duties of persons conducting businesses or undertakings that manufacture plant

193 Control of risk

(1) A manufacturer of plant must ensure the following—

(a) that the plant is manufactured and inspected having regard to the information provided to the manufacturer by the designer of the plant under the Act and this regulation;

(b) if the information provided to the manufacturer by the designer of the plant under the Act and this regulation requires the plant to be tested—that the plant is tested in accordance with that information;

(c) if, during the manufacturing process, any hazard is identified in the design of the plant for which the designer has not provided a control measure—

(i) that the hazard is not incorporated into the manufacture of the plant; and

(ii) that the designer of the plant is given written notice of the hazard as soon as practicable; and

(iii) that all reasonable steps are taken to consult with the designer of the plant in relation to the alteration of the design to rectify the hazard.

Maximum penalty—60 penalty units.

(2) A manufacturer of plant must ensure that, if it is not possible to tell the designer of the hazard under subsection (1)—

(a) the risk is eliminated, so far as is reasonably practicable; or

(b) if it is not reasonably practicable to eliminate the risk, the risk is minimised so far as is reasonably practicable.

Note—

WHS Act—section 23 (see section 9).

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(3) A manufacturer to whom subsection (1)(c) applies must not manufacture the plant until—

(a) the designer gives the manufacturer the revised information or written instruction under section 188; or

(b) the manufacturer eliminates or minimises the risk under subsection (2).

Note—

WHS Act—section 23 (see section 9).

(4) If the designer notifies a manufacturer of plant under section 188, the manufacturer may proceed in accordance with the designer's original information.

194 Guarding

(1) A manufacturer of plant must ensure that guarding used as a measure to control risk is of solid construction and securely mounted so as to resist impact or shock.

Maximum penalty—60 penalty units.

(2) A manufacturer of plant must ensure—

(a) that any guarding used as a measure to control risk in relation to plant is of a kind that can be removed to allow maintenance and cleaning of the plant at any time that the plant is not in normal operation; and

(b) if the guarding is removed, that, so far as is reasonably practicable, the plant cannot be restarted unless the guarding is replaced.

Maximum penalty—60 penalty units.

195 Information must be obtained and provided

A manufacturer of plant must—

(a) take all reasonable steps to obtain the information required to be provided to the manufacturer by the designer of the plant under section 22(4)(a) and (c) of the Act and sections 187 and 188; and

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(b) ensure that, when the plant is supplied by the manufacturer to a person to whom the manufacturer supplies the plant is provided with the information provided to the manufacturer by the designer under section 22(4)(a) and (c) of the Act and section 187 at the time the plant is supplied by the manufacturer; and

(c) if the manufacturer acts under section 193(1)(c), ensure that a person to whom the manufacturer supplies the plant is provided with the information, applicable to the plant, that is required to be provided by the designer under sections 22(4)(a) and (c) of the Act and section 188.

Maximum penalty—36 penalty units.

Division 4 Duties of persons conducting businesses or undertakings that import plant

196 Information to be obtained and provided by importer

An importer of plant must—

(a) take all reasonable steps to obtain—

(i) the information that would be required to be provided by a manufacturer under section 23(4)(a) and (c) of the Act; and

(ii) the information that would be required to be provided by the designer of the plant to the manufacturer under sections 187 and 188; and

(b) give that information to any person to whom the importer supplies the plant.

Maximum penalty—36 penalty units.

197 Control of risk

An importer of plant must—

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(a) ensure that the plant is inspected having regard to the information provided by the manufacturer; and

(b) if the information provided by the manufacturer requires the plant to be tested—ensure that the plant is tested in accordance with that information; and

(c) if any hazards are identified—

(i) ensure that the plant is not supplied until the risks have been eliminated so far as is reasonably practicable; and

(ii) if it is not reasonably practicable to eliminate the risks, advise the person to whom the plant is supplied of the risks; and

(iii) take all reasonable steps to ensure that the designer and manufacturer of the plant are consulted in relation to any alteration made to the plant to control the risk.

Maximum penalty—60 penalty units.

Division 5 Duties of persons conducting businesses or undertakings that supply plant

198 Information to be obtained and provided by supplier

A supplier of plant must—

(a) take all reasonable steps to obtain the information required to be provided by the manufacturer under section 23(4)(a) and (c) of the Act and this regulation; and

(b) ensure that when the plant is supplied the person to whom the plant is supplied is given the information obtained by the supplier under paragraph (a).

Maximum penalty—36 penalty units.

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199 Supply of second-hand plant—duties of supplier

(1) A supplier of second-hand plant must ensure, so far as is reasonably practicable, that any faults in the plant are identified.

Maximum penalty—60 penalty units.

(2) A supplier of second-hand plant must ensure that the person to whom the plant is supplied is, before the plant is supplied, given written notice—

(a) of the condition of the plant; and

(b) of any faults identified under subsection (1); and

(c) if appropriate, that the plant should not be used until the faults are rectified.

Maximum penalty—60 penalty units.

(3) This section does not apply to plant to be used for scrap or spare parts.

200 Second-hand plant to be used for scrap or spare parts

A supplier of plant to be used for scrap or spare parts must, before the plant is supplied, inform the person to whom the plant is supplied, either in writing or by marking the plant, that the plant is being supplied for scrap or spare parts and that the plant in its current form is not to be used as plant.

Maximum penalty—36 penalty units.

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Division 6 Duties of persons conducting businesses or undertakings that install, construct or commission plant or structures

201 Duties of persons conducting businesses or undertakings that install, construct or commission plant

(1) This section applies to a person who conducts a business or undertaking that installs, constructs or commissions plant that is to be used, or could reasonably be expected to be used, as, or at, a workplace.

(2) The person must ensure that the plant is installed, constructed or commissioned having regard to—

(a) the information provided by the designer, manufacturer, importer or supplier of the plant under the Act and this regulation; or

(b) the instructions provided by a competent person to the extent that those instructions relate to health and safety.

Maximum penalty—60 penalty units.

202 Duties of persons conducting businesses or undertakings that install, construct or commission structures

(1) This section applies to a person who conducts a business or undertaking that installs, constructs or commissions a structure that is to be used, or could reasonably be expected to be used, as or at, a workplace.

(2) The person must ensure that the structure is installed, constructed or commissioned having regard to—

(a) the information provided by the designer, manufacturer, importer or supplier of the structure under the Act and this regulation; or

(b) the instructions provided by a competent person to the extent that those instructions relate to health and safety.

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Maximum penalty—60 penalty units.

Division 7 General duties of a person conducting a business or undertaking involving the management or control of plant

Note—

A person with management or control of plant at a workplace is the person conducting a business or undertaking at the workplace to the extent that the business or undertaking involves the management or control of plant in whole or in part at the workplace. See the definition of *person with management or control of plant at a workplace* in schedule 19 and section 21 of the Act.

Subdivision 1 Management of risks

203 Management of risks to health and safety

A person with management or control of plant at a workplace must manage risks to health and safety.

Note—

WHS Act—section 21 (see section 9).

Subdivision 2 Additional control measures for general plant

204 Control of risks arising from installation or commissioning

(1) A person with management or control of plant at a workplace must not commission the plant unless the person has established that the plant is, so far as is reasonably practicable, without risks to the health and safety of any person.

Maximum penalty—60 penalty units.

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(2) A person with management or control of plant at a workplace must not decommission or dismantle the plant unless the decommissioning or dismantling can be carried out, so far as is reasonably practicable, without risks to the health and safety of any person.

Maximum penalty—60 penalty units.

(3) A person with management or control of plant at a workplace must ensure that a person who installs, assembles, constructs, commissions or decommissions or dismantles the plant is a competent person.

Maximum penalty—60 penalty units.

(4) A person with management or control of plant at a workplace must ensure that a person who installs, assembles, constructs, commissions or decommissions or dismantles the plant is provided with the available information for eliminating or minimising risks to health or safety.

Maximum penalty—60 penalty units.

(5) A person with management or control of plant at a workplace must ensure that the processes for the installation, construction, commissioning, decommissioning and dismantling of plant include inspections that ensure, so far as is reasonably practicable, that risks associated with these activities are monitored.

Maximum penalty—60 penalty units.

205 Preventing unauthorised alterations to or interference with plant

The person with management or control of plant at a workplace must, so far as is reasonably practicable, prevent alterations to or interference with the plant that are not authorised by the person.

Maximum penalty—60 penalty units.

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206 Proper use of plant and controls

(1) The person with management or control of plant at a workplace must take all reasonable steps to ensure that plant is used only for the purpose for which it was designed, unless the person has determined that the proposed use does not increase the risk to health or safety.

Maximum penalty—60 penalty units.

(2) In determining whether or not a proposed use of plant increases the risk to health or safety, the person with management or control of the plant must ensure that the risk associated with the proposed use is assessed by a competent person.

Maximum penalty—60 penalty units.

(3) The person with management or control of plant at a workplace must take all reasonable steps to ensure that all health and safety features and warning devices (including guarding, operational controls, emergency stops and warning devices) are used in accordance with the instructions and information provided by that person under section 39.

Maximum penalty—60 penalty units.

207 Plant not in use

The person with management or control of plant at a workplace must ensure, so far as is reasonably practicable, that plant that is not in use is left in a state that does not create a risk to the health or safety of any person.

Maximum penalty—60 penalty units.

208 Guarding

(1) This section applies if guarding is used as a measure to control risk associated with plant at a workplace.

(2) The person with management or control of the plant must ensure that—

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(a) if access to the area of the plant requiring guarding is not necessary during operation, maintenance or cleaning of the plant, the guarding is a permanently fixed physical barrier; or

(b) if access to the area of the plant requiring guarding is necessary during operation, maintenance or cleaning of the plant, the guarding is an interlocked physical barrier that allows access to the area being guarded at times when that area does not present a risk and prevents access to that area at any other time; or

(c) if it is not reasonably practicable to use guarding mentioned in paragraph (a) or (b), the guarding used is a physical barrier that can only be altered or removed by the use of tools; or

(d) if it is not reasonably practicable to use guarding mentioned in paragraph (a), (b) or (c), the guarding includes a presence-sensing safeguarding system that eliminates any risk arising from the area of the plant requiring guarding while a person or any part of a person is in the area being guarded.

Maximum penalty—60 penalty units.

(3) The person with management or control of the plant must ensure that the guarding—

(a) is of solid construction and securely mounted so as to resist impact or shock; and

(b) makes by-passing or disabling of the guarding, whether deliberately or by accident, as difficult as is reasonably practicable; and

(c) does not create a risk in itself; and

(d) is properly maintained.

Maximum penalty—60 penalty units.

(4) If the plant to be guarded contains moving parts that may break or cause workpieces to be ejected from the plant, the person with management or control of the plant must ensure, so far as is reasonably practicable, that the guarding will

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control any risk from those broken or ejected parts and workpieces.

Maximum penalty—60 penalty units.

(5) Despite anything to the contrary in this section, the person with management or control of the plant must ensure—

(a) that the guarding is of a kind that can be removed to allow maintenance and cleaning of the plant at any time that the plant is not in normal operation; and

(b) if guarding is removed, that, so far as is reasonably practicable, the plant cannot be restarted unless the guarding is replaced.

Maximum penalty—60 penalty units.

209 Guarding and insulation from heat and cold

The person with management or control of plant at a workplace must ensure, so far as is reasonably practicable, that any pipe or other part of the plant associated with heat or cold is guarded or insulated so that the plant is without risks to the health and safety of any person.

Maximum penalty—60 penalty units.

210 Operational controls

(1) The person with management or control of plant at a workplace must ensure that any operator's controls are—

(a) identified on the plant so as to indicate their nature and function and direction of operation; and

(b) located so as to be readily and conveniently operated by each person using the plant; and

(c) located or guarded to prevent unintentional activation; and

(d) able to be locked into the 'off' position to enable the disconnection of all motive power.

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Maximum penalty—60 penalty units.

(2) If the need for plant to be operated during maintenance or cleaning cannot be eliminated, the person with management or control of the plant at a workplace must ensure that the operator's controls—

(a) permit operation of the plant while a person is undertaking the maintenance or cleaning of the plant; and

(b) while the plant is being maintained or cleaned, either—

(i) cannot be operated by any person other than the person who is carrying out the maintenance or cleaning of the plant; or

(ii) if subparagraph (i) cannot be complied with because the plant must be operated by a person other than the person who is carrying out the maintenance or cleaning of the plant, cannot be operated except by a person authorised by the person with management or control of the plant for that purpose; and

(c) will allow operation of the plant in such a way that any risk associated with the activities in relation to any person who is carrying out the maintenance or cleaning—

(i) is eliminated so far as is reasonably practicable; or

(ii) if it is not reasonably practicable to eliminate the risk, is minimised so far as is reasonably practicable.

Maximum penalty—60 penalty units.

211 Emergency stops

(1) If plant at a workplace is designed to be operated or attended by more than one person and more than one emergency stop control is fitted, the person with management or control of plant at the workplace must ensure that the multiple

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emergency stop controls are of the 'stop and lock-off' type so that the plant cannot be restarted after an emergency stop control has been used unless that emergency stop control is reset.

Maximum penalty—60 penalty units.

(2) If the design of plant at a workplace includes an emergency stop control, the person with management or control of the plant at the workplace must ensure that—

(a) the stop control is prominent, clearly and durably marked and immediately accessible to each operator of the plant; and

(b) any handle, bar or push button associated with the stop control is coloured red; and

(c) the stop control cannot be adversely affected by electrical or electronic circuit malfunction.

Maximum penalty—60 penalty units.

212 Warning devices

(1) This section applies if the design of plant includes an emergency warning device or it is necessary to include an emergency warning device to minimise risk.

(2) The person with management or control of the plant must ensure that the device is positioned on the plant to ensure that the device will work to best effect.

Maximum penalty—60 penalty units.

213 Maintenance and inspection of plant

(1) The person with management or control of plant at a workplace must ensure that the maintenance, inspection and, if necessary, testing of the plant is carried out by a competent person.

Maximum penalty—36 penalty units.

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(2) The maintenance, inspection and testing must be carried out—

(a) in accordance with the manufacturer's recommendations, if any; or

(b) if there are no manufacturer's recommendations, in accordance with the recommendations of a competent person; or

(c) in relation to inspection, if it is not reasonably practicable to comply with paragraph (a) or (b), annually.

Subdivision 3 Additional control measures for particular plant

Note—

The person with management or control of plant at a workplace is the person conducting a business or undertaking at a workplace to the extent that the business or undertaking involves the management or control of plant in whole or in part at the workplace. See the definition of *person with management or control of plant at a workplace* in schedule 19 and section 21 of the Act.

214 Powered mobile plant—general control of risk

The person with management or control of powered mobile plant at a workplace must under part 3.1, manage risks to health and safety associated with the following—

(a) the plant overturning;

(b) things falling on the operator of the plant;

(c) the operator being ejected from the plant;

(d) the plant colliding with any person or thing;

(e) mechanical failure of pressurised elements of plant that may release fluids that pose a risk to health and safety.

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Note—

WHS Act—section 21 (see section 9).

215 Powered mobile plant—specific control measures

(1) This section applies to a person with management or control of powered mobile plant at a workplace.

(2) The person must ensure, so far as is reasonably practicable, that a suitable combination of operator protective devices for the plant is provided, maintained and used.

Maximum penalty—60 penalty units.

(3) The person must ensure, so far as is reasonably practicable, that no person other than the operator rides on the plant unless the person is provided with a level of protection that is equivalent to that provided to the operator.

Maximum penalty—60 penalty units.

(4) The person must ensure that the plant does not collide with pedestrians or other powered mobile plant.

Maximum penalty—60 penalty units.

(5) Without limiting subsection (4), if there is a possibility of the plant colliding with pedestrians or other powered mobile plant, the person must ensure that the plant has a warning device that will warn persons who may be at risk from the movement of the plant.

Maximum penalty—60 penalty units.

216 Roll-over protection on tractors

(1) The person with management or control of a tractor at a workplace must ensure that the tractor is not used unless it is securely fitted with a roll-over protective structure.

Maximum penalty—60 penalty units.

(2) If a tractor is used in a place that is too low for the tractor to work while it is fitted with a roll-over protective structure, the structure may be lowered or removed for the period during

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which the tractor is used in such a situation (but only if other measures to minimise the risk of roll-over are in place).

(3) This section does not apply if the tractor is—

(a) installed in a fixed position, and in a manner which would no longer permit it to be used as powered mobile plant; or

(b) a tractor with a mass of less than 560kg or a mass of 15,000kg or more; or

(c) being used for a historical purpose or activity.

(4) In this section—

historical purpose or activity, in relation to the use of a tractor, includes an activity ancillary to a historical activity.

Example of a historical activity—

a historical display, parade, demonstration or re-enactment

Example of an activity ancillary to a historical activity—

restoring, maintaining, modifying or housing a tractor used, or to be used, for a historical activity.

roll-over protective structure means a structure designed to protect a tractor operator from injury if the tractor rolls over in any direction.

Note—

Sections 214 and 215 also apply to a tractor.

218 Industrial lift trucks

(1) The person with management or control of an industrial lift truck at a workplace must ensure that the truck is—

(a) equipped with lifting attachments that are suitable for the load to be lifted or moved by the truck; and

(b) operated in a manner that ensures that the risks to the operator of the truck and other persons at or near the workplace that arise from systems of work and the environment in which the truck is used—

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(i) are eliminated so far as is reasonably practicable; or

(ii) if it is not reasonably practicable to eliminate the risks, are minimised so far as is reasonably practicable.

Maximum penalty—60 penalty units.

(2) The person with management or control of an industrial lift truck at a workplace must ensure that the truck is not used to carry a passenger unless—

(a) the truck is designed to carry a seated passenger; and

(b) the passenger seat is—

(i) fitted with suitable seat restraints; and

(ii) located within the zone of protection that is provided by the operator protective device required to be fitted to the industrial lift truck.

Maximum penalty—60 penalty units.

(3) The person with management or control of an industrial lift truck at a workplace must take all reasonable steps to ensure that a passenger in an industrial lift truck is seated in a seat that complies with subsection (2)(b).

Maximum penalty—60 penalty units.

Note—

Sections 214 and 215 will also apply to an industrial lift truck.

219 Plant that lifts or suspends loads

(1) This section applies in relation to plant that is used to lift or suspend persons or things.

(2) The person with management or control of plant at a workplace must ensure, so far as is reasonably practicable, that the plant used is specifically designed to lift or suspend the load.

Maximum penalty—60 penalty units.

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(3) If it is not reasonably practicable to use plant that is specifically designed to lift or suspend the load, the person must ensure that—

(a) the plant does not cause a greater risk to health and safety than if specifically designed plant were used; and

(b) if the plant is lifting or suspending persons, the use of the plant complies with section 220.

Maximum penalty—60 penalty units.

(4) The person must ensure that the lifting and suspending is carried out—

(a) with lifting attachments that are suitable for the load being lifted or suspended; and

(b) within the safe working limits of the plant.

Maximum penalty—60 penalty units.

(5) The person must ensure, so far as is reasonably practicable, that no loads are suspended or travel over a person unless the plant is specifically designed for that purpose.

Maximum penalty—60 penalty units.

(6) The person must ensure, so far as is reasonably practicable, that loads are lifted or suspended in a way that ensures that the load remains under control during the activity.

Maximum penalty—60 penalty units.

(7) The person must ensure, so far as is reasonably practicable, that no load is lifted simultaneously by more than 1 piece of plant unless each piece of plant used to lift the load is specifically designed to lift a load.

Maximum penalty—60 penalty units.

220 Exception—Plant not specifically designed to lift or suspend a person

(1) For section 219(3)(b), the person with management or control of the plant at a workplace must ensure that—

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(a) the persons are lifted or suspended in a work box that is securely attached to the plant; and

(b) the persons in the work box remain substantially within the work box while they are being lifted or suspended; and

(c) if there is a risk of a person falling from a height, a safety harness is provided and worn by the person in order to prevent, so far as is reasonably practicable, injury to the person as a result of the fall; and

(d) means are provided by which the persons being lifted or suspended can safely exit from the plant in the event of a failure in its normal operation.

(2) This section does not apply to plant used in connection with—

(a) the performance of stunt work; or

(b) the performance of acrobatics; or

(c) theatrical performances.

Note—

Part 4.4 (other than section 79) applies to the matters in subsection (2).

221 Plant used in connection with tree lopping

(1) Section 220(1)(a) and (b) do not apply in connection with tree lopping if—

(a) a risk assessment shows that lifting or suspending a person in a harness with a crane to place the person in a tree to carry out tree lopping does not create a greater risk to health or safety than using plant specifically designed to lift a person or climbing a tree; and

(b) the tree lopping is carried out by a person who is a competent person in the use of the harness mentioned in paragraph (a); and

(c) a crane is used to put the competent person in the tree to fell it; and

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(d) the crane has safety mechanisms that would prevent the competent person from inadvertently falling; and

(e) while attached to the crane, the competent person is in visual, audio or radio communication with the crane operator.

(2) In this section—

harness means a work positioning harness that is designed and certified, in accordance with AS/NZS 1891.1:2007 (Industrial fall-arrest systems—Harnesses and ancillary equipment), for the purpose of lifting and suspending a person.

222 Industrial robots

(1) This section applies to a person with management or control of an industrial robot or other remotely or automatically energised plant at a workplace.

(2) The person must not allow or direct a worker to work in the immediate vicinity of the plant if it could start without warning and cause a hazard, unless suitable control measures are in place to control the risks to health and safety.

Maximum penalty—60 penalty units.

(3) If the remote or automatic energising of the plant could lead to risks to health and safety, the person must ensure that access to the area in the immediate vicinity of the plant is controlled at all times—

(a) by isolating the area; or

(b) by—

(i) providing interlocked guards; or

(ii) if a risk remains, providing presence-sensing devices; or

(iii) if a risk then remains, providing permit to work systems.

Maximum penalty—60 penalty units.

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223 Lasers

(1) This section applies to the person with management or control, at a workplace, of laser equipment that may create a risk to health and safety.

(2) The person must ensure that laser equipment intended for use on plant is designed, constructed and installed so as to prevent accidental irradiation of any person.

Maximum penalty—60 penalty units.

(3) The person must ensure that laser equipment on plant is protected so that any operator of the plant or other person is not exposed to direct radiation, radiation produced by reflection or diffusion or secondary radiation.

Maximum penalty—60 penalty units.

(4) The person must ensure that the visual equipment used for the observation or adjustment of laser equipment on plant causes no risk to health or safety from laser rays.

Maximum penalty—60 penalty units.

(5) The person must ensure that the workers operating the laser equipment are trained in the proper operation of the equipment.

Maximum penalty—60 penalty units.

(6) The person must ensure that Class 3B and Class 4 lasers (within the meaning of AS 2397 Safe Use of Lasers in the Building and Construction Industry) are not used in construction work.

Maximum penalty—60 penalty units.

224 Pressure equipment

(1) The person with management or control of pressure equipment at a workplace must ensure that—

(a) the equipment is inspected on a regular basis by a competent person; and

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(b) any gas cylinder that is inspected is marked with a current inspection mark showing the date of the most recent inspection.

Maximum penalty—36 penalty units.

(2) The person with management or control of gas cylinders at a workplace that is a gas cylinder filling station must ensure that—

(a) a gas cylinder is not filled with gas unless it bears a current inspection mark; and

(b) a gas cylinder is only filled with gas for which that cylinder is designed.

Maximum penalty—36 penalty units.

225 Scaffolds

(1) This section applies in relation to—

(a) a suspended scaffold; and

(b) a cantilevered scaffold; and

(c) a spur scaffold; and

(d) a hung scaffold; and

(e) any other scaffold from which a person or thing could fall more than 4m.

(2) The person with management or control of a scaffold at a workplace must ensure that the scaffold is not used unless the person receives written confirmation from a competent person that construction of the scaffold has been completed.

Maximum penalty—60 penalty units.

(3) The person with management or control of a scaffold at a workplace must ensure that the scaffold and its supporting structure are inspected by a competent person—

(a) before the scaffold is used; and

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(b) before use of the scaffold is resumed after an incident occurs that may reasonably be expected to affect the stability of the scaffold; and

(c) before use of the scaffold is resumed after repairs; and

(d) at least every 30 days.

Maximum penalty—60 penalty units.

(4) If an inspection indicates that a scaffold at a workplace or its supporting structure creates a risk to health or safety, the person with management or control of the scaffold must ensure that—

(a) any necessary repairs, alterations and additions are made or carried out; and

(b) the scaffold and its supporting structure are inspected again by a competent person before use of the scaffold is resumed.

Maximum penalty—60 penalty units.

(5) The person with management or control of a scaffold at a workplace must ensure that unauthorised access to the scaffold is prevented while the scaffold is incomplete or unattended.

Example—

danger tags and other warning signs

Maximum penalty—60 penalty units.

226 Plant with presence-sensing safeguarding system—records

(1) The person with management or control of plant with a presence-sensing safeguarding system at a workplace must keep a record of safety integrity tests, inspections, maintenance, commissioning, decommissioning, dismantling and alterations of the plant for the period set out in subsection (2).

Maximum penalty—

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(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) The record must be kept for—

(a) 5 years unless paragraph (b) applies; or

(b) the life of the plant or until the person relinquishes control of the plant if the plant is registered plant or has been altered.

(3) The person must keep the record available for inspection under the Act.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(4) The person must make the record available to any person to whom the person relinquishes control of the plant.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

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Part 5.2 Additional duties relating to registered plant and plant designs

Notes—

1 The person with management or control of plant at a workplace is the person conducting a business or undertaking at a workplace to the extent that the business or undertaking involves the management or control of plant in whole or in part at the workplace. See the definition of *person with management or control of plant at a workplace* in schedule 19 and section 21 of the Act.

2 This part applies in addition to part 5.1.

3 In this part, *plant* includes a structure, see the definition of *plant* in schedule 19.

Division 1 Application of part 5.2

227 Application of pt 5.2

This part applies to—

(a) plant that is required to be registered under part 5.3; or

(b) plant the design of which is required to be registered under part 5.3.

Division 2 Duty of person conducting a business or undertaking who designs plant to record plant design

228 Records and information

If the design of plant is required to be registered under part 5.3, the designer of that plant must make a record that contains—

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(a) the method used to determine the control measures for the plant and the control measures that result from that decision; and

(b) a copy of the information provided to a manufacturer under section 22 of the Act in relation to that plant; and

(c) a copy of the information provided to a manufacturer under section 187 in relation to that plant; and

(d) if applicable, a copy of the information provided to a manufacturer under section 188 in relation to that plant.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

229 Record of standards or engineering principles used

(1) If the design of plant is required to be registered under part 5.3, the designer of the plant must record any published technical standard, including any part of a published technical standard, that was used to design the plant.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) If the designer of the plant has not used published technical standards to design the plant, the designer must record any engineering principles used to design the plant.

Maximum penalty—

(a) for an individual—12½ penalty units; or

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(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

230 Records to be available for inspection

(1) A designer of plant must ensure that the records made under sections 228 and 229 are kept available for inspection under the Act.

Maximum penalty—

(a) for an individual—12$^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) A designer of plant must ensure that the records are made available for inspection by the design verifier of the plant design.

Maximum penalty—

(a) for an individual—12$^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(3) A designer of plant must keep the records made under sections 228 and 229 for the design life of the plant.

Maximum penalty—

(a) for an individual—12$^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

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Division 3 Duties of a person conducting a business or undertaking

231 Duty of persons conducting businesses or undertakings that manufacture plant

A manufacturer must not supply plant specified in schedule 5, part 1 unless the design of that plant is registered under part 5.3.

Maximum penalty—60 penalty units.

232 Duty of persons conducting businesses or undertakings that import plant

An importer must not supply plant stated in schedule 5, part 1 unless the design of that plant is registered under part 5.3.

Maximum penalty—60 penalty units.

233 Duty of persons conducting businesses or undertakings that supply plant

A supplier must not supply plant stated in schedule 5, part 1 unless the design of that plant is registered under part 5.3.

Maximum penalty—60 penalty units.

234 Duty of persons conducting businesses or undertakings that commission plant

(1) This section applies to a person who conducts a business or undertaking that commissions plant.

(2) The person must not commission an item of plant that is stated in schedule 5, part 2 for use in a workplace unless that item of plant is registered under part 5.3.

Maximum penalty—60 penalty units.

(3) Nothing in subsection (2) prevents a person from performing any necessary adjustments, tests or inspections as part of the

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commissioning process before the plant is commissioned at a workplace.

Division 4 Duties of a person conducting a business or undertaking involving the management or control of plant

Subdivision 1 Control measures for registered plant

235 Major inspection of registered mobile cranes and tower cranes

(1) This section applies to the person with management or control of a registered mobile crane or tower crane at a workplace.

(2) The person must ensure that a major inspection of the crane is carried out by, or under the supervision of, a competent person—

(a) at the end of the design life recommended by the manufacturer for the crane; or

(b) if there are no manufacturer's recommendations—in accordance with the recommendations of a competent person; or

(c) if it is not reasonably practicable to comply with paragraph (a) or (b)—every 10 years from the date that the crane was first commissioned or first registered, whichever occurred first.

Maximum penalty—36 penalty units.

(3) A major inspection carried out under an equivalent provision of a corresponding WHS law is taken to be a major inspection for the purposes of this section.

(4) In this section—

competent person means a person who—

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(a) complies with both of the following—

(i) has acquired through training, qualification or experience the knowledge and skills to carry out a major inspection of the crane;

(ii) is registered under a law that provides for the registration of professional engineers; or

(b) is determined by the regulator to be a competent person.

major inspection means—

(a) an examination of all critical components of the crane, if necessary by stripping down the crane and removing paint, grease and corrosion to allow a thorough examination of each critical component; and

(b) a check of the effective and safe operation of the crane.

(5) The regulator may, on the application of a person, make a decision in relation to the person for the purposes of subsection (4), definition *competent person*, paragraph (b) if the regulator considers that exceptional circumstances exist.

236 Lifts

(1) The person with management or control of a lift at a workplace (including a person with management or control of maintenance of a lift) must ensure that—

(a) if there is a risk of a person falling down a lift well—

(i) secure barriers are provided to prevent access to openings into the lift well by someone other than a person who is performing work in the lift well; and

(ii) secure working platforms or equivalent arrangements are provided for a person who is working in the lift well to prevent a fall from height; and

(b) if there is a risk to a person working in a lift well from objects falling onto that person—a secure barrier is provided to prevent, so far as is reasonably practicable,

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falling objects from striking the person or otherwise causing a risk.

Maximum penalty—36 penalty units.

(2) The person must ensure that there is a safe means of entry to and exit from the base of the lift well.

Maximum penalty—36 penalty units.

(3) The person must ensure that there is fixed, in a prominent place in the lift, a sign that states the safe working load specified in the design of the lift.

Maximum penalty—36 penalty units.

237 Records of plant

(1) This section applies in relation to plant that is required to be registered under part 5.3.

(2) The person with management or control of the plant at a workplace must keep a record of all tests, inspections, maintenance, commissioning, decommissioning, dismantling and alterations of the plant for the period set out in subsection (3).

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(3) The record must be kept for the period that the plant is used or until the person relinquishes control of the plant.

(4) The person must keep the record available for inspection under the Act.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

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(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(5) The person must make the record available to any person to whom the person relinquishes control of the plant.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

Subdivision 2 Control measures for amusement devices

238 Operation of amusement devices

(1) The person with management or control of an amusement device at a workplace must ensure that the amusement device is operated only by a person who has been provided with instruction and training in the proper operation of the device.

Maximum penalty—60 penalty units.

(2) The person with management or control of an amusement device at a workplace must ensure that—

(a) the amusement device is checked before it is operated on each day on which it is to be operated; and

(b) the amusement device is operated without passengers before it is operated with passengers on each day on which the amusement device is to be operated; and

(c) the daily checks and operation of the amusement device without passengers are properly and accurately recorded in a log book for the amusement device.

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Maximum penalty—60 penalty units.

239 Storage of amusement devices

(1) The person with management or control of an amusement device at a workplace must ensure that the device is stored so as to be without risk to health and safety.

Maximum penalty—36 penalty units.

(2) The person with management or control of an amusement device at a workplace must ensure that a person who stores the device is a competent person or is under the supervision of a competent person.

Maximum penalty—36 penalty units.

240 Maintenance, inspection and testing of amusement device

(1) The person with management or control of an amusement device at a workplace must ensure that the maintenance, inspection and, if necessary, testing of the amusement device is carried out—

(a) by a competent person; and

(b) in accordance with—

(i) the recommendations of the designer or manufacturer or designer and manufacturer; or

(ii) if a maintenance manual for the amusement device has been prepared by a competent person, the requirements of the maintenance manual.

Maximum penalty—60 penalty units.

(2) A person is not a competent person to carry out a detailed inspection of an amusement device that includes an electrical installation unless the person is qualified, or is assisted by a person who is qualified, to inspect electrical installations.

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241 Annual inspection of amusement device

(1) The person with management or control of an amusement device at a workplace must ensure that a detailed inspection of the device is carried out at least once every 12 months by a competent person.

Maximum penalty—60 penalty units.

(2) An inspection must include the following—

(a) a check of information about the operational history of the amusement device since the last detailed inspection;

(b) a check of the log book for the amusement device;

(c) a check that maintenance and inspections have been undertaken under section 240;

(d) a check that any required tests have been carried out, and that appropriate records have been maintained;

(e) a detailed inspection of the amusement device to ensure compliance with the Act and this regulation (including a specific inspection of the critical components of the amusement device).

(3) The regulator may extend the date for an inspection by up to 35 days if an inspection is scheduled to coincide with the same event each year.

(4) If the date is extended under subsection (3), the new date is the date from which future annual inspections of the amusement device are determined.

(5) In this section—

competent person means a person who—

(a) in the case of an inflatable device (continuously blown) with a platform height less than 9m—has acquired through training, qualification or experience the knowledge and skills to inspect the plant; or

(b) in the case of any other amusement device—

(i) has the skills, qualifications, competence and experience to inspect the amusement device; and

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(ii) is registered under a law that provides for the registration of professional engineers; or

(c) is determined by the regulator to be a competent person.

(6) The regulator may, on the application of a person, make a decision in relation to the person for the purposes of subsection (5), definition *competent person*, paragraph (c) if the regulator considers that exceptional circumstances exist.

(7) An annual inspection under an equivalent provision of a corresponding WHS law is taken to be an annual inspection for the purposes of this section.

242 Log book and manuals for amusement device

(1) The person with management or control of an amusement device at a workplace, in addition to complying with the record-keeping requirements of section 237, must ensure that—

(a) details of the erection or storage of the amusement device (including the date of erection) are recorded in the log book for the amusement device on each occasion on which it is erected or stored; and

(b) the log book and operating and maintenance manuals for the amusement device are kept with the amusement device.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) The person with management or control of an amusement device at a workplace must ensure that persons involved in the commissioning, installation, use, storage and testing, and the decommissioning, dismantling and disposal, of an amusement device are provided with—

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(a) the log book for the amusement device in which details concerning erection, storage, operation and maintenance of the amusement device are recorded; and

(b) the operating and maintenance manuals for the amusement device.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

Note—

Section 237(5) requires the person with management or control of the amusement devise to provide the log book and maintenance records to the person being supplied with the plant.

Part 5.3 Registration of plant designs and items of plant

Note—

In this part, *plant* includes a structure, see the definition of *plant* in schedule 19.

Division 1 Plant designs to be registered

243 Plant design to be registered

The design of an item of plant stated in schedule 5, part 1 must be registered under this part.

Note—

See section 42 of the Act.

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244 Altered plant designs to be registered

(1) If the design of an item of plant stated in schedule 5, part 1 that is registered under this part is altered, the altered design must be registered under this part.

Note—

See section 42 of the Act.

(2) In this section a reference to the alteration of a design is a reference to an alteration that may affect health or safety.

(3) This section does not apply in relation to a tower crane or a gantry crane if—

(a) the crane is relocated for use in a different workplace; and

(b) the design for the supporting structure or foundations of the crane is altered in accordance with a site-specific design prepared for the purpose of the safe operation of the crane at the new location; and

(c) the design of the crane is not altered in any other way.

245 Recognition of designs registered by corresponding regulator

(1) A design of an item of plant is not required to be registered under this part if the design is registered under a corresponding WHS law.

(2) A design mentioned in subsection (1) that is altered is not required to be registered under this part if the altered design is registered by the corresponding regulator that registered the original design.

Division 2 Items of plant to be registered

246 Items of plant to be registered

(1) An item of plant stated in schedule 5, part 2 must be registered under this part.

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Note—

See section 42 of the Act.

(2) The purpose of registering an item of plant is to ensure that it is inspected by a competent person and is safe to operate.

247 Recognition of plant registered by corresponding regulator

An item of plant is not required to be registered under this part if the plant is registered under a corresponding WHS law.

Division 3 Registration process for plant designs

248 Application of division 3

This division applies to the registration of a design of an item of plant stated in schedule 5, part 1.

249 Who can apply to register a plant design

(1) A person conducting a business or undertaking that designs an item of plant may apply to the regulator for the registration of the design of that item of plant.

(2) A person with management or control of an item of plant may apply to the regulator for the registration of the design of that item of plant.

250 Application for registration

(1) An application for registration of the design of an item of plant must be made in the way and in the form approved by the regulator.

(2) The application must include the following information—

(a) the applicant's name;

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(b) any evidence of identity required by the regulator;

(c) whether the applicant is a body corporate;

(d) if the applicant conducts the business or undertaking under a business name—that business name and a certificate or other written evidence of the registration of the business name;

(e) a statement signed by the designer of the item of plant—

(i) stating that the designer has complied with the designer's obligations under section 22 of the Act in relation to the design; and

(ii) stating the published technical standards and engineering principles used in the design; and

(f) a design verification statement that accords with section 251;

(g) representational drawings of the design;

(h) a declaration that the applicant does not hold an equivalent registration granted by a corresponding regulator under a corresponding WHS law;

(i) a declaration that the information contained in the application is, to the best of the applicant's knowledge, true and correct.

(3) Any drawings or other documents provided with the application must be capable of being kept in an electronic form.

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

251 Design verification statement

The design verification statement must—

(a) be written and signed by a person who is eligible to be a design verifier for the design; and

(b) state that the design was produced in accordance with published technical standards or engineering principles specified in the statement; and

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(c) include—

(i) the name, business address and qualifications (if applicable) of the design verifier; and

(ii) if applicable, the name and business address of the organisation for which the design verifier works.

252 Who can be the design verifier

(1) A person is eligible to be a design verifier for the design of an item of plant if the person is a competent person.

(2) Despite subsection (1), a person is not eligible to be the design verifier for the design of an item of plant if—

(a) the person was involved in the production of the design; or

(b) at the time the design was produced, the person was engaged by the person conducting the business or undertaking that produced the design.

(3) Subsection (2)(b) does not apply if the person conducting the business or undertaking uses a quality system to undertake the design of plant that has been certified by a body accredited or approved by the Joint Accreditation System of Australia and New Zealand.

253 Duty of design verifier

A design verifier of the design of an item of plant stated in schedule 5, part 1 must document the design verification process carried out by that person and the results of that process.

Maximum penalty—36 penalty units.

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254 Design verification statements not to be made in particular circumstances

A person must not make a design verification statement for the design of an item of plant stated in schedule 5, part 1 if the person—

(a) is not eligible to be a design verifier for that design; or

(b) has not carried out a verification of the design.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

255 Additional information

(1) If an application for registration of a design of an item of plant does not contain enough information to enable the regulator to make a decision whether or not to grant the registration, the regulator may ask the applicant to provide additional information.

(2) A request for additional information must—

(a) state the date (not being less than 28 days after the request) by which the additional information is to be given; and

(b) be confirmed in writing.

(3) If an applicant does not provide the additional information by the date stated, the application is taken to have been withdrawn.

(4) The regulator may make more than one request for additional information under this section.

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256 Decision on application

(1) Subject to subsection (3), the regulator must grant the registration if satisfied about the matters mentioned in subsection (2).

(2) The regulator must be satisfied about the following—

(a) the application has been made in accordance with this division;

(b) the design is not registered under a corresponding WHS law;

(c) if the applicant is an individual, the applicant—

(i) resides in Queensland; or

(ii) resides outside Queensland and circumstances exist that justify the grant of the registration;

(d) if the applicant is a body corporate, the applicant's registered office—

(i) is located in Queensland; or

(ii) is located outside Queensland and the applicant has satisfied the regulator that circumstances exist that justify the grant of the registration;

(e) the applicant is able to ensure compliance with any conditions that will apply to the registration.

(3) The regulator must refuse to grant a registration if satisfied that, in making the application, the applicant has—

(a) given information that is false or misleading in a material particular; or

(b) failed to give any material information that should have been given.

(4) If the regulator decides to grant the registration, it must notify the applicant within 14 days after making the decision.

(5) If the regulator does not make a decision within 120 days after receiving the application or the additional information

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requested under section 255, the regulator is taken to have refused to grant the registration applied for.

Note—

A refusal to grant a registration (including under subsection (5)) is a reviewable decision, see section 676.

257 Refusal of registration—process

(1) If the regulator proposes to refuse to grant a registration, the regulator must provide a written notice to the applicant—

(a) informing the applicant of the reasons for the proposed refusal; and

(b) advising the applicant that the applicant may, by a stated date (being not less than 28 days after giving the notice), make a submission to the regulator in relation to the proposed refusal.

(2) After the date specified under subsection (1)(b), the regulator must—

(a) if the applicant has made a submission in relation to the proposed refusal to grant the registration, consider that submission; and

(b) whether or not the applicant has made a submission, decide whether to grant or refuse to grant the registration; and

(c) within 14 days after making that decision, give the applicant written notice of the decision, including the reasons for the decision.

Note—

A refusal to grant a registration is a reviewable decision, see section 676.

258 Conditions of registration

(1) The regulator may impose any conditions on the registration it considers appropriate when granting the registration.

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(2) Without limiting subsection (1), the regulator may impose conditions in relation to one or more of the following matters—

(a) the use and maintenance of plant manufactured to the design;

(b) the recording or keeping of information;

(c) the provision of information to the regulator.

Notes—

1 A person must comply with the conditions of registration, see section 45 of the Act.

2 A decision to impose a condition on a registration is a reviewable decision, see section 676.

259 Registration of plant design granted for unlimited duration

A registration of a plant design is granted for an unlimited duration.

260 Plant design registration number

(1) This section applies if the regulator registers a design of an item of plant.

(2) The regulator must issue a plant design registration number for the design to the applicant.

(3) The person to whom the plant design registration number is issued must give the registration number to the manufacturer, importer or supplier of plant manufactured to that design.

Maximum penalty—

(a) for an individual—$12^1/_2$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

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(4) The manufacturer, supplier or importer of plant to whom a plant design registration number is given under this section must give that number to the person with management or control of the plant—

(a) manufactured to that design; or

(b) supplied to that person by the manufacturer, supplier or importer.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(5) The person with management or control of plant at a workplace for which a plant design is registered must ensure that the design registration number is kept readily accessible in the vicinity of the plant at all times.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

261 Registration document

(1) If the regulator registers a design of an item of plant, the regulator must issue to the applicant a registration document in the form approved by the regulator.

(2) The registration document must include—

(a) the name of the registration holder; and

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(b) if the registration holder conducts the business or undertaking under a business name, that business name; and

(c) the registration number of the plant design; and

(d) the date on which the registration takes effect; and

(e) any conditions imposed on the registration by the regulator.

262 Registration document to be available

(1) A registration holder must keep the registration document available for inspection under the Act.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) Subsection (1) does not apply if the registration document is not in the registration holder's possession because—

(a) it has been returned to the regulator under section 287; or

(b) the registration holder has applied for but has not received, a replacement registration document under section 288.

263 Disclosure of design information

(1) Subject to this section, the regulator must not disclose to any person any confidential information provided by an applicant for registration of a design of an item of plant.

(2) The regulator may disclose information about a plant design in either of the following circumstances—

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(a) to a corresponding regulator or an authorised officer of a corresponding regulator, at the request of the corresponding regulator;

(b) to any person authorised by the applicant for the registration of the design.

(3) The regulator may provide a copy of the design verification statement to—

(a) workers engaged by the person with management or control at a workplace of plant manufactured to the design; or

(b) a health and safety representative of those workers.

(4) The regulator may provide the person with management or control of plant with the minimum information about the plant design that is necessary for the safe operation of the plant if the registration holder for the design of the plant cannot be located or no longer exists.

Division 4 Registration process for an item of plant

264 Application of division 4

This division applies in relation to the registration of an item of plant stated in schedule 5, part 2 as requiring registration.

265 Who can apply to register an item of plant

A person with management or control of an item of plant may apply to the regulator for the registration of that item of plant.

266 Application for registration

(1) An application for registration of an item of plant must be made in the way and in the form approved by the regulator.

(2) The application must include the following information—

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(a) the applicant's name;

(b) any other evidence of identity required by the regulator;

(c) whether the applicant is a body corporate;

(d) if the applicant conducts the business or undertaking under a business name—that business name and a certificate or other written evidence of the registration of the business name;

(e) sufficient information to clearly identify the item of plant;

(f) if the design of the item of plant was also required to be registered under this part, details of—

(i) the plant design registration number; and

(ii) the regulator or corresponding regulator that registered the design;

(g) a statement that the item of plant has been inspected by a competent person and assessed by that person as being safe to operate;

(h) the date that the item of plant was first commissioned or was first registered, if known, whichever occurs first;

(i) a declaration that the applicant does not hold an equivalent registration granted by a corresponding regulator under a corresponding WHS law;

(j) a declaration that the information contained in the application is, to the best of the applicant's knowledge, true and correct.

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

267 When is a person competent to inspect plant

A person is a competent person to inspect an item of plant for registration if the person has—

(a) educational or vocational qualifications in an engineering discipline relevant to the plant to be inspected; or

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(b) knowledge of the technical standards relevant to the plant to be inspected.

268 Additional information

(1) If an application for registration of an item of plant does not contain enough information to enable the regulator to make a decision whether or not to grant the registration, the regulator may ask the applicant to provide additional information.

(2) A request for additional information must—

(a) state the date (not being less than 28 days after the request) by which the additional information is to be given; and

(b) be confirmed in writing.

(3) If an applicant does not provide the additional information by the date stated, the application is taken to have been withdrawn.

(4) The regulator may make more than one request for additional information under this section.

269 Decision on application

(1) Subject to subsection (3), the regulator must grant the registration if satisfied about the matters mentioned in subsection (2).

(2) The regulator must be satisfied about the following—

(a) the application has been made under this division;

(b) the item of plant is not registered under a corresponding WHS law;

(c) the item of plant is—

(i) located in Queensland; or

(ii) located outside Queensland and circumstances exist that justify the grant of the registration;

(d) if the applicant is an individual, the applicant—

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(i) resides in Queensland; or

(ii) resides outside Queensland and circumstances exist that justify the grant of the registration;

(e) if the applicant is a body corporate, the applicant's registered office—

(i) is located in Queensland; or

(ii) is located outside Queensland and circumstances exist that justify the grant of the registration;

(f) the applicant is able to ensure compliance with any conditions that will apply to the registration.

(3) The regulator must refuse to grant a registration if satisfied that, in making the application, the applicant has—

(a) given information that is false or misleading in a material particular; or

(b) failed to give any material information that should have been given.

(4) If the regulator decides to grant the registration, it must notify the applicant within 14 days after making the decision.

(5) If the regulator does not make a decision within 120 days after receiving the application or additional information requested under section 268, the regulator is taken to have refused to grant the registration applied for.

Note—

A refusal to grant a registration (including under subsection (5)) is a reviewable decision, see section 676.

270 Refusal of registration—process

(1) If the regulator proposes to refuse to grant a registration, the regulator must provide a written notice to the applicant—

(a) informing the applicant of the reasons for the proposed refusal; and

(b) advising the applicant that the applicant may, by a stated date, (being not less than 28 days after giving the notice)

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make a submission to the regulator in relation to the proposed refusal.

(2) After the date stated under subsection (1)(b), the regulator must—

(a) if the applicant has made a submission in relation to the proposed refusal to grant the registration—consider that submission; and

(b) whether or not the applicant has made a submission—decide whether to grant or refuse to grant the registration; and

(c) within 14 days after making that decision—give the applicant written notice of the decision, including the reasons for the decision.

Note—

A refusal to grant a registration is a reviewable decision, see section 676.

271 Conditions of registration

(1) The regulator may impose on the registration of an item of plant any conditions it considers appropriate.

(2) Without limiting subsection (1), the regulator may impose conditions in relation to the following matters—

(a) to the use and maintenance of the item of plant;

(b) the recording or keeping of information;

(c) the provision of information to the regulator.

Notes—

1 A person must comply with the conditions of registration, see section 45 of the Act.

2 A decision to impose a condition on a registration is a reviewable decision, see section 676.

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272 Duration of registration

A registration of an item of plant takes effect on the day it is granted and expires 5 years after that day.

272A Duration of registration on commencement

(1) A registration of an item of plant, granted on or after 1 January 2012 but before 1 January 2019, is valid from the day the registration is granted until 31 January in the following year.

(2) This section expires on 31 January 2019.

273 Plant registration number

(1) This section applies if the regulator registers an item of plant.

(2) The regulator must issue a plant registration number for the plant to the registration holder within 14 days after that registration.

(3) The registration holder must give the plant registration number to the person with management or control of the plant at a workplace.

Maximum penalty—

(a) for an individual—12$^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(4) The person with management or control of the plant at a workplace must ensure that the plant registration number is marked on the item of plant.

Maximum penalty—

(a) for an individual—12$^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

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Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

274 Registration document

(1) If the regulator registers an item of plant, the regulator must issue to the applicant within 14 days a registration document in the form approved by the regulator.

(2) The registration document must include—

(a) the name of the registration holder; and

(b) if the registration holder conducts the business or undertaking under a business name, that business name; and

(c) the registration number for the item of plant; and

(d) the date that the plant was first commissioned or first registered, whichever occurred first; and

(e) the date on which the registration takes effect; and

(f) any conditions imposed on the registration by the regulator; and

(g) the expiry date of the registration.

275 Registration document to be available

(1) The registration holder of an item of plant must keep the registration document available for inspection under the Act.

Maximum penalty—

(a) for an individual—12$^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

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(2) Subsection (1) does not apply if the registration document is not in the registration holder's possession because—

(a) it has been returned to the regulator under section 287; or

(b) the registration holder has applied for but not received, a replacement registration document under section 288.

276 Regulator may renew registration

The regulator may renew the registration of an item of plant.

277 Application for renewal

(1) An application for renewal of a registration of an item of plant must be made in the way and in the form approved by the regulator.

(2) The application must include the following information—

(a) the applicant's name;

(b) any evidence of identity required by the regulator;

(c) if the applicant conducts the business or undertaking under a business name, that business name and a certificate or other written evidence of the registration of the business name;

(d) the registration number of the item of plant;

(e) a declaration that the item of plant has been maintained, inspected and tested under section 213.

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

278 Registration continues in force until application is decided

If a registration holder applies under section 277 for the renewal of a registration, the registration is taken to continue in force from the day it would, apart from this section, have

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ended until the registration holder is given notice of the decision on the application.

279 Decision on application

(1) The regulator must renew the registration of an item of plant if the regulator is satisfied that—

(a) the application for renewal has been made under this division; and

(b) the plant has been maintained and inspected in accordance with section 213.

(2) For this division—

(a) section 268 applies as if a reference in that section to an application for registration were a reference to an application to renew registration; and

(b) section 269 (except subsection (5)) applies as if a reference to the grant of a registration were a reference to the renewal of a registration; and

(c) section 270 applies as if a reference in that section to a refusal to grant a registration were a reference to a refusal to renew a registration; and

(d) section 272 applies as if a reference to the grant of a registration were a reference to the renewal of a registration.

Note—

A refusal to renew a registration is a reviewable decision, see sections 269 and 676.

279A Duration of renewal on commencement

(1) A renewal of the registration of an item of plant, granted before 1 January 2019, is valid from 1 February until 31 January in the following year.

(2) This section expires on 31 January 2019.

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280 Status of registration during review

(1) If the regulator gives the registration holder written notice of a decision to refuse to renew the registration, the registration continues to have effect under this section.

(2) If the registration holder does not apply for internal review, the registration continues to have effect until the last of the following events—

(a) the expiry of the registration;

(b) the end of the period for applying for an internal review.

(3) If the registration holder applies for an internal review, the registration continues to have effect until the earlier of the following events—

(a) the registration holder withdraws the application for review;

(b) the regulator makes a decision on the review.

(4) If the registration holder does not apply for an external review, the registration continues to have effect until the end of the time for applying for an external review.

(5) If the registration holder applies for an external review, the registration continues to have effect until the earlier of the following events—

(a) the registration holder withdraws the application for review; or

(b) QCAT makes a decision on the review.

(6) The registration continues to have effect under this section even if its expiry date passes.

Division 5 Changes to registration and registration documents

281 Application of division

This division applies to—

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(a) the registration of a design of an item of plant; and

(b) the registration of an item of plant.

282 Changes to information

(1) A registration holder must give the regulator written notice of any change to—

(a) the registration holder's name; or

(b) any of the information mentioned in sections 250, 255(1), 266 or 268(1) within 14 days after the registration holder becomes aware of the change.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) Subsection (1) applies whether the information was given in the application for grant of the registration or in any other circumstance.

(3) Without limiting subsection (1), a registration holder for an item of plant must give written notice to the regulator if—

(a) the item of plant is altered to an extent or in a way that requires the plant to be subject to new control measures; or

(b) the item of plant is usually fixed and is relocated; or

(c) the registration holder no longer has management or control of the item of plant.

283 Amendment of registration imposed by regulator

(1) The regulator may, on its own initiative, amend a registration, including by amending the registration to—

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(a) vary or delete a condition of the registration; or

(b) impose a new condition on the registration.

(2) Before amending a registration under this section, the regulator must give the registration holder written notice that—

(a) sets out the proposed amendment and the reasons for it; and

(b) informs the registration holder that the registration holder may make a submission to the regulator in relation to the proposed amendment within a stated period (being not less than 28 days from the date of the notice).

(3) If the registration holder makes a submission within the time stated in the notice, the regulator must consider that submission.

(4) After the time stated in the notice, the regulator may—

(a) make the proposed amendment; or

(b) decide not to make the amendment; or

(c) make a different amendment that results from consideration of any submission made by the registration holder.

(5) If the regulator amends the registration, it must, within 14 days after making the amendment, give the registration holder a written notice that—

(a) sets out the amendment; and

(b) if a submission was made in relation to the proposed amendment, sets out the regulator's reasons for making the amendment; and

(c) states the date, being not less than 28 days after the registration holder is given the notice, on which the amendment takes effect.

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Note—

A decision to amend a registration is a reviewable decision, see section 676.

284 Amendment on application by registration holder

(1) The regulator may, on application by the registration holder, amend a registration, including by amending the registration to vary or delete or add a condition of the registration.

(2) If the regulator proposes to refuse to amend the registration, it must give the registration holder a written notice that—

(a) states the intention to refuse to make the amendment and the reasons for that intention; and

(b) informs the registration holder that the registration holder may make a submission to the regulator in relation to the proposed refusal within a specified period (being not less than 28 days after the registration holder is given the notice).

(3) If the registration holder makes a submission within the time stated in the notice, the regulator must consider that submission.

(4) After the time stated in the notice, the regulator may—

(a) make the amendment; or

(b) refuse to make the amendment; or

(c) make a different amendment that results from consideration of any submission made by the registration holder.

(5) If the regulator makes the amendment, it must give the registration holder a written notice within 14 days of making the decision stating the date on which the amendment takes effect.

(6) If the regulator refuses to make the amendment or makes a different amendment, it must give the registration holder a written notice within 14 days of making the decision that—

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(a) if a submission was made in relation to the proposed amendment—sets out the reasons for the regulator's decision; and

(b) if the regulator makes a different amendment—

(i) sets out the amendment; and

(ii) states the date, being not less than the 28 days after the registration holder is given the second notice, on which the amendment takes effect.

Note—

A refusal to make the amendment applied for, or to make a different amendment, is a reviewable decision, see section 676.

285 Minor corrections to registration

The regulator may make minor amendments to a registration, including an amendment—

(a) to correct an obvious error; or

(b) to change an address; or

(c) that imposes no significant burden on the registration holder.

286 Regulator to provide amended registration document

If the regulator amends a registration and considers that the registration document requires amendment, the regulator must give the registration holder an amended registration document within 14 days of making the decision.

287 Registration holder to return registration document

A registration holder must return the registration document to the regulator for amendment at the written request of the regulator within the time stated in the request.

Maximum penalty—

(a) for an individual—$12^1/_2$ penalty units; or

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(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

288 Replacement registration document

(1) A registration holder must notify the regulator as soon as practicable if the registration document is lost, stolen or destroyed.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) If a registration document is lost, stolen or destroyed, the registration holder may apply to the regulator for a replacement document.

Note—

A registration holder is required to keep a registration document available for inspection, see section 275.

(3) An application for a replacement registration document must include a declaration describing the circumstances in which the original document was lost, stolen or destroyed.

(4) The regulator may issue a replacement registration document if satisfied that the original document was lost, stolen or destroyed.

(5) If the regulator refuses to issue a replacement licence document, it must give the registration holder written notice of this decision, including the reasons for the decision within 14 days of making the decision.

Note—

A refusal to issue a replacement registration document is a reviewable decision, see section 676.

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Division 6 Cancellation of registration

288A Application of division

This division applies to—

(a) the registration of a design of an item of plant; and

(b) the registration of an item of plant.

288B Regulator may cancel registration

The regulator may cancel a registration if satisfied that—

(a) the registration holder, in applying for the registration—

(i) gave information that was false or misleading in a material particular; or

(ii) failed to give any material information that should have been given; or

(b) the design of the item of plant or the item of plant (as applicable) is unsafe.

Note—

A decision to cancel a registration is a reviewable decision, see section 676.

288C Cancellation process

(1) Before cancelling a registration, the regulator must give the registration holder written notice that—

(a) sets out the proposal to cancel the registration and the reasons for it; and

(b) informs the registration holder that the registration holder may, by a stated date being not less than 28 days after the notice is given, make a submission to the regulator in relation to the proposed cancellation.

(2) After the date stated in the notice under subsection (1)(b), the regulator must—

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(a) if the registration holder has made a submission in relation to the proposed cancellation—consider that submission; and

(b) whether or not the registration holder has made a submission, decide—

(i) to cancel the registration; or

(ii) not to cancel the registration; and

(c) within 14 days after making that decision, give the registration holder written notice stating—

(i) whether or not the registration has been cancelled; and

(ii) if the regulator decided to cancel the registration—

(A) if a submission was made in relation to the proposed cancellation—the regulator's reasons for cancelling the registration; and

(B) the date on which the cancellation takes effect.

288D Registration holder to return registration document

A registration holder who receives a written notice under section 288C(2)(c) stating the holder's registration is cancelled must return the registration document to the regulator at the written request of the regulator within the time stated in the request.

Maximum penalty—

(a) for an individual—12$^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

Maximum penalty—

(a) for an individual—12$^{1}/_{2}$ penalty units; or

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(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

Chapter 6 Construction work

Part 6.1 Preliminary

289 Meaning of *construction work*

(1) In this chapter, ***construction work*** means any work carried out in connection with the construction, alteration, conversion, fitting-out, commissioning, renovation, repair, maintenance, refurbishment, demolition, decommissioning or dismantling of a structure.

(2) Without limiting subsection (1), ***construction work*** includes the following—

(a) any installation or testing carried out in connection with an activity mentioned in subsection (1);

(b) the removal from the workplace of any product or waste resulting from demolition;

(c) the prefabrication or testing of elements, at a place specifically established for the construction work, for use in construction work;

(d) the assembly of prefabricated elements to form a structure, or the disassembly of prefabricated elements forming part of a structure;

(e) the installation, testing or maintenance of an essential service in relation to a structure;

(f) any work connected with an excavation;

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(g) any work connected with any preparatory work or site preparation (including landscaping as part of site preparation) carried out in connection with an activity mentioned in subsection (1);

(h) an activity mentioned in subsection (1), that is carried out on, under or near water, including work on buoys and obstructions to navigation.

(3) In this chapter, ***construction work*** does not include any of the following—

(a) the manufacture of plant;

(b) the prefabrication of elements, other than at a place specifically established for the construction work, for use in construction work;

(c) the construction or assembly of a structure that once constructed or assembled is intended to be transported to another place;

(d) testing, maintenance or repair work of a minor nature carried out in connection with a structure;

(e) mining or the exploration for or extraction of minerals.

290 Meaning of *structure*

(1) In this chapter, ***structure*** has the same meaning as it has in the Act.

Examples—

- a roadway or pathway
- a ship or submarine
- foundations, earth retention works and other earthworks, including river works and sea defence works
- formwork, falsework or any other structure designed or used to provide support, access or containment during construction work
- an airfield
- a dock, harbour, channel, bridge, viaduct, lagoon or dam
- a sewer or sewerage or drainage works

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(2) This chapter does not apply to plant unless—

(a) the plant is—

(i) a ship or submarine; or

(ii) a pipe or pipeline; or

(iii) an underground tank; or

(iv) designed or used to provide support, access or containment during work in connection with construction work; or

(b) work on the plant relates to work that is carried out in connection with construction work; or

(c) the plant is fixed plant on which outage work or overhaul work that involves or may involve work being carried out by 5 or more persons conducting businesses or undertakings at any point in time.

Note—

This chapter does not apply to the manufacture of plant, see section 289(3)(a).

291 Meaning of *high risk construction work*

In this chapter, ***high risk construction work*** means construction work that—

(a) involves a risk of a person falling more than 2m; or

(b) is carried out on a telecommunication tower; or

(c) involves demolition of an element of a structure that is load-bearing or otherwise related to the physical integrity of the structure; or

(d) involves, or is likely to involve, the disturbance of asbestos; or

(e) involves structural alterations or repairs that require temporary support to prevent collapse; or

(f) is carried out in or near a confined space; or

(g) is carried out in or near—

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(i) a shaft or trench with an excavated depth greater than 1.5m; or

(ii) a tunnel; or

(h) involves the use of explosives; or

(i) is carried out on or near pressurised gas distribution mains or piping; or

(j) is carried out on or near chemical, fuel or refrigerant lines; or

(k) is carried out on or near energised electrical installations or services; or

(l) is carried out in an area that may have a contaminated or flammable atmosphere; or

(m) involves tilt-up or precast concrete; or

(n) is carried out on, in or adjacent to a road, railway, shipping lane or other traffic corridor that is in use by traffic other than pedestrians; or

(o) is carried out in an area at a workplace in which there is any movement of powered mobile plant; or

(p) is carried out in an area in which there are artificial extremes of temperature; or

(q) is carried out in or near water or other liquid that involves a risk of drowning; or

(r) involves diving work.

292 Meaning of *construction project*

In this chapter, a ***construction project*** is a project that involves construction work where the cost of the construction work is $250,000 or more.

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293 Meaning of *principal contractor*

(1) In this chapter, a person conducting a business or undertaking that commissions a construction project is, subject to this section, the ***principal contractor*** for the project.

(2) If the person mentioned in subsection (1) engages another person conducting a business or undertaking as principal contractor for the construction project and authorises the person to have management or control of the workplace and to discharge the duties of a principal contractor under this chapter, the person so engaged is the ***principal contractor*** for the project.

(3) If the owner of residential premises is an individual who directly or indirectly engages a person conducting a business or undertaking to undertake a construction project in relation to the premises, the person so engaged is the ***principal contractor*** for the project if the person has management or control of the workplace.

(4) A construction project has only one principal contractor at any specific time.

Note—

A person with management or control of a workplace must comply with section 20 of the Act.

Part 6.2 Duties of designer of structure and person who commissions construction work

294 Person who commissions work must consult with designer

(1) A person conducting a business or undertaking that commissions construction work in relation to a structure must, so far as is reasonably practicable, consult with the designer of the whole or any part of the structure about how to ensure that risks to health and safety arising from the design during the construction work are—

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(a) eliminated, so far as is reasonably practicable; or

(b) if it is not reasonably practicable to eliminate the risks, minimised so far as is reasonably practicable.

Maximum penalty—

(a) for an individual—12 1/2 penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) Consultation must include giving the designer any information that the person who commissions the construction work has in relation to the hazards and risks at the workplace where the construction work is to be carried out.

295 Designer must give safety report to person who commissions design

(1) The designer of a structure or any part of a structure that is to be constructed must give the person conducting a business or undertaking who commissioned the design a written report that specifies the hazards relating to the design of the structure that, so far as the designer is reasonably aware—

(a) create a risk to the health or safety of persons who are to carry out any construction work on the structure or part; and

(b) are associated only with the particular design and not with other designs of the same type of structure.

Maximum penalty—

(a) for an individual—12 1/2 penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

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(2) If the person conducting a business or undertaking who commissions a construction project did not commission the design of the construction project, the person must take all reasonable steps to obtain a copy of the written report mentioned in subsection (1) in relation to that design.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

296 Person who commissions project must give information to principal contractor

If a person conducting a business or undertaking that commissions a construction project engages a principal contractor for the project, the person must give the principal contractor any information the person has in relation to hazards and risks at or in the vicinity of the workplace where the construction work is to be carried out.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

Part 6.3 Duties of person conducting business or undertaking

Note—

As a principal contractor is a person conducting a business or undertaking, this part also applies to a principal contractor.

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Division 1 General

297 Management of risks to health and safety

A person conducting a business or undertaking must manage risks associated with the carrying out of construction work in accordance with part 3.1.

Note—

WHS Act—section 19 (see section 9).

298 Security of workplace

(1) A person with management or control of a workplace at which construction work is carried out must ensure, so far as is reasonably practicable, that the workplace is secured from unauthorised access.

Maximum penalty—36 penalty units.

(2) In complying with subsection (1), the person must have regard to all relevant matters including—

(a) risks to health and safety arising from unauthorised access to the workplace; and

(b) the likelihood of unauthorised access occurring; and

Example—

The proximity of the workplace to places frequented by children, including schools, parks and shopping precincts.

(c) to the extent that unauthorised access to the workplace cannot be prevented—how to isolate hazards within the workplace.

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Division 2 High risk construction work—safe work method statements

299 Safe work method statement required for high risk construction work

(1) A person conducting a business or undertaking that includes the carrying out of high risk construction work must, before high risk construction work commences, ensure that a safe work method statement for the proposed work—

(a) is prepared; or

(b) has already been prepared by another person.

Maximum penalty—60 penalty units.

(2) A safe work method statement must—

(a) identify the work that is high risk construction work; and

(b) state hazards relating to the high risk construction work and risks to health and safety associated with those hazards; and

(c) describe the measures to be implemented to control the risks; and

(d) describe how the control measures are to be implemented, monitored and reviewed.

(3) A safe work method statement must—

(a) be prepared taking into account all relevant matters including—

(i) circumstances at the workplace that may affect the way in which the high risk construction work is carried out; and

(ii) if the high risk construction work is carried out in connection with a construction project—the WHS management plan that has been prepared for the workplace; and

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(b) be set out and expressed in a way that is readily accessible and understandable to persons who use it.

(4) For subsection (2)(c), if a safe work method statement for high risk construction work that involves a risk of a person falling more than 2m states that the only control measures to be implemented will be administrative controls or the provision of personal protective equipment, the safe work method statement must describe all control measures considered in determining which control measures to implement (including by addressing the general fall protection requirements in section 79(3)).

Note—

See section 79 in relation to the minimisation of risk in relation to falls generally.

300 Compliance with safe work method statement

(1) A person conducting a business or undertaking that includes the carrying out of high risk construction work must put in place arrangements for ensuring that high risk construction work is carried out in accordance with the safe work method statement for the work.

Maximum penalty—60 penalty units.

(2) If high risk construction work is not carried out in accordance with the safe work method statement for the work, the person must ensure that the work—

(a) is stopped immediately or as soon as it is safe to do so; and

(b) resumed only in accordance with the statement.

Maximum penalty—60 penalty units.

301 Safe work method statement—copy to be given to principal contractor

A person conducting a business or undertaking that includes carrying out high risk construction work in connection with a

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construction project must, before the high risk construction work commences, ensure that a copy of the safe work method statement for the work is given to the principal contractor.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

302 Review of safe work method statement

A person conducting a business or undertaking must ensure that a safe work method statement is reviewed and, as necessary, revised if relevant control measures are revised under section 38.

Maximum penalty—36 penalty units.

303 Safe work method statement must be kept

(1) Subject to subsection (2), a person conducting a business or undertaking must keep a copy of the safe work method statement until the high risk construction work to which it relates is completed.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) If a notifiable incident occurs in connection with the high risk construction work to which the statement relates, the person must keep the statement for at least 2 years after the incident occurs.

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Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(3) The person must ensure that for the period for which the statement must be kept under this section, a copy is readily accessible to any worker engaged by the person to carry out the high risk construction work.

Maximum penalty—36 penalty units.

(4) The person must ensure that for the period for which the statement must be kept under this section, a copy is available for inspection under the Act.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

Division 3 Excavation work

304 Excavation work—underground essential services information

(1) This section applies in relation to a part of a workplace where excavation work is being carried out and any adjacent areas.

(2) A person with management or control of the workplace must take all reasonable steps to obtain current underground essential services information about the areas mentioned in subsection (1) before directing or allowing the excavation work to commence.

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Maximum penalty—36 penalty units.

(3) The person with management or control of the workplace must provide the information obtained under subsection (2) to any person engaged by the person to carry out the excavation work.

Maximum penalty—36 penalty units.

(4) The person with management or control of the workplace and any person conducting a business or undertaking who is given information under subsection (3) must have regard to the information mentioned in subsection (2) in carrying out or directing or allowing the carrying out of the excavation work.

Maximum penalty—36 penalty units.

Note—

Legislation relating to the essential services may also impose duties on the person conducting the business or undertaking and the persons carrying out the work.

(5) The person with control or management of the workplace must ensure that the information mentioned in subsection (2) is available for inspection under the Act for the period stated in subsection (6).

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(6) The information must be available—

(a) if a notifiable incident occurs in connection with the excavation work to which the information relates—for at least 2 years after the incident occurs; and

(b) in every other case—until the excavation work is completed.

(7) In this section—

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underground essential services means essential services that use pipes, cables or other associated plant located underground.

underground essential services information, in relation to proposed excavation work, means the following information about underground essential services that may be affected by the excavation—

(a) the essential services that may be affected;

(b) the location, including the depth, of any pipes, cables or other plant associated with the affected essential services;

(c) any conditions on the proposed excavation work.

305 Management of risks to health and safety associated with excavation work

(1) A person conducting a business or undertaking must manage risks to health and safety associated with excavation work under part 3.1.

Note—

WHS Act—section 19 (see section 9).

(2) The risks this section applies to include the following—

(a) a person falling into an excavation;

(b) a person being trapped by the collapse of an excavation;

(c) a person working in an excavation being struck by a falling thing;

(d) a person working in an excavation being exposed to an airborne contaminant.

(3) In complying with subsection (1), the person must have regard to all relevant matters including the following—

(a) the nature of the excavation;

(b) the nature of the excavation work, including the range of possible methods of carrying out the work;

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(c) the means of entry into and exit from the excavation, if applicable.

306 Additional controls—trenches

(1) A person conducting a business or undertaking, who proposes to excavate a trench at least 1·5m deep must ensure, so far as is reasonably practicable, that the work area is secured from unauthorised access (including inadvertent entry).

Maximum penalty—60 penalty units.

(2) In complying with subsection (1), the person must have regard to all relevant matters including—

(a) risks to health and safety arising from unauthorised access to the work area; and

(b) the likelihood of unauthorised access occurring.

(3) In addition, the person must minimise the risk to any person arising from the collapse of the trench by ensuring that all sides of the trench are adequately supported by doing one or more of the following—

(a) shoring by shielding or other comparable means;

(b) benching;

(c) battering.

Maximum penalty—60 penalty units.

(4) Subsection (3) does not apply if the person receives written advice from a geotechnical engineer that all sides of the trench are safe from collapse.

(5) An advice under subsection (4)—

(a) may be subject to a condition that stated natural occurrences may create a risk of collapse; and

(b) must state the period of time to which the advice applies.

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Division 4 Additional controls—construction work

Subdivision 1 Definitions

306A Definitions

In this division—

anchorage point means a device or thing by which a lanyard, static line or other line may be attached to a building or other structure, and includes the part of the building or structure to which the device or thing is attached.

Examples—

- a stainless steel eyebolt, set in a concrete floor, to which a lanyard may be attached
- a sling around a steel I beam, with padding under the sling, joined by a shackle or other joining device to which a lanyard may be attached
- a plate for a travel restraint system fixed by screws to a roof component to which a lanyard may be attached

edge protection means a barrier to prevent a person falling erected along the edge of—

(a) a building or other structure; or

(b) an opening in a surface of a building or other structure; or

(c) a fall arresting platform; or

(d) the surface from which work is to be done.

fall arrest harness system means a system that—

(a) is designed to arrest the fall of a person using it and eliminate or minimise the risk of injury to the person as the fall is arrested; and

(b) consists of a harness attached to—

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(i) a device to absorb the energy of the falling person attached to a lanyard that is attached to a static line or anchorage point; or

(ii) a line that—

(A) has a device that automatically locks the line, and absorbs the energy of the falling person; and

(B) is attached to a static line or anchorage point; or

(iii) a lanyard that—

(A) has a device that travels along a line or rail, automatically locks onto the line or rail, and absorbs the energy of the falling person; and

(B) is attached to a static line or anchorage point.

fall arresting platform means a platform installed to arrest the fall of a person who falls from a building or other structure.

fall protection cover means a structure that—

(a) is placed over an opening in a surface of a building or other structure to prevent a person falling through the opening; and

(b) consists of solid sheets of sturdy material.

Examples for paragraph (b)—

solid sheets of sturdy timber, plywood, metal, mesh

housing construction work means construction work that is work to erect, construct, extend or structurally alter—

(a) any of the following dwellings that is not located above or below another dwelling or another part of a building, other than a part that is a private garage—

(i) a detached house;

(ii) an attached dwelling, separated from the dwelling to which it is attached by a fire-resisting wall, including, for example, a terrace house or town house;

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(iii) a boarding house, guest house, hostel or similar building with a floor area of not more than 300m^2; or

(b) a building that is not designed for habitation but is ancillary to a building to which paragraph (a) applies.

Example of an ancillary building—

a private garage, carport or shed

permitted work, in relation to work involving a ladder, means work in which—

(a) the weight, size or shape of any equipment or material the person using the ladder is carrying is not likely to—

(i) restrict the person's movement while the person is climbing or descending the ladder; or

(ii) cause the person to lose balance on the ladder while carrying out the work; and

(b) the person's trunk is approximately centred over the centre of the space between the sides of the ladder from when the person is fully on the ladder to when the person is leaving the ladder; and

(c) any equipment being used by the person can be operated using 1 hand unless a control measure designed to support the person's body is being worn or used.

Example of a control measure—

a strap, commonly known as a pole strap, that fits around a pole and is attached to a harness worn by the person

static line means a flexible line, to which a lanyard is attached, supported by at least 2 anchorage points located so that the angle between the horizontal and an imaginary straight line between any anchorage point and the other or nearest anchorage point is—

(a) if the manufacturer of the flexible line has specified the size of the angle—not more than the size specified; or

(b) if the manufacturer has not specified the size of the angle—not more than 5º.

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travel restraint system means a system that—

(a) consists of a harness or belt, attached to 1 or more lanyards, each of which is attached to a static line or anchorage point; and

(b) is designed to restrict the travelling range of a person wearing the harness or belt so that the person can not get into a position where the person could fall off an edge of a surface or through a surface.

Subdivision 2 Falls

306B Definition for sdiv 2

In this subdivision—

ladder does not include a fixed ladder.

306C Risk of fall of less than 3m in housing construction work or less than 2m in other construction work or construction work on roof with slope not over 26°

(1) This section applies to—

(a) construction work that is housing construction work during which a person could fall less than 3m; or

(b) construction work that is not housing construction work during which a person could fall less than 2m; or

(c) construction work on a roof, or partly completed roof, surface with a slope not over 26º.

(2) However, this section does not apply to construction work if a person could fall from—

(a) a ladder or fixed ladder; or

(b) a platform supported by trestle ladders; or

(c) scaffolding that the person is erecting or dismantling; or

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(d) an area near a ladder that the person needs to use to get on or off the ladder.

(3) A person conducting a business or undertaking who intends to do construction work must, before the work starts—

(a) ensure each hazard that may result in a fall or cause death or injury if a person were to fall is identified; and

Examples of hazards—

- vertical reinforcing steel, or the edge of a rubbish skip, 1m below a surface from which the work is to be done
- unsheeted floor bearers and joists 2m below a surface from which the work is to be done
- an object, for example a picket fence or stack of bricks, that could cause injury if a person fell on it
- a brittle roof on which the work is to be done 2m above a floor

(b) ensure the risk of death or injury that may result because of the hazard is assessed; and

(c) ensure any control measures necessary to prevent, or minimise the level of, exposure to the risk are used.

Maximum penalty—60 penalty units.

(4) If a person conducting a business or undertaking uses a control measure mentioned in this subdivision, the control measure and the use of the control measure must comply with this subdivision.

Maximum penalty—60 penalty units.

(5) However, a fall arresting platform used as a control measure need not comply with section 306H if the fall would be internal within formwork the person is erecting or dismantling.

306D Risk of fall of at least 3m in housing construction work or at least 2m in other construction work or construction work on roof with a slope over 26°

(1) This section applies to—

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(a) construction work that is housing construction work during which a person could fall at least 3m; or

(b) construction work that is not housing construction work during which a person could fall at least 2m; or

(c) construction work on a roof, or partly completed roof, surface with a slope over 26º.

(2) However, this section does not apply to work if a person could fall from—

(a) a ladder or fixed ladder; or

(b) a platform supported by trestle ladders; or

(c) scaffolding that the person is erecting or dismantling; or

(d) an area near a ladder that the person needs to use to get on or off the ladder.

(3) A person conducting a business or undertaking who intends to do construction work must, before the work starts, use control measures—

(a) to prevent a person falling any distance; or

Examples of control measures to prevent a person falling—

- edge protection
- a fall protection cover placed over an opening
- a travel restraint system

(b) if prevention is not practicable—

(i) to arrest a person's fall; and

(ii) to prevent or minimise the risk of death or injury to a person when the fall is arrested.

Examples of control measures to arrest a person's fall—

- a fall arresting platform
- a fall-arrest harness system
- an industrial safety net

Maximum penalty—60 penalty units.

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(4) If a person conducting a business or undertaking uses a control measure mentioned in this subdivision, the control measure and the use of the control measure must comply with this subdivision.

Maximum penalty—60 penalty units.

(5) However, a fall arresting platform used as a control measure need not comply with section 306H if the fall would be internal within formwork the person is erecting or dismantling.

306E Edge protection as control measure

(1) Edge protection used as a control measure must be erected in accordance with the instructions of—

(a) if the edge protection's manufacturer or supplier has given instructions about its installation—the manufacturer or supplier; or

(b) otherwise—an engineer or competent person.

(3) The edge protection must be designed to withstand the downwards or outwards force of the impact of a fall against it of any person who may reasonably be expected to fall against it to ensure that the person does not fall from the surface from which work is to be done.

(4) The edge protection must—

(a) have a rail, or another component that prevents the person from falling, fitted so that the top of the rail or component is at least—

(i) if the surface that is at the base of the edge protection is at least 1,200mm wide—900mm higher than that surface; or

(ii) otherwise—

(A) if the surface from which work is to be done is sloped—900mm higher than where that surface, if extended downwards at that slope, would intersect with the edge protection; or

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(B) if the surface from which work is to be done is not sloped—900mm higher than that surface; and

(b) have another rail or rails or sturdy mesh, sheeting or other material below the rail or component.

(5) However, if the edge protection has rails, the edge protection must have—

(a) either—

(i) a bottom rail fitted at least 150mm but not over 250mm higher than the surface that is at the base of the edge protection; or

(ii) a toe board, for the surface that is at the base of the edge protection, at least 150mm high and fitted below all rails of the edge protection; and

(b) another rail or rails fitted so that there is not over 450mm between any rail and its nearest rail or between the lowest rail and any toe board for the surface that is at the base of the edge protection; and

(c) if the slope of the surface from which work is to be done is over 26º—sturdy mesh, sheeting or other material that extends upwards at least 900mm from—

(i) the surface that is at the base of the edge protection; or

(ii) the toe board.

(6) A person conducting the business or undertaking must not use, or allow another person to use, the edge protection unless it is used in accordance with the instructions of—

(a) if the edge protection's manufacturer or supplier has given instructions about its use—the manufacturer or supplier; or

(b) otherwise—an engineer or competent person.

(7) In this section—

fall prevention device see section 79(5).

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toe board for a surface means an upright timber or metal board securely fixed in place at an edge of the surface.

306F Fall protection cover as control measure

A fall protection cover used as a control measure must—

(a) be able to withstand the impact of a fall onto it of any person who may reasonably be expected to fall onto it to ensure that the person does not fall; and

(b) be securely fixed in place to prevent it being moved or removed accidentally.

306G Travel restraint system as control measure

(1) A travel restraint system used as a control measure must—

(a) be installed by a competent person; and

(b) have an anchorage point with a capacity to withstand any load that could be exerted on it in the normal operation of the system to restrain any person who may reasonably be expected to use the system.

(2) A person conducting a business or undertaking must not use, or allow another person to use, the system unless the person who is to use the system has been trained in the safe and correct use of the system.

(3) A person conducting a business or undertaking must not use, or allow another person to use, a component of the system that shows evidence of wear or weakness to an extent that may affect the system's safety.

(4) A person conducting a business or undertaking must ensure that, at least once every 6 months, a competent person—

(a) inspects the system; and

(b) gives the person a written record of the inspection.

(5) A person conducting a business or undertaking must keep the record for the lesser of the following—

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(a) 4 years;

(b) the life of the system.

306H Fall arresting platform as control measure

(1) A fall arresting platform used as a control measure must be able to withstand the impact of a fall onto it of any person who may reasonably be expected to fall onto it.

(2) The platform of the fall arresting platform must provide an unobstructed landing area, for a falling person, at least 675mm wide for the length of the platform.

(3) If the slope of the surface from which construction work is to be carried out is not over 26º, the fall arresting platform must be not over 1m lower than the surface.

(4) If the slope of the surface from which construction work is to be carried out is over 26º, the fall arresting platform must be not over 300mm lower than the surface.

(5) The fall arresting platform must have edge protection complying with section 306E erected—

(a) along the outer edge of the length of the fall arresting platform; and

(b) along the edge of each end of the fall arresting platform.

(6) Subsection (7) applies if the gap between the following is over 225mm—

(a) the inner edge of the length of the platform;

(b) the face of a structure that is immediately beside the fall arresting platform.

(7) A person conducting a business or undertaking must, in complying with section 306C or 306D, ensure that any control measures required to eliminate or minimise the risk of a person falling off the inner edge are used.

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306I Fall arrest harness system as control measure

(1) Each anchorage point of a fall arrest harness system used as a control measure must be—

(a) designed by an engineer for the purpose for which it is intended to be used; or

(b) inspected and approved by a competent person before the anchorage point is first used by any person.

(2) Each anchorage point of the system, other than an anchorage point supporting a static line, must have a capacity of at least—

(a) if only 1 person is using the anchorage point and the person could have a limited free fall—12kN; or

(b) if only 1 person is using the anchorage point and the person could have a free fall—15kN; or

(c) if 2 persons are using the anchorage point—21kN.

(3) Each anchorage point of the system must be located so that a lanyard of the system can be attached to it before the person using the system moves into a position where the person could fall.

(4) The system's device to absorb the energy of a falling person must limit the force applied to the person by a fall to not more than 6kN.

(5) The system must be installed in accordance with the instructions of—

(a) if the system's manufacturer or supplier has given instructions about its installation—the manufacturer or supplier; and

(b) to the extent the system's manufacturer or supplier has not given instructions—an engineer or competent person.

(6) The system must be maintained in accordance with the instructions of—

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(a) if the system's manufacturer or supplier has given instructions about its maintenance—the manufacturer or supplier; and

(b) to the extent the system's manufacturer or supplier has not given instructions—an engineer or competent person.

(7) A person conducting a business or undertaking must ensure there is enough distance available for a person using the system to fall to prevent the person hitting an object, the ground or another surface, other than a vertical surface.

Maximum penalty—60 penalty units.

(8) For subsection (7), whether there is enough distance available must be worked out by taking the following into account—

(a) the person's height;

(b) the height and position of the anchorage point;

(c) the length of the lanyard;

(d) any slack in the static line;

(e) any stretching of the lanyard or static line when extended by a fall;

(f) the length of the energy absorber when extended by a fall;

(g) any other relevant factor.

(9) A person conducting a business or undertaking must ensure that—

(a) no part of the system can come into contact with anything that could affect the safe use of the system; and

Examples of a thing that could affect the safe use of a system—

- an edge of a platform or beam over which a lanyard would tighten if a fall were to happen
- part of an anchorage point that is not adequately padded

(b) a person using the system is trained in the safe and correct use of the system.

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(10) A person conducting a business or undertaking must ensure that—

(a) a component of the system is not used if it shows evidence of wear or weakness to an extent that may affect the system's safety; and

(b) if a competent person considers that an anchorage point of the system is worn or that its load-bearing capacity may be impaired—

(i) the anchorage point is not used; and

(ii) appropriate measures are taken to prevent its use while it is worn or its load-bearing capacity may be impaired; and

(c) at least once every 6 months, a competent person inspects the components of the system, other than each anchorage point, and gives the person a written record of the inspection; and

(d) the record is kept for the lesser of the following—

(i) 4 years;

(ii) the life of the system.

(11) If the system has been used to arrest a fall, the system must not be used again unless its manufacturer or a competent person has inspected it and decided that it is fit for safe use.

(12) A person conducting a business or undertaking must not use, or allow another person to use, the system unless it is used in accordance with the instructions of—

(a) if the system's manufacturer or supplier has given instructions about its use—the manufacturer or supplier; or

(b) otherwise—an engineer or competent person.

(13) A person conducting a business or undertaking must not use, or allow another person to use, the system while the person using the system is alone.

(14) In this section—

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free fall means a fall in which the distance a person using a fall arrest harness system falls vertically before the system starts to take loading is more than 600mm but not more than 2m.

limited free fall means a fall in which the distance a person using a fall arrest harness system falls vertically before the system starts to take loading is not more than 600mm.

306J Safety net as control measure

(1) A safety net used as a control measure must—

(a) be designed by an engineer or competent person for the purpose for which it is intended to be used; and

(b) be made of material designed to minimise injury to a person falling into the net; and

(c) have energy absorbing characteristics to reduce the shock or injury to a person falling into the net.

(2) The net must be installed—

(a) so that a person falling into the net will not hit anything below the net; and

(b) as close as possible below the surface from which the person who is to be protected by the net is to work, but not more than the distance below the surface specified by—

(i) if the net's manufacturer or supplier has specified the distance—the manufacturer or supplier; or

(ii) otherwise—an engineer or competent person.

(3) The net must, subject to anything specified under subsection (2), be installed in accordance with the instructions of—

(a) if the net's manufacturer or supplier has given instructions about its installation—the manufacturer or supplier; or

(b) otherwise—an engineer or competent person.

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(4) A person conducting a business or undertaking must not use, or allow another person to use, the net unless it is used in accordance with the instructions, if any, of the net's manufacturer or supplier, an engineer or a competent person.

(5) A person conducting a business or undertaking must ensure the net is inspected and maintained in accordance with the instructions, if any, of an engineer or competent person or the net's manufacturer or supplier.

Subdivision 3 Ladders and platforms supported by ladders

306K What work may be done from single or extension ladder

(1) This section applies if a person conducting a business or undertaking intends to perform construction work that involves a single or extension ladder.

(2) The person must not use, or allow another person to use, the ladder—

(a) to gain access to a place, unless the person using the ladder has at least 2 hands and 1 foot, or 2 feet and 1 hand, on the ladder from when the person is fully on the ladder to when the person is leaving the ladder; or

(b) to do construction work, other than to gain access to a place under paragraph (a), unless the work is permitted work.

Maximum penalty—60 penalty units.

306L Work on a ladder

(1) This section applies if a person conducting a business or undertaking intends to perform construction work that involves a ladder.

(2) Subsection (3) applies if the construction work is permitted work, and, in doing the work, a person could fall—

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(a) for housing construction work—at least 3m; or

(b) otherwise—at least 2m.

(3) The person conducting the business or undertaking must not use, or allow another person to use, the ladder, if it is a single or extension ladder, unless—

(a) the person using the ladder—

(i) has at least 3 limbs holding, wrapped around or standing on the ladder in any combination; or

Example—

holding the ladder with 1 hand while standing on it with 2 feet

(ii) is prevented from falling by a control measure, for example, a strap commonly known as a pole strap; or

(iii) is using a fall arrest harness system that is not attached to the ladder; and

(b) the ladder is secured—

(i) at or near the top to prevent it moving; or

Examples—

- tying the top of the ladder to a plate fixed to the top of a wall frame
- clamping the top of the ladder to structural steel

(ii) at or near the bottom to prevent it moving.

Examples—

- tying the bottom of the ladder to pegs in the ground
- a person, other than the person using the ladder, holding the ladder in position near the bottom of the ladder

Maximum penalty—60 penalty units.

(4) Despite subsection (3)(a)(i), the person using the ladder may hold a stable object with 1 or both hands instead of holding the ladder with 1 or both hands.

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Examples of stable objects—

- guttering
- a fascia board or timber stud
- a plate fixed to the top of a wall frame

(5) The person conducting the business or undertaking must ensure that the ladder, if it is a single or extension ladder, and is used against a pole to do construction work, has a device that—

(a) is fitted at or near the top of the ladder between its sides; and

(b) helps to ensure the ladder's stability by partly accepting the shape of the pole.

Example—

a steel rope or steel hoop

Maximum penalty for subsection (5)—60 penalty units.

306M Ladders generally

(1) A person conducting a business or undertaking performing construction work must ensure that a ladder, other than a trestle ladder, used for the work—

(a) has a load rating of at least 120kg; and

(b) is manufactured for industrial use; and

(c) is used only for the purpose for which it is designed; and

(d) is not used to support a weight greater than that for which it is designed; and

(e) is no longer than—

(i) for a single ladder—6.1m; or

(ii) for an extension ladder used to do electrical work within the meaning of the *Electrical Safety Act 2002*—9.2m; or

(iii) for another extension ladder—7.5m.

Maximum penalty—60 penalty units.

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(2) However, subsection (1)(e) does not apply if the ladder is used for work in a confined space.

Example of a confined space—

a well

(3) A ladder may be taken to have a load rating of at least 120kg if it appears to be marked by its manufacturer to show it has a load rating of at least 120kg.

(4) A ladder may be taken to be manufactured for industrial use if it appears to be marked by its manufacturer to show it is for industrial use.

(5) However, subsection (3) or (4) does not apply if the person knows or suspects that the marking is—

(a) false; or

(b) not the manufacturer's marking.

(6) The person must ensure that—

(a) the bottom of the ladder is on a stable surface; and

(b) the rungs of the ladder are approximately level.

Maximum penalty—60 penalty units.

(7) The person must not use, or allow another person to use, the ladder to support a platform.

Maximum penalty—60 penalty units.

(8) The person must not use, or allow another person to use, the ladder, if it is a single or extension ladder, unless—

(a) it is placed so that the angle between the ladder and the horizontal is at least 70º but not more than 80º when in use; and

(b) if it is being used as a temporary means of access to or from a surface—the ladder extends at least 1m above the surface.

Maximum penalty—60 penalty units.

(9) However, the ladder may be placed so that the angle between the ladder and the horizontal is more than 80º if—

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(a) a lesser angle is impractical because the ladder is being used in a confined space; and

(b) control measures are used to prevent the ladder moving when in use.

Example of a control measure—

securing the top and bottom of the ladder to prevent it moving

(10) Subsection (8)(b) does not apply if—

(a) it is impractical to comply with it, for example, because the work is being done from a surface attached to a pole; and

(b) the person using the ladder is attached to a fall arrest harness system before the person moves from the ladder to the surface.

306N Work on platform supported by trestle ladders

(1) This section applies if a person conducting a business or undertaking intends to perform construction work that involves a platform supported by trestle ladders.

(2) The person conducting the business or undertaking must ensure subsections (3) to (5) are complied with before the work starts if the work is—

(a) housing construction work and the person could fall at least 3m from the platform; or

(b) not housing construction work and the person could fall at least 2m from the platform.

Maximum penalty—60 penalty units.

(3) Each trestle ladder must be secured to prevent it moving.

Examples of how a trestle ladder must be secured—

- tying the ladder to a sturdy wall
- bracing the ladder to the ground
- applying weights to the bottom of the ladder

(4) Edge protection complying with section 306E must be erected along the outer edge of the length of the platform.

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(5) Any control measures required to eliminate or minimise the following risks must be used—

(a) the risk of the person falling off the inner edge of the length of the platform, if the gap between that inner edge and the face of a building, or other structure, that is immediately beside the platform is over 225mm;

(b) the risk of the person falling off the edge of each end of the platform.

306O Platform supported by trestle ladders

(1) This section applies if a person conducting a business or undertaking is performing construction work on a platform supported by trestle ladders.

(2) Subsection (3) applies if the construction work—

(a) is housing construction work and a person doing the work could fall less than 3m from the platform; or

(b) is not housing construction work and a person doing the work could fall less than 2m from the platform.

(3) The person conducting the business or undertaking must ensure the platform has an unobstructed surface that is—

(a) if the work is light work—at least 225mm wide along the length of the platform; or

(b) if the work is not light work—at least 450mm wide along the length of the platform.

Maximum penalty—60 penalty units.

(4) Subsection (5) applies if the construction work—

(a) is housing construction work and a person doing the work could fall at least 3m from the platform; or

(b) is not housing construction work and a person doing the work could fall at least 2m from the platform.

(5) The person conducting the business or undertaking must ensure—

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(a) the platform has an unobstructed surface at least 450mm wide along the length of the platform; and

(b) the platform is not higher than 5m.

Maximum penalty—60 penalty units.

(6) In this section—

light work means work that is light having regard to the following—

(a) the amount of physical exertion involved;

(b) the physical capacity of the person doing the work;

(c) the range of movement involved;

(d) the weight or bulk of materials or equipment involved.

Examples of light work—

- painting
- installing a roof gutter, air-conditioning duct, metal fascia or lighting
- placing pine roof trusses in position on the roof of a low-set house
- performing inspections or tests
- installing an electrical connection

Examples of work that is not light work—

- fixing plaster board sheeting to an internal stairwell void
- fixing cladding to a gable end of a roof
- using a medium or heavy duty angle grinder or circular saw

Subdivision 4 Scaffolding

306P Erecting scaffolding

(1) This section applies if a person conducting a business or undertaking intends to perform construction work that is the erecting of scaffolding.

(2) The person must not erect, or allow another person to erect, the scaffolding if—

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(a) the erection of the scaffolding is housing construction work and a person could fall at least 3m in erecting the scaffolding; or

(b) the erection of the scaffolding is not housing construction work and a person could fall at least 2m in erecting the scaffolding.

Maximum penalty—60 penalty units.

(3) However, subsection (2) does not apply if—

(a) the person erecting the scaffolding—

(i) is prevented from falling from the scaffolding by a control measure; or

(ii) is using a fall arrest harness system; or

(b) subsection (4) is complied with.

(4) This subsection is complied with if—

(a) each of the following things is installed immediately after enough components of the scaffolding have been erected to support the thing—

(i) a platform at least 450mm wide along the full length of the section of scaffolding, designed to support the platform, at the level the scaffolding has reached;

(ii) edge protection across the space between the uprights forming the outer frame of the scaffolding at the level the scaffolding has reached;

(iii) a means of access to the level the scaffolding has reached; and

Example of a means of access—

temporary stairs or a ladder

(b) before the next level of the scaffolding is erected, a platform is installed below the level at a distance of not more than—

(i) if the erection of the scaffolding is housing construction work—3m; or

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(ii) otherwise—2m.

(5) A platform under subsection (4)(b) must cover the full length and width of the section of scaffolding designed to support the platform at the level at which it is installed, other than a part of the section required to raise planks or other components of the scaffolding between levels.

(6) Subsection (4)—

(a) does not require a platform to be installed on the bottom level of the scaffolding; and

(b) does not stop the person removing a platform after the person has started work 2 levels above the level from which the platform is to be removed.

306Q Dismantling scaffolding

(1) This section applies if a person conducting a business or undertaking intends to perform construction work that is the dismantling of scaffolding.

(2) The person conducting the business or undertaking must not dismantle, or allow another person to dismantle, the scaffolding if—

(a) the dismantling of the scaffolding is housing construction work and a person could fall at least 3m in dismantling the scaffolding; or

(b) the dismantling of the scaffolding is not housing construction work and a person could fall at least 2m in dismantling the scaffolding.

Maximum penalty—60 penalty units.

(3) However, subsection (2) does not apply if—

(a) the person dismantling the scaffolding is—

(i) prevented from falling from the scaffolding by a control measure; or

(ii) using a fall arrest harness system; or

(b) each of the following is complied with—

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(i) any edge protection for the scaffolding and any means of access to the level that the dismantling has reached are kept in place while it is practicable to do so;

(ii) there is in place while it is practicable a platform at least 450mm wide at the level the dismantling has reached;

(iii) there is in place a platform at a level (the ***lower level***) below the level the dismantling has reached at a distance of not more than—

(A) if the dismantling of the scaffolding is housing construction work—3m; or

(B) otherwise—2m.

(4) The platform required under subsection (3)(b)(iii) must cover the full length and width of the section of scaffolding designed to support the platform at the lower level, other than a part of the section required to lower planks or other components of the scaffolding between levels.

Part 6.4 Additional duties of principal contractor

Division 1 Application

307 Application of pt 6.4

This part—

(a) applies in relation to a construction project; and

(b) imposes duties on the principal contractor for the project that are additional to the duties imposed under part 6.3.

Note—

As a principal contractor has management or control of a workplace, the principal contractor is also subject to duties imposed by the Act and this regulation on a person with management or control of a workplace.

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Division 2 General duties

308 Specific control measure—signage identifying principal contractor

The principal contractor for a construction project must ensure that signs are installed, that—

(a) show the principal contractor's name and telephone contact numbers (including an after hours telephone number); and

(b) show the location of the site office for the project, if any; and

(c) are clearly visible from outside the workplace, or the work area of the workplace, where the construction project is being undertaken.

Maximum penalty—36 penalty units.

309 WHS management plan—preparation

(1) The principal contractor for a construction project must prepare a written WHS management plan for the workplace before work on the project commences.

Maximum penalty—60 penalty units.

(2) A WHS management plan must include the following—

(a) the names, positions and health and safety responsibilities of all persons at the workplace whose positions or roles involve specific health and safety responsibilities in connection with the project;

(b) the arrangements in place, between any persons conducting a business or undertaking at the workplace where the construction project is being undertaken, for consultation, cooperation and the coordination of activities in relation to compliance with their duties under the Act and this regulation;

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(c) the arrangements in place for managing any work health and safety incidents that occur;

(d) any site-specific health and safety rules, and the arrangements for ensuring that all persons at the workplace are informed of these rules;

(e) the arrangements for the collection and any assessment, monitoring and review of safe work method statements at the workplace.

310 WHS management plan—duty to inform

The principal contractor for a construction project must ensure, so far as is reasonably practicable, that each person who is to carry out construction work in connection with the project is, before commencing work, made aware of—

(a) the content of the WHS management plan for the workplace; and

(b) the person's right to inspect the WHS management plan under section 313.

Maximum penalty—36 penalty units.

311 WHS management plan—review

(1) The principal contractor for a construction project must review and, as necessary, revise the WHS management plan to ensure that it remains up to date.

Maximum penalty—36 penalty units.

(2) The principal contractor for a construction project must ensure, so far as is reasonably practicable, that each person carrying out construction work in connection with the project is made aware of any revision to the WHS management plan.

Maximum penalty—36 penalty units.

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312 High risk construction work—safe work method statements

The principal contractor for a construction project must take all reasonable steps to obtain a copy of the safe work method statement relating to high risk construction work before the high risk construction work commences.

Maximum penalty—36 penalty units.

Note—

The WHS management plan contains arrangements for cooperation between persons conducting a business or undertaking at the construction project workplace, including in relation to the preparation of safe work method statements, see section 309(2)(b) and (e).

313 Copy of WHS management plan must be kept

(1) Subject to subsection (2), the principal contractor for a construction project must ensure that a copy of the WHS management plan for the project is kept until the project to which it relates is completed.

Maximum penalty—

(a) for an individual—$12^1/_2$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) If a notifiable incident occurs in connection with the construction project to which the statement relates, the person must keep the WHS management plan for at least 2 years after the incident occurs.

Maximum penalty—

(a) for an individual—$12^1/_2$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

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(3) The person must ensure that for the period for which the WHS management plan must be kept under this section, a copy is readily accessible to any person who is to carry out construction work in connection with the construction project.

Maximum penalty—36 penalty units.

(4) The person must ensure that for the period for which the WHS management plan must be kept under this section, a copy is available for inspection under the Act.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(5) In this section—

WHS management plan means the initial plan and all revised versions of the plan.

314 Further health and safety duties—specific sections

The principal contractor for a construction project must put in place arrangements for ensuring compliance at the workplace with the following—

(a) part 3.2, division 2;

(b) part 3.2, division 3;

(c) part 3.2, division 4;

(d) part 3.2, division 5;

(e) part 3.2, division 7;

(f) part 3.2, division 8;

(g) part 3.2, division 9;

(h) part 3.2, division 10;

(i) part 4.4.

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Maximum penalty—60 penalty units.

Note—

All persons conducting a business or undertaking at the construction project workplace have these same duties, see part 3.2 of this regulation and section 19(3)(e) of the Act. Section 16 of the Act provides for situations in which more than one person has the same duty.

315 Further health and safety duties—specific risks

The principal contractor for a construction project must under part 3.1 manage risks to health and safety associated with the following—

(a) the storage, movement and disposal of construction materials and waste at the workplace;

(b) the storage at the workplace of plant that is not in use;

(c) traffic in the vicinity of the workplace that may be affected by construction work carried out in connection with the construction project;

(d) essential services at the workplace.

Note—

WHS Act—section 20 (see section 9).

315A Amenities

(1) Schedule 5A states particular duties of a principal contractor about amenities.

(2) A principal contractor must ensure that an amenity provided under schedule 5A is maintained in a hygienic, safe and serviceable condition, including by ensuring that there is a system for—

(a) inspecting and cleaning the amenity; and

(b) if the amenity has facilities to dispose of sanitary items for females—the adequate and hygienic disposal of the sanitary items.

Maximum penalty for subsection (2)—60 penalty units.

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Division 3 Duties relating to falling objects

315B Application of div 3

This division applies to construction work if an object could fall on or otherwise hit persons during the work.

315C Definitions for div 3

In this division—

catch platform means a platform designed to provide overhead protection to persons by catching falling objects.

civil construction work means construction work in relation to any of the following structures—

(a) an underground works (including shafts and tunnels), pipe, pipeline, sea defence works, river works, earthworks or earth retaining construction or other construction designed to preserve or alter a natural feature;

(b) a road or highway, footpath or driveway, railway line or siding, tramway line, airfield, dock or harbour, water storage or supply system (including a constructed lagoon), sewerage or drainage system, electricity or gas generation facility, transmission or distribution facility, gasholder, park or recreation ground (including, for example, a golf course, playing field, racecourse or swimming pool);

(c) production, storage or distribution facilities for heavy industries;

(d) a bridge;

(e) a pumping station;

(f) a refinery;

(g) a telecommunications structure.

gantry means a structure that has—

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(a) an overhead platform; and

(b) a hoarding, at least 1,800mm high that is fully sheeted with timber, plywood, metal or sturdy synthetic sheets, running along its length.

hoarding means a self-supporting structure, fully sheeted with timber, plywood, metal or sturdy synthetic sheets, or fully covered by chain wire or sturdy mesh, that is designed—

(a) to prevent persons other than the person conducting a business or undertaking or workers from entering a workplace where construction work is being performed; and

(b) to provide protection to those persons against objects or material approaching them from the side.

overhead platform means a platform designed to provide overhead protection to persons against falling objects.

perimeter containment screening means a screen—

(a) designed to stop objects falling on persons from a level of a building; or

(b) to redirect a falling object onto a catch platform.

315D What is *mesh* for div 3

(1) ***Mesh***, for this division, is mesh that complies with this section.

(2) The mesh must be made of at least 2.5mm diameter steel with a tensile strength of at least 380MPa.

(3) If the pattern of the openings within the mesh are a square or other rectangle, the openings within the mesh must not be over—

(a) for mesh with prescribed lining securely attached to the inside of the mesh—50mm by 50mm; or

(b) otherwise—

(i) if the openings are square, 25mm by 25mm; or

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(ii) if the openings are not square, 25mm by 50mm.

(4) If the pattern of the openings within the mesh are not a square or other rectangle, the openings within the mesh must not be over—

(a) if the mesh has prescribed lining securely attached to the inside of the mesh—50mm in any direction; or

(b) otherwise—25mm in any direction.

(5) In this section—

prescribed lining, in relation to mesh, means intact shade cloth, or another intact lining, that when tested, wet or dry, in accordance with method A in AS 2001.2.4 (Methods of test for textiles—Physical tests—Determination of bursting pressure of textile fabrics—Hydraulic diaphragm method) has a mean bursting pressure of at least 1,000kPa.

315E Risk assessment and control measures for civil construction work and housing construction work

(1) This section applies to construction work that is—

(a) civil construction work; or

(b) housing construction work.

(2) If a person conducting a business or undertaking uses a control measure—

(a) if the control measure is a hoarding—it must comply with the requirements for a hoarding under section 315F(6)(a) and (b); or

(b) if the control measure is perimeter containment screening—it must—

(i) comply with section 315I; and

(ii) if it is designed to stop objects falling on persons from a level of a structure—be erected along each part of a structure from which an object could fall in the adjoining area during the work; or

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(c) if the control measure is a catch platform—it must comply with section 315J; or

(d) if the control measure is a gantry—it must comply with the requirements for a gantry under section 315K; or

(e) if the control measure is a closure of the adjoining area—it must be used in compliance with the requirements for a closure under section 315M.

Maximum penalty—60 penalty units.

315F Control measures for construction work that is not civil construction work or housing construction work

(1) This section applies to construction work that is not civil construction work or housing construction work.

(2) A principal contractor must ensure that a relevant person—

(a) identifies and decides the line (the ***proposed line***) along which any barricade or hoarding required under subsection (3) is to be erected; and

(b) measures the angle to the horizontal formed by an imaginary straight line drawn between—

(i) the highest point at which work is being done on the structure involved in the work during which an object could fall on or otherwise hit a person; and

(ii) the point on the ground, along the proposed line, that is closest to the highest point.

Maximum penalty—60 penalty units.

(3) Before the work starts, the principal contractor must ensure that—

(a) if the measured angle is not more than 15º—a barricade or hoarding at least 900mm high that surrounds the structure is erected along the proposed line; or

(b) if the measured angle is more than 15º but not more than 30º—a hoarding at least 1,800mm high is erected along the proposed line; or

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(c) if the measured angle is more than 30º but less than 75º—a hoarding at least 1,800mm high that is fully sheeted with timber, plywood, metal or sturdy synthetic sheets is erected along the proposed line; or

(d) if the measured angle is 75º or more—

(i) a hoarding at least 1,800mm high that is fully sheeted with timber, plywood, metal or sturdy synthetic sheets and that is not part of a gantry is erected along the proposed line; or

(ii) a gantry is erected under section 315G(3)(a).

Maximum penalty—60 penalty units.

(4) A hoarding under subsection (3)(b), (c) or (d) must be erected adjacent to the sides of each part of the structure from which an object could fall.

Maximum penalty—60 penalty units.

(5) If subsection (3) or (4) does not require part of the structure to have a hoarding erected adjacent to the side of the part, the principal contractor must ensure that a barricade or hoarding at least 900mm high is erected along the proposed line adjacent to the sides of the part of the structure.

Maximum penalty—60 penalty units.

(6) A hoarding under subsection (3) must—

(a) prevent an object that may reasonably be expected to hit it from entering the adjoining area; and

(b) be strong enough, and appropriately designed and erected, for the circumstances in which it is used, including the location of the workplace and the type of work to be carried out near the hoarding.

Maximum penalty—60 penalty units.

(7) A hoarding under subsection (3)(c) or (d)—

(a) must be able to withstand a horizontal force of—

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(i) 500N per m^2 applied over $1m^2$ at the top of the hoarding midway between any post and its nearest post without deforming permanently; and

(ii) 950N applied over $1,500mm^2$ at any point on the hoarding without fully penetrating the hoarding; and

(b) may have gaps to minimise wind resistance, if the gaps are no larger than are reasonably necessary; and

(c) if it is part of a gantry—must extend to the gantry's overhead platform.

Maximum penalty for subsection (7)—60 penalty units.

315G Additional control measures if measured angle is 75° or more, other than for demolition work or work erecting or dismantling formwork

(1) This section applies if the angle measured under section 315F(2)(b) is 75° or more.

(2) This section does not apply to—

(a) demolition work; or

(b) work erecting or dismantling formwork on or for a structure.

(3) The principal contractor must ensure that at least 1 of the following control measures is used before construction work starts—

(a) a gantry is erected along the proposed line adjacent to the sides of each part of the structure from which an object could fall;

(b) the adjoining area is closed under section 315M at least to the extent necessary to prevent objects falling on or otherwise hitting persons;

(c) a catch platform with perimeter containment screening complying with section 315I is installed—

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(i) along the sides of each part of the structure from which an object could fall; and

(ii) not more than 1m below—

(A) if the structure has storeys—the storey of the structure from which an object could fall; or

(B) if the structure does not have storeys—the surface from which an object could fall.

Maximum penalty—60 penalty units.

(4) In this section—

formwork includes a structure installed to support formwork.

315H Control measures for demolition work or work erecting or dismantling formwork

(1) This section applies to construction work that is—

(a) demolition work; or

(b) work erecting or dismantling formwork.

(2) A principal contractor must ensure that, before the construction work starts—

(a) the adjoining area is closed under section 315M at least to the extent necessary to prevent objects falling on or otherwise hitting persons; or

(b) perimeter containment screening complying with section 315I is erected along each part of a structure from which an object could fall.

Maximum penalty—60 penalty units.

(3) However, if the work is demolition work, the principal contractor must ensure that a control measure other than a control measure mentioned in subsection (2) is used before the work starts to prevent objects falling on or otherwise hitting persons if—

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(a) the adjoining area can not be closed under subsection (2)(a) because the person who controls the area withholds written approval to close the area; and

(b) perimeter containment screening can not be erected under subsection (2)(b).

Maximum penalty—60 penalty units.

(4) If the principal contractor erects perimeter containment screening under subsection (2)(b), or extends or reduces perimeter containment screening erected under subsection (2)(b), the principal contractor must ensure that control measures are used to prevent a component of the screening falling on persons while the screening is being erected, extended or reduced.

Maximum penalty—60 penalty units.

(5) In this section—

formwork includes a structure installed to support formwork.

315I Perimeter containment screening as control measure

(1) Each screen of perimeter containment screening used as a control measure, and its supporting framework, must comply with this section.

(2) If the perimeter containment screening is used to redirect a falling object onto a catch platform, each screen must be fitted vertically to the top of, or flush with, the outer edge of the catch platform to redirect a falling object, that may reasonably be expected to hit the perimeter containment screening, onto the catch platform.

(3) If the perimeter containment screening is not used to redirect a falling object onto a catch platform, each screen must be designed to prevent an object, that may reasonably be expected to hit the perimeter containment screening, from falling on persons from the level at which the work is to be done.

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(4) Each screen must be made of mesh or of timber, plywood or metal sheeting.

(5) Each of the following gaps must be not over 25mm—

(a) the gap, measured horizontally, between—

(i) screens immediately beside each other; or

(ii) a screen and the framework supporting it;

(b) the gap, measured vertically, between—

(i) a screen and another screen immediately above it; or

(ii) a screen and the framework supporting it.

(6) The framework supporting a screen must be able to bear the load of the screen.

315J Catch platform as control measure

If a catch platform used or to be used as a control measure is installed, extended or reduced, the principal contractor must ensure that control measures are used to prevent a component of the platform falling on persons while the platform is being installed, extended or reduced.

Maximum penalty—60 penalty units.

315K Gantry as control measure

(1) A gantry used as a control measure must be designed by an engineer to withstand a downwards force of at least—

(a) if light work, or work other than light work at a height of not more than 10m above the ground, is to be done—5kPa applied on its overhead platform; or

(b) if work, other than light work, at a height of more than 10m above the ground is to be done—10kPa applied on its overhead platform.

(2) The gantry must—

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(a) be able to stop an object that may reasonably be expected to fall on it from falling; and

(b) have an overhead platform that is secured to prevent it lifting or coming apart; and

(c) have solid sheeting erected along the outer edge of its overhead platform to at least the higher of—

(i) 900mm above the platform; and

(ii) the height of any object stored on the platform; and

(d) if it is used to store materials or has a shed erected on it—be designed by an engineer to take the additional load involved; and

(e) be able to stop water or dust falling on persons; and

(f) have natural or other lighting of at least 50 lux illuminating all of the area below it; and

(g) not tip over or rotate if a force that could reasonably be expected to be applied to it is applied to it.

Example of a force mentioned in paragraph (g)—

the force of a truck backing into the gantry

315L Load lifted over adjoining area

(1) This section applies to construction work that involves lifting a load over the adjoining area.

(2) This section does not apply to construction work that is housing construction work.

(3) A principal contractor must ensure that, before the work starts—

(a) the adjoining area is closed under section 315M at least to the extent necessary to prevent objects falling on or otherwise hitting persons in the adjoining area; or

(b) a gantry is erected that provides adequate protection to persons in the adjoining area against falling objects if the load were to fall.

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Maximum penalty—60 penalty units.

(4) Without limiting subsection (3)(b), the gantry must at least comply with section 315K.

Example—

If a pallet of scaffolding components is to be lifted over an adjoining area, the downwards force that the gantry's overhead platform must be able to withstand is—

(a) if the force applied by the pallet and components is less than or equal to 10kPa—10kPa; or

(b) if the force applied by the pallet and components is greater than 10kPa—the force applied by the pallet and components.

315M Closure of part or all of adjoining area

If an adjoining area is to be closed, a principal contractor must, before construction work starts, do each of the following—

(a) ensure that written approval to close the area is obtained from the authority or other person who controls the area;

Examples of an authority—

- a local government
- the Department of Main Roads
- the Queensland Police Service

(b) if an authority controls the area, use any measures for the closure required by the authority.

Examples of measures for the closure—

- physical barriers to prevent use of a footpath or road
- signs about the closure
- signs directing pedestrians to use another footpath
- traffic controllers to direct pedestrians or other traffic

Maximum penalty—60 penalty units.

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Part 6.5 General construction induction training

Division 1 General construction induction training requirements

316 Duty to provide general construction induction training

A person conducting a business or undertaking must ensure that general construction induction training is provided to a worker engaged by the person who is to carry out construction work, if the worker—

(a) has not successfully completed general construction induction training; or

(b) successfully completed general construction induction training more than 2 years previously and has not carried out construction work in the preceding 2 years.

Maximum penalty—36 penalty units.

317 Duty to ensure worker has been trained

(1) A person conducting a business or undertaking must not direct or allow a worker to carry out construction work unless—

(a) the worker has successfully completed general construction induction training; and

(b) if the worker completed the training more than 2 years previously—the worker has carried out construction work in the preceding 2 years.

Maximum penalty—36 penalty units.

(2) The person conducting the business or undertaking must ensure that—

(a) the worker holds a general construction induction training card; or

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(b) if the worker has applied for but not yet been issued with a general construction induction training card, the worker holds a general construction induction training certification, issued within the preceding 60 days.

Division 1A Recognition of general construction induction training cards issued in other jurisdictions

318 References to general construction induction training cards

(1) In this part, other than division 2, a reference to a general construction induction training card includes a reference to an equivalent card that was issued under a corresponding WHS law.

(2) Subsection (1) does not apply to a card that is cancelled in the corresponding jurisdiction.

Division 2 General construction induction training cards

319 Issue of card

(1) A person who has successfully completed general construction induction training in Queensland may apply to the regulator for a general construction induction training card.

(2) The application must be made in the way and in the form approved by the regulator.

(3) The application must include the following—

(a) the applicant's name and any evidence of identity required by the regulator;

(b) either—

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(i) a general construction induction training certification issued to the applicant; or

(ii) a written declaration by the person who provided the general construction induction training on behalf of the relevant RTO that the applicant has successfully completed general construction induction training;

(c) be accompanied by the relevant fee.

(4) The application must be made—

(a) within 60 days after the issue of the general construction induction training certification; or

(b) if the application is accompanied by a declaration mentioned in subsection (3)(b)(ii), at any time after completion of the general construction induction training.

(5) The regulator must issue a general construction induction training card to the applicant if—

(a) the application has been made under this section; and

(b) the regulator is satisfied that the applicant has successfully completed general construction induction training.

(6) The regulator must make a decision on the application as soon as practicable.

(7) If the regulator has not decided on the application within 60 days, the applicant is taken to hold a general construction induction training card until a decision is made.

320 Content of card

A general construction induction training card must—

(a) state the following—

(i) that the card holder has completed general construction induction training;

(ii) the name of the card holder;

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(iii) the date on which the card was issued;

(iv) a unique identifying number;

(v) the jurisdiction in which the card was issued; and

(b) contain the card holder's signature.

321 Replacement card

(1) If a general construction induction training card issued by the regulator is lost, stolen or destroyed, the card holder may apply to the regulator for a replacement card.

Note—

A card holder is required to keep the card available for inspection under section 326.

(2) An application for a replacement general construction induction training card must be made in the way and in the form approved by the regulator.

(3) The application must—

(a) include a declaration about the circumstances in which the card was lost, stolen or destroyed; and

(b) be accompanied by the relevant fee.

(4) The regulator may issue a replacement card if satisfied that the original general construction induction training card has been lost, stolen or destroyed.

322 Refusal to issue or replace card

The regulator may refuse to issue a general construction induction training card or a replacement general construction induction training card if satisfied that the applicant—

(a) gave information that was false or misleading in a material particular; or

(b) failed to give information that should have been given; or

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(c) produced a general construction induction training certification that had been obtained on the basis of the giving of false or misleading information by any person or body.

Note—

A decision to refuse to issue or replace a general construction induction training card is a reviewable decision, see section 676.

323 Cancellation of card—grounds

The regulator may cancel a general construction induction training card issued by the regulator if satisfied that the card holder, when applying for the card—

(a) gave information that was false or misleading in a material particular; or

(b) failed to give information that should have been given; or

(c) produced a general construction induction training certification that had been obtained on the basis of the giving of false or misleading information by any person or body.

Note—

A decision to cancel a general construction induction training card is a reviewable decision, see section 676.

324 Cancellation of card—process

(1) The regulator must, before cancelling a general construction induction training card, give the card holder—

(a) written notice of the proposed cancellation that outlines all relevant allegations, facts and circumstances known to the regulator; and

(b) a reasonable opportunity to make submissions to the regulator in relation to the proposed cancellation.

(2) On cancelling a general induction card, the regulator must give the card holder a written notice of its decision, stating—

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(a) when the cancellation takes effect; and

(b) the reasons for the cancellation; and

(c) when the card must be returned to the regulator.

325 RTO may enter agreement to issue cards

(1) The regulator may enter into an agreement with an RTO that empowers the RTO to exercise the functions and powers of the regulator under sections 319, 321 and 322, with any necessary alterations.

(2) If an RTO with whom the regulator has entered an agreement under this section exercises functions and powers of the regulator in accordance with the agreement, the exercise of those functions and powers has the same effect as if they had been exercised by the regulator.

(3) Without limiting subsection (2)—

(a) a decision of an RTO in exercising a function or power of the regulator in accordance with the agreement is taken to be a decision of the regulator; and

(b) a general construction induction training card issued by the RTO is taken to have been issued by the regulator.

(4) Nothing in an agreement under this section prevents the regulator from exercising its functions and powers under this division.

Division 3 Duties of workers

326 Duties of workers

(1) A worker carrying out construction work must keep available for inspection under the Act—

(a) his or her general construction induction training card; or

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(b) in the circumstances set out in section 319(4), a general induction training certification held by the worker, until a decision is made on the application for the general construction induction training card.

Maximum penalty—36 penalty units.

(2) A card holder, on receiving a cancellation notice under section 324(2), must return the card in accordance with the notice.

Maximum penalty—36 penalty units.

(3) Subsection (1)(a) does not apply if the card is not in the possession of the worker (***card holder***) because—

(a) it has been lost, stolen or destroyed; and

(b) the card holder has applied for, but has not received, a replacement card under section 321.

327 Alteration of general construction induction training card

A person who holds a general construction induction training card must not intentionally or recklessly alter the card.

Maximum penalty—36 penalty units.

Chapter 7 Hazardous chemicals

Part 7.1 Hazardous chemicals

Note—

Most of the obligations in this part apply to persons conducting businesses or undertakings at a workplace. However, some obligations apply to persons in different capacities, for example importers and suppliers of hazardous chemicals.

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Division 1 Application of part 7.1

328 Application of pt 7.1

(1) This part applies to—

(a) the use, handling and storage of hazardous chemicals at a workplace and the generation of hazardous substances at a workplace; and

(b) a pipeline used to convey a hazardous chemical; and

(c) the handling or storage of dangerous goods listed in column 2 of table 328, other than at a workplace, if the quantity of the dangerous goods is more than the relevant threshold mentioned in column 3 of the table.

(2) This part does not apply to a pipeline that is regulated under the *Petroleum and Gas (Production and Safety) Act 2004*.

(3) This part does not apply to hazardous chemicals, and explosives within the meaning of the *Explosives Act 1999*, being transported by road, rail, sea or air if the transport is regulated under—

(a) the *Explosives Act 1999*; or

(aa) the Rail Safety National Law (Queensland); or

(b) the *Transport Operations (Marine Safety) Act 1994*; or

(c) the *Transport Operations (Road Use Management) Act 1995*.

(4) This part does not apply to the following hazardous chemicals in the circumstances described—

(a) hazardous chemicals in batteries when incorporated in plant;

(b) fuel, oils or coolants in a container fitted to a vehicle, vessel, aircraft, mobile plant, appliance or other device, if the fuel, oil or coolant is intended for use in the operation of the device;

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(c) fuel in the fuel container of a domestic or portable fuel burning appliance, if the quantity of fuel does not exceed 25kg or 25L;

(d) hazardous chemicals in portable firefighting or medical equipment for use in a workplace;

(e) hazardous chemicals that form part of the integrated refrigeration system of refrigerated freight containers;

(f) potable liquids that are consumer products at retail premises.

(5) This part, other than the following sections and schedule 7, does not apply to articles, substances and mixtures categorised only as explosives under the GHS—

(a) section 329;

(b) section 330;

(c) section 339;

(d) section 344;

(e) section 345.

(6) This part does not apply to the following—

(a) food and beverages within the meaning of the Food Standards Australia New Zealand Food Standards Code that are in a package and form intended for human consumption;

(b) tobacco or products made of tobacco;

(c) therapeutic goods within the meaning of the *Therapeutic Goods Act 1989* (Cwlth) at the point of intake by or administration to humans;

(d) veterinary chemical products within the meaning of the Agvet Code at the point of intentional administration to animals.

(7) In this section—

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Agvet Code means the Agricultural and Veterinary Chemicals Code set out in the schedule to the *Agricultural and Veterinary Chemicals Code Act 1994* (Cwlth).

Table 328

Column 1 Item	Column 2 Dangerous Goods	Column 3 Threshold quantities
1	Liquefied petroleum gas (LP gas) (dangerous goods class 2.1)	If the LP gas is stored in packages outside a building, and connected by piping to appliances within the building that contain the gas—500L (water capacity)
2	Compressed gas of class 2.1 (excluding LP gas), class 2.2 or compressed oxygen	If— (a) each is in one or more containers in an aggregate capacity not exceeding 50L; and (b) the dangerous goods as a whole form part of a welding set or are used or intended to be used with a portable flame torch. Compressed oxygen or air that is used or intended to be used for medical purposes.
3	Dangerous goods class 3	250L
4	Pool chlorine and spa sanitising agents	100kg or L
5	Sodium hypochlorite designated by UN number 1791	100L
6	Dangerous goods class 9	100kg or L

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Column 1 Item	Column 2 Dangerous Goods	Column 3 Threshold quantities
7	Dangerous goods packing group 1	5kg or L
8	C1 combustible liquids	1,000L
9	Dangerous goods class 2.3	Nil kg or L
10	Goods too dangerous to be transported	Nil kg or L
11	Any dangerous goods other than those stated above	100kg or L

Division 2 Obligations relating to safety data sheets and other matters

Subdivision 1 Obligations of manufacturers and importers

Notes—

1 A manufacturer or importer of hazardous chemicals may also be a person conducting a business or undertaking at a workplace.

2 A manufacturer or importer is defined in section 23 or 24 of the Act as a person conducting a business or undertaking of manufacturing or importing.

329 Classification of hazardous chemicals

The manufacturer or importer of a substance, mixture or article must, before first supplying it to a workplace—

(a) determine whether the substance, mixture or article is a hazardous chemical; and

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(b) if the substance, mixture or article is a hazardous chemical—ensure that the hazardous chemical is correctly classified under schedule 9, part 1.

Maximum penalty—60 penalty units.

330 Manufacturer or importer to prepare and provide safety data sheets

(1) A manufacturer or importer of a hazardous chemical must prepare a safety data sheet for the hazardous chemical—

(a) before first manufacturing or importing the hazardous chemical; or

(b) if that is not practicable—as soon as practicable after first manufacturing or importing the hazardous chemical and before first supplying it to a workplace.

Maximum penalty—60 penalty units.

(2) The safety data sheet must comply with schedule 7, section 1 unless section 331 applies.

(3) The manufacturer or importer of the hazardous chemical must—

(a) review the safety data sheet at least once every 5 years; and

(b) amend the safety data sheet whenever necessary to ensure that it contains correct and current information.

Maximum penalty—60 penalty units.

(4) The manufacturer or importer of the hazardous chemical must provide the current safety data sheet for the hazardous chemical to any person, if the person—

(a) is likely to be affected by the hazardous chemical; and

(b) asks for the safety data sheet.

Maximum penalty—60 penalty units.

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(5) Subsections (3) and (4) do not apply to a manufacturer or importer of a hazardous chemical who has not manufactured or imported the hazardous chemical in the past 5 years.

331 Safety data sheets—research chemical, waste product or sample for analysis

(1) This section applies if—

(a) a hazardous chemical is a research chemical, waste product or sample for analysis; and

(b) it is not reasonably practicable for a manufacturer or importer of the hazardous chemical to comply with schedule 7, section 1.

(2) The manufacturer or importer must prepare a safety data sheet for the hazardous chemical that complies with schedule 7, section 2.

Maximum penalty—60 penalty units.

332 Emergency disclosure of chemical identities to registered medical practitioner

(1) This section applies if a registered medical practitioner—

(a) reasonably believes that knowing the chemical identity of an ingredient of a hazardous chemical may help to treat a patient; and

(b) requests the manufacturer or importer of the hazardous chemical to give the registered medical practitioner the chemical identity of the ingredient; and

(c) gives an undertaking to the manufacturer or importer that the chemical identity of the ingredient will be used only to help treat the patient; and

(d) gives an undertaking to the manufacturer or importer to give the manufacturer or importer as soon as practicable a written statement about the need to obtain the chemical identity of the ingredient.

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(2) The manufacturer or importer of a hazardous chemical must give the registered medical practitioner the chemical identity of an ingredient of the hazardous chemical as soon as practicable.

Maximum penalty—60 penalty units.

333 Emergency disclosure of chemical identities to emergency service worker

The manufacturer or importer of a hazardous chemical must give an emergency service worker the chemical identity of an ingredient of the hazardous chemical as soon as practicable after the worker requests it.

Maximum penalty—60 penalty units.

334 Packing hazardous chemicals

The manufacturer or importer of a hazardous chemical must ensure that the hazardous chemical is correctly packed, under schedule 9, part 2, as soon as after manufacturing or importing the hazardous chemical.

Maximum penalty—60 penalty units.

335 Labelling hazardous chemicals

(1) The manufacturer or importer of a hazardous chemical must ensure that the hazardous chemical is correctly labelled as soon as practicable after manufacturing or importing the hazardous chemical.

Maximum penalty—60 penalty units.

(2) A hazardous chemical is ***correctly labelled*** if—

(a) the selection and use of label elements is in accordance with the GHS and the hazardous chemical is labelled as stated in schedule 9, part 3; or

(b) the hazardous chemical is—

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(i) labelled under a law of the Commonwealth relating to the labelling of hazardous chemicals; and

(ii) labelled in a way that corresponds, or substantially corresponds, to the way a hazardous chemical is labelled as stated in schedule 9, part 3.

(3) This section does not apply to a hazardous chemical if—

(a) the hazardous chemical is a consumer product that is labelled in accordance with the Poisons Standard; and

(b) the container for the hazardous chemical has its original label; and

(c) it is reasonably foreseeable that the hazardous chemical will be used in a workplace only in—

(i) a quantity that is consistent with household use; and

(ii) a way that is consistent with household use; and

(iii) a way that is incidental to the nature of the work carried out by a worker using the hazardous chemical.

(4) This section does not apply to hazardous chemicals in transit.

(5) This section does not apply to a hazardous chemical that—

(a) is human therapeutic goods within the meaning of the *Therapeutic Goods Act 1989* (Cwlth); and

(b) is in a form intended for human consumption, for administration to or by a person or use by a person for therapeutic purposes; and

(c) is labelled under that Act or an order made under that Act.

(6) This section does not apply to cosmetics and toiletries.

(7) This section does not apply to a veterinary chemical if—

(a) the veterinary chemical is—

(i) included in the Poisons Standard, schedule 4; and

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(ii) in a form intended for direct administration to an animal for therapeutic purposes; or

(b) the veterinary chemical is included in the Poisons Standard, schedule 8.

(8) In this section—

Poisons Standard means the current Poisons Standard within the meaning of the *Therapeutic Goods Act 1989* (Cwlth).

veterinary chemical means a veterinary chemical product within the meaning of the *Agricultural and Veterinary Chemicals Code Act 1994* (Cwlth).

Subdivision 2 Obligations of suppliers

Notes—

1 A supplier of hazardous chemicals may also be a person conducting a business or undertaking at a workplace.

2 A supplier is defined in section 25 of the Act as a person who conducts a business or undertaking of supplying.

3 An operator of a major hazard facility is required to notify certain quantities of hazardous chemicals under part 9.2.

336 Restriction on age of person who can supply hazardous chemicals

A person conducting a business or undertaking must not direct or allow a worker to supply a hazardous chemical that is a flammable gas or flammable liquid to another person into any container or vehicle provided by that other person unless the worker is at least 16 years of age.

Examples—

- decanting fuel into a fuel container
- refuelling a car

Maximum penalty—36 penalty units.

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337 Retailer or supplier packing hazardous chemicals

(1) The supplier of a hazardous chemical must not supply the hazardous chemical for use at another workplace if the supplier knows or ought reasonably to know that the hazardous chemical is not correctly packed.

Maximum penalty—36 penalty units.

(2) A retailer who supplies a hazardous chemical in a container provided by the person supplied with the chemical must ensure that the hazardous chemical is correctly packed.

Maximum penalty—36 penalty units.

338 Supplier labelling hazardous chemicals

The supplier of a hazardous chemical must not supply the hazardous chemical to another workplace if the supplier knows or ought reasonably to know that the hazardous chemical is not correctly labelled under section 335.

Maximum penalty—36 penalty units.

339 Supplier to provide safety data sheets

(1) The supplier of a hazardous chemical to a workplace must ensure that the current safety data sheet for the hazardous chemical is provided with the hazardous chemical—

(a) when the hazardous chemical is first supplied to the workplace; and

(b) if the safety data sheet for the hazardous chemical is amended—when the hazardous chemical is first supplied to the workplace after the safety data sheet is amended.

Maximum penalty—60 penalty units.

(2) A hazardous chemical is taken to be ***first supplied*** to a workplace if the supply is the first supply of the hazardous chemical to the workplace for 5 years.

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(3) The supplier of a hazardous chemical to a workplace must ensure that the current safety data sheet for the hazardous chemical is provided to a person at the workplace if the person asks for the safety data sheet.

Maximum penalty—60 penalty units.

(4) This section does not apply to a supplier of a hazardous chemical if—

(a) the hazardous chemical is a consumer product; or

(b) the supplier is a retailer.

Note—

A manufacturer or importer is required to prepare a safety data sheet under section 330.

340 Supply of prohibited and restricted carcinogens

(1) The supplier of a prohibited carcinogen or restricted carcinogen mentioned in an item in schedule 10, table 10.1 must not supply the substance unless the person to be supplied with the substance gives the supplier evidence that—

(a) the substance is to be used, handled or stored for genuine research or analysis; and

(b) either—

(i) the regulator has authorised the person to use, handle or store the substance under section 384; or

(ii) the regulator has granted an exemption under part 11.2 to the person to use, handle or store the substance.

Maximum penalty—60 penalty units.

(2) The supplier of a prohibited or restricted carcinogenic substance mentioned in an item in schedule 10, table 10.2, column 2 must not supply the substance for a use mentioned in column 3 for the item unless the person to be supplied with the substance gives the supplier evidence that—

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(a) the regulator has authorised the person to use, handle or store the substance under section 384; or

(b) the regulator has granted an exemption to the person under part 11.2 to use, handle or store the substance.

Maximum penalty—60 penalty units.

(3) A supplier under subsection (1) or (2) must keep a record of—

(a) the name of the person supplied; and

(b) the name and quantity of the substance supplied.

Maximum penalty—

(a) for an individual—12$^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(4) The supplier must keep the record for 5 years after the substance was last supplied to the person.

Maximum penalty—

(a) for an individual—12$^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

Subdivision 3 Obligations of persons conducting businesses or undertakings

341 Labelling hazardous chemicals—general requirement

(1) A person conducting a business or undertaking at a workplace must ensure that a hazardous chemical used, handled or stored at the workplace is correctly labelled under section 335.

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Maximum penalty—60 penalty units.

(2) However, subsection (1) does not apply if the hazardous chemical is—

(a) supplied to the workplace before 1 January 2017; and

(b) labelled according to the national labelling code.

342 Labelling hazardous chemicals—containers

(1) A person conducting a business or undertaking at a workplace must ensure that a hazardous chemical is correctly labelled under section 335 if the hazardous chemical is—

(a) manufactured at the workplace; or

(b) transferred or decanted from its original container at the workplace.

Maximum penalty—60 penalty units.

(1A) However, subsection (1) does not apply to a hazardous chemical if the chemical is—

(a) either—

(i) manufactured at the workplace before 1 January 2017; or

(ii) transferred or decanted from its original container at the workplace before 1 January 2017; and

(b) labelled according to the national labelling code; and

(c) not supplied to another workplace.

Note—

See section 338 for provisions about labelling a hazardous chemical supplied to another workplace.

(2) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that a container that stores a hazardous chemical is correctly labelled under section 335 while the container contains the hazardous chemical.

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(2A) However, subsection (2) does not apply if the hazardous chemical is—

(a) stored in the container at the workplace before 1 January 2017; and

(b) labelled according to the national labelling code.

(3) A person conducting a business or undertaking at a workplace must ensure that a container labelled for a hazardous chemical is used only for the use, handling or storage of the hazardous chemical.

Maximum penalty—60 penalty units.

(4) This section does not apply to a container if—

(a) the hazardous chemical in the container is used immediately after it is put in the container; and

(b) the container is thoroughly cleaned immediately after the hazardous chemical is used, handled or stored so that the container is in the condition it would be in if it had never contained the hazardous chemical.

343 Labelling hazardous chemicals—pipe work

A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that a hazardous chemical in pipe work is identified by a label, sign or another way on or near the pipe work.

Maximum penalty—60 penalty units.

344 Person conducting business or undertaking to obtain and give access to safety data sheets

(1) A person conducting a business or undertaking at a workplace must obtain the current safety data sheet for a hazardous chemical prepared under this regulation from the manufacturer, importer or supplier of the hazardous chemical in the following circumstances—

(a) either—

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(i) when the hazardous chemical is first supplied for use at the workplace; or

(ii) if the person is not able to obtain the safety data sheet under subparagraph (i)—as soon as practicable after the hazardous chemical is first supplied to the workplace but before the hazardous chemical is used at the workplace;

(b) if the safety data sheet for the hazardous chemical is amended either—

(i) not later than when the hazardous chemical is first supplied to the workplace after the safety data sheet is amended; or

(ii) if the person is not able to obtain the amended safety data sheet under subparagraph (i)—as soon as practicable after the hazardous chemical is first supplied to the workplace after the safety data sheet is amended and before the hazardous chemical supplied is used at the workplace.

Maximum penalty—60 penalty units.

(2) The hazardous chemical is taken to be ***first supplied*** to a workplace if the supply is the first supply of the hazardous chemical to the workplace for 5 years.

(3) The person must ensure that the current safety data sheet for the hazardous chemical is readily accessible to—

(a) a worker who is involved in using, handling or storing the hazardous chemical at the workplace; and

(b) an emergency service worker, or anyone else, who is likely to be exposed to the hazardous chemical at the workplace.

Maximum penalty—36 penalty units.

(4) Subsections (1) and (3) do not apply to a hazardous chemical that—

(a) is in transit; or

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(b) if the person conducting the business or undertaking at the workplace is a retailer—is—

(i) a consumer product; and

(ii) intended for supply to other premises; and

(iii) not intended to be opened on the person's premises; or

(c) is a consumer product and it is reasonably foreseeable that the hazardous chemical will be used at the workplace only—

(i) in quantities that are consistent with household use; and

(ii) in a way that is—

(A) consistent with household use; and

(B) incidental to the nature of the work carried out by a worker using the hazardous chemical.

(5) In the circumstances mentioned in subsection (4), the person must ensure that sufficient information about the safe use, handling and storage of the hazardous chemical is readily accessible to—

(a) a worker at the workplace; and

(b) an emergency service worker, or anyone else, who is likely to be exposed to the hazardous chemical at the workplace.

Maximum penalty—36 penalty units.

(6) The person must ensure that the current safety data sheet for the hazardous chemical is readily accessible to a person at the workplace if the person—

(a) is likely to be affected by the hazardous chemical; and

(b) asks for the safety data sheet.

Maximum penalty for subsection (6)—36 penalty units.

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345 Changes to safety data sheets

A person conducting a business or undertaking at a workplace may change a safety data sheet for a hazardous chemical only if—

(a) the person—

(i) is an importer or manufacturer of the hazardous chemical; and

(ii) changes the safety data sheet in a way that is consistent with the duties of the importer or manufacturer under section 330; or

(b) the change is only the attachment of a translation of the safety data sheet, and clearly states that the translation is not part of the original safety data sheet.

Maximum penalty—60 penalty units.

Note—

The manufacturer or importer of a hazardous chemical must amend a safety data sheet as necessary to ensure the information is correct and current, see section 330(3)(b).

Division 3 Register and manifest of hazardous chemicals

Subdivision 1 Hazardous chemicals register

346 Hazardous chemicals register

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

(a) a register of hazardous chemicals used, handled or stored at the workplace is prepared and kept at the workplace; and

(b) the register is maintained to ensure the information in the register is up to date.

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Maximum penalty—60 penalty units.

(2) The register must include—

(a) a list of hazardous chemicals used, handled or stored; and

(b) the current safety data sheet for each hazardous chemical listed.

(3) The person must ensure that the register is readily accessible to—

(a) a worker involved in using, handling or storing a hazardous chemical; and

(b) anyone else who is likely to be affected by a hazardous chemical at the workplace.

Maximum penalty—36 penalty units.

(4) This section does not apply to a hazardous chemical if—

(a) the hazardous chemical is in transit, unless there is a significant or frequent presence of the hazardous chemical in transit at the workplace; or

(b) the hazardous chemical is a consumer product and the person is not required to obtain a safety data sheet for the hazardous chemical under section 344.

Note—

See section 344(4).

Subdivision 2 Manifest of schedule 11 hazardous chemicals

Note—

Section 361 requires an emergency plan to be prepared if the quantity of hazardous chemicals used, handled or stored at a workplace exceeds the manifest quantity for that hazardous chemical.

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347 Manifest of hazardous chemicals

(1) A person conducting a business or undertaking at a workplace must, if the quantity of a schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals used, handled or stored at the workplace exceeds the manifest quantity for the schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals—

(a) prepare a manifest of schedule 11 hazardous chemicals; and

(b) amend the manifest as soon as practicable if—

(i) the type or quantity of schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals that must be listed in the manifest changes; or

(ii) there is a significant change in the information required to be recorded in the manifest.

Maximum penalty—60 penalty units.

(2) A manifest of schedule 11 hazardous chemicals must comply with schedule 12.

(3) The person must keep the manifest—

(a) in a place determined in agreement with the primary emergency service organisation; and

(b) available for inspection under the Act; and

(c) readily accessible to the emergency service organisation.

Maximum penalty for subsection (3)—36 penalty units.

348 Regulator must be notified if manifest quantities to be exceeded

(1) A person conducting a business or undertaking at a workplace must ensure that the regulator is given written notice if a quantity of a schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals that exceeds the manifest

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quantity is used, handled or stored, or is to be used, handled or stored, at the workplace.

Maximum penalty—60 penalty units.

(2) The notice under subsection (1) must be given—

(a) immediately after it is known that the schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals is to be first used, handled or stored at the workplace or at least 14 days before that first use handling or storage (whichever is earlier); and

(b) immediately after the person knows that there will be a significant change in the risk of using, handling or storing the schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals at the workplace or at least 14 days before that change (whichever is earlier).

(3) The notice under subsection (1) must include the following—

(a) the name and ABN of the person conducting the business or undertaking;

(b) the type of business or undertaking conducted;

(c) if the workplace was previously occupied by someone else—the name of the most recent previous occupier, if known;

(d) the activities of the business or undertaking that involve using, handling or storing schedule 11 hazardous chemicals;

(e) the manifest prepared by the person conducting the business or undertaking under section 347;

(f) in the case of a notice under subsection (2)(b)—details of the changes to the manifest.

(4) A person conducting a business or undertaking at a workplace must ensure that the regulator is given written notice as soon as practicable after the schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals ceases to be used, stored or handled at the workplace if it is not likely to be used, handled or stored at the workplace in the future.

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Maximum penalty—60 penalty units.

(5) The notice under subsection (4) must include the information mentioned in subsection (3)(a), (b) and (d).

(6) If the regulator asks for any further information in relation to the manifest quantity of a schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals, the person must ensure that the information is given to the regulator.

Maximum penalty for subsection (6)—60 penalty units.

Division 4 Placards

349 Outer warning placards—requirement to display

(1) A person conducting a business or undertaking at a workplace must ensure that an outer warning placard is prominently displayed at the workplace if the total quantity of a schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals used, handled or stored at the workplace exceeds the placard quantity for the schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals.

Maximum penalty—60 penalty units.

(2) An outer warning placard must comply with schedule 13.

(3) This section does not apply to a workplace if—

(a) the workplace is a retail outlet; and

(b) the schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals is used to refuel a vehicle, and is either—

(i) a flammable gas; or

(ii) a flammable liquid.

350 Placard—requirement to display

(1) A person conducting a business or undertaking at a workplace must ensure that a placard is prominently displayed at the

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workplace if the total quantity of a schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals stored at the workplace exceeds the placard quantity for the schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals.

Maximum penalty—60 penalty units.

(2) A placard must comply with schedule 13.

(3) This section does not apply to a schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals if—

(a) the schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals is in bulk in a container, including an IBC, that is intended for transport and a placard is displayed on the container in accordance with the ADG Code; or

(b) the schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals is a flammable liquid stored in an underground tank at a retail outlet and used to refuel a vehicle.

Division 5 Control of risk—obligations of persons conducting businesses or undertakings

Subdivision 1 General obligations relating to management of risk

351 Management of risks to health or safety

(1) A person conducting a business or undertaking must manage, under part 3.1, risks to health and safety associated with using, handling, generating or storing a hazardous chemical at a workplace.

Note—

WHS Act—section 19 (see section 9).

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(2) In managing risks the person must have regard to the following—

(a) the hazardous properties of the hazardous chemical;

(b) any potential hazardous chemical or physical reaction between the hazardous chemical and another substance or mixture, including a substance that may be generated by the reaction;

(c) the nature of the work to be carried out with the hazardous chemical;

(d) any structure, plant or system of work—

(i) that is used in the use, handling, generation or storage of the hazardous chemical; or

(ii) that could interact with the hazardous chemical at the workplace.

352 Review of control measures

In addition to the circumstances in section 38, a person conducting a business or undertaking at a workplace must ensure that any measures implemented to control risks in relation to a hazardous chemical at the workplace are reviewed and, as necessary, revised in any of the following circumstances—

(a) following any change to the safety data sheet for the hazardous chemical or the register of hazardous chemicals;

(b) if the person obtains a health monitoring report for a worker under division 6 that contains—

(i) test results that indicate that the worker has been exposed to the hazardous chemical and has an elevated level of metabolites in his or her body for that hazardous chemical; or

(ii) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the work using, handling,

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generating or storing the hazardous chemical that triggered the requirement for health monitoring; or

(iii) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out the work using, handling, generating or storing the hazardous chemical that triggered the requirement for health monitoring;

(c) if monitoring carried out under section 50 determines that the airborne concentration of the hazardous chemical at the workplace exceeds the relevant exposure standard;

(d) at least once every 5 years.

Maximum penalty—60 penalty units.

353 Safety signs

(1) This section applies if a safety sign is required to control an identified risk in relation to using, handling, generating or storing hazardous chemicals at a workplace.

(2) A person conducting a business or undertaking at the workplace must display a safety sign at the workplace to—

(a) warn of a particular hazard associated with the hazardous chemicals; or

(b) state the responsibilities of a particular person in relation to the hazardous chemicals.

Maximum penalty—60 penalty units.

(3) The person must ensure that the safety sign is—

(a) located next to the hazard; and

(b) clearly visible to a person approaching the hazard.

(4) In this section—

safety sign does not include a placard.

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354 Identification of risk of physical or chemical reaction

(1) A person conducting a business or undertaking at a workplace must identify any risk of a physical or chemical reaction in relation to a hazardous chemicals used, handled, generated or stored at a workplace.

Maximum penalty—60 penalty units.

(2) Subsection (1) does not apply if the hazardous chemical undergoes the physical or chemical reaction in a manufacturing process or as part of a deliberate process or activity at the workplace.

(3) A person conducting a business or undertaking at a workplace must take all reasonable steps to ensure that a hazardous chemical is used, handled, generated or stored so as not to contaminate food, food packaging or personal use products.

Examples of personal use products—

- cosmetics
- face washer

Maximum penalty—60 penalty units.

355 Specific control—fire and explosion

A person conducting a business or undertaking at a workplace must, if there is a possibility of fire or explosion in a hazardous area being caused by an ignition source being introduced into the area, ensure that the ignition source is not introduced into the area (from outside or within the space).

Maximum penalty—60 penalty units.

356 Keeping hazardous chemicals stable

(1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that a hazardous chemical used, handled or stored at the workplace does not become unstable, decompose or change so as to—

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(a) create a hazard that is different from the hazard originally created by the hazardous chemical; or

(b) significantly increase the risk associated with any hazard in relation to the hazardous chemical.

Maximum penalty—60 penalty units.

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

(a) if the stability of a hazardous chemical used, handled or stored at the workplace is dependent on the maintenance of the proportions of the ingredients of the hazardous chemical—the proportions are maintained as stated in the safety data sheet for the chemical or by the manufacturer of the hazardous chemical; and

(b) if a hazardous chemical used, handled or stored at the workplace is known to be unstable above a particular temperature—the hazardous chemical is used, handled or stored at or below that temperature.

Maximum penalty—60 penalty units.

(3) This section does not apply if—

(a) the hazardous chemical is changed or allowed to become unstable, without risk to health or safety, as part of a deliberate process or activity at the workplace; or

(b) the hazardous chemical undergoes a chemical reaction in a manufacturing process or as part of a deliberate process or activity at the workplace.

Subdivision 2 Spills and damage

357 Containing and managing spills

(1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that where there is a risk from a spill or leak of a hazardous chemical in a solid or liquid form, provision is made in each part of the

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workplace where the hazardous chemical is used, handled, generated or stored for a spill containment system that contains within the workplace any part of the hazardous chemical that spills or leaks, and any resulting effluent.

Maximum penalty—60 penalty units.

(2) The person must ensure that the spill containment system would not create a hazard by bringing together different hazardous chemicals that are not compatible.

Maximum penalty—60 penalty units.

(3) The person must ensure that the spill containment system provides for the cleanup and disposal of a hazardous chemical that spills or leaks, and any resulting effluent.

Maximum penalty—60 penalty units.

(4) In this section—

compatible, for 2 or more substances, mixtures or items, means that the substances, mixtures or items do not react together to cause a fire, explosion, harmful reaction or evolution of flammable, toxic or corrosive vapour.

358 Protecting hazardous chemicals from damage

A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that containers of hazardous chemicals and any associated pipe work or attachments are protected against damage caused by an impact or excessive loads.

Maximum penalty—60 penalty units.

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Subdivision 3 Emergency plans and safety equipment

359 Fire protection and firefighting equipment

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

(a) the workplace is provided with fire protection and firefighting equipment that is designed and built for the types of hazardous chemicals at the workplace in the quantities in which they are used, handled, generated or stored at the workplace, and the conditions under which they are used, handled, generated or stored, having regard to—

(i) the fire load of the hazardous chemicals; and

(ii) the fire load from other sources; and

(iii) the compatibility of the hazardous chemicals with other substances and mixtures at the workplace;

(b) the fire protection and firefighting equipment is compatible with firefighting equipment used by the primary emergency services organisation;

(c) the fire protection and firefighting equipment is properly installed, tested and maintained;

(d) a dated record is kept of the latest testing results and maintenance until the next test is conducted.

Maximum penalty—60 penalty units.

(2) If a part of the fire protection and firefighting equipment provided at the workplace becomes unserviceable or inoperative, the person must ensure that—

(a) the implications of the equipment being unserviceable or inoperative are assessed; and

(b) for risks that were controlled by the equipment when functioning fully, alternative measures are taken to manage the risks.

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Maximum penalty—60 penalty units.

(3) The person must ensure that the fire protection and firefighting equipment is returned to full operation as soon as practicable.

Maximum penalty—60 penalty units.

360 Emergency equipment

A person conducting a business or undertaking at a workplace that uses, handles, generates or stores hazardous chemicals must ensure that equipment is always available at the workplace for use in an emergency.

Maximum penalty—60 penalty units.

Note—

A person conducting a business or undertaking must comply with part 3.2, division 4.

361 Emergency plans

(1) This section applies if the quantity of a schedule 11 hazardous chemical used, handled, generated or stored at a workplace exceeds the manifest quantity for that hazardous chemical.

(2) A person conducting a business or undertaking at the workplace must give a copy of the emergency plan prepared under part 3.2, division 4 for the workplace to the primary emergency service organisation.

Maximum penalty—60 penalty units.

(3) If the primary emergency service organisation gives the person a written recommendation about the content or effectiveness of the emergency plan, the person must revise the plan in accordance with the recommendation.

Maximum penalty—60 penalty units.

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362 Safety equipment

(1) This section applies if safety equipment is required to control an identified risk in relation to using, handling, generating or storing hazardous chemicals at a workplace.

(2) A person conducting a business or undertaking at the workplace must ensure that the safety equipment is provided, maintained and readily accessible to persons at the workplace.

Maximum penalty—60 penalty units.

Subdivision 4 Storage and handling systems

363 Control of risks from storage or handling systems

(1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that a system used at the workplace for the use, handling or storage of hazardous chemicals—

(a) is used only for a purpose for which it was designed, manufactured, modified, supplied or installed; and

(b) is operated, tested, maintained, installed, repaired and decommissioned having regard to the health and safety of workers and other persons at the workplace.

Maximum penalty—60 penalty units.

(2) The person must ensure that sufficient information, training and instruction is given to a person who operates, tests, maintains or decommissions a system used at a workplace for the use, handling or storage of hazardous chemicals for the activity to be carried out safely.

Maximum penalty—60 penalty units.

Example—

information provided at a training course

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364 Containers for hazardous chemicals used, handled or stored in bulk

A person conducting a business or undertaking at a workplace must ensure that a container in which a hazardous chemical is used, handled or stored in bulk and any associated pipe work or attachments—

(a) have stable foundations and supports; and

(b) are secured to the foundations and supports to prevent any movement between the container and the associated pipe work or attachments to prevent—

(i) damage to the container, the associated pipe work or attachments; and

(ii) a notifiable incident.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

365 Stopping use and disposing of handling systems

(1) This section applies to a system used at a workplace for the use, handling or storage of hazardous chemicals if a person conducting a business or undertaking at the workplace intends that the system no longer be used for the use, handling or storage of the hazardous chemicals or be disposed of.

(2) The person must ensure, so far as is reasonably practicable, that the system is free of the hazardous chemicals when the system stops being used for the use, handling or storage of the hazardous chemicals or is disposed of.

Maximum penalty—60 penalty units.

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(3) If it is not reasonably practicable to remove the hazardous chemicals from the system, the person must correctly label the system.

Maximum penalty—60 penalty units.

Note—

For correctly labelling hazardous chemicals, see division 2, subdivision 3.

366 Stopping use of underground storage and handling systems

(1) This section applies to a system used at a workplace for the use, handling or storage of hazardous chemicals underground if a person conducting a business or undertaking at the workplace intends that the system no longer be used for the use, handling or storage of the hazardous chemicals or be disposed of.

(2) The person must ensure, so far as is reasonably practicable, that the system is removed.

Maximum penalty—60 penalty units.

(3) If it is not reasonably practicable to remove the system, the person must ensure, so far as is reasonably practicable, that the system is without risks to health and safety.

Maximum penalty—60 penalty units.

367 Notification of abandoned tank

(1) This section applies to a person conducting a business or undertaking at a workplace if—

(a) the person controls or manages a tank at the workplace that is underground, partially underground or fully mounded; and

(b) the tank was used to store flammable gases and flammable liquids.

(2) The tank is taken to be abandoned if—

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(a) the tank has not been used to store flammable gases or flammable liquids for 2 years; or

(b) the person does not intend to use the tank to store flammable gases or flammable liquids again.

(3) The person must notify the regulator of the abandonment of the tank as soon as practicable after the tank is abandoned.

Maximum penalty—60 penalty units.

(4) In this section—

tank means a container, other than an IBC designed to use, handle or store hazardous chemicals in bulk, and includes fittings, closures and other equipment attached to the container.

Division 6 Health monitoring

368 Duty to provide health monitoring

A person conducting a business or undertaking must ensure that health monitoring is provided to a worker carrying out work for the business or undertaking if—

(a) the worker is carrying out ongoing work at a workplace using, handling, generating or storing hazardous chemicals and there is a significant risk to the worker's health because of exposure to a hazardous chemical mentioned in schedule 14, table 14.1, column 2; or

(b) the person identifies that because of ongoing work carried out by a worker using, handling, generating or storing hazardous chemicals there is a significant risk that the worker will be exposed to a hazardous chemical (other than a hazardous chemical mentioned in schedule 14, table 14.1) and either—

(i) valid techniques are available to detect the effect on the worker's health; or

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(ii) a valid way of determining biological exposure to the hazardous chemical is available and it is uncertain, on reasonable grounds, whether the exposure to the hazardous chemical has resulted in the biological exposure standard being exceeded.

Maximum penalty—60 penalty units.

Note—

The biological exposure standard is published by Safe Work Australia.

369 Duty to inform of health monitoring

A person conducting a business or undertaking who is required to provide health monitoring to a worker must give information about the health monitoring requirements to—

(a) a person who is likely to be engaged to carry out work using, handling, generating or storing a hazardous chemical; and

(b) a worker for the business or undertaking, before the worker commences work using, handling, generating or storing a hazardous chemical.

Maximum penalty—36 penalty units.

370 Duty to ensure that appropriate health monitoring is provided

A person conducting a business or undertaking must ensure that health monitoring of a worker mentioned in section 368 includes health monitoring of a type mentioned in an item in schedule 14, table 14.1, column 3 in relation to a hazardous chemical mentioned in column 2 for the item, unless—

(a) an equal or better type of health monitoring is available; and

(b) the use of that other type of monitoring is recommended by a registered medical practitioner with experience in health monitoring.

Maximum penalty—60 penalty units.

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371 Duty to ensure health monitoring is supervised by registered medical practitioner with experience

(1) A person conducting a business or undertaking must ensure that the health monitoring of a worker mentioned in section 368 is carried out by or under the supervision of a registered medical practitioner with experience in health monitoring.

Maximum penalty—60 penalty units.

(2) The person must consult the worker in relation to the selection of the registered medical practitioner.

Maximum penalty—36 penalty units.

372 Duty to pay costs of health monitoring

(1) A person conducting a business or undertaking must pay all expenses relating to health monitoring mentioned in section 368.

Maximum penalty—36 penalty units.

(2) If 2 or more persons conducting businesses or undertakings have a duty to provide health monitoring for a worker and have arranged for one of them to commission the health monitoring, the costs of the health monitoring for which any of those persons is liable must be apportioned equally between each of those persons unless they agree otherwise.

373 Information that must be provided to registered medical practitioner

A person conducting a business or undertaking who commissions health monitoring for a worker must provide the following information to the registered medical practitioner carrying out or supervising the health monitoring—

(a) the name and address of the person conducting the business or undertaking;

(b) the name and date of birth of the worker;

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(c) the work that the worker is, or will be, carrying out that has triggered the requirement for health monitoring;

(d) if the worker has started that work—how long the worker has been carrying out that work.

Maximum penalty—36 penalty units.

374 Duty to obtain health monitoring report

(1) A person conducting a business or undertaking who commissions health monitoring mentioned in section 368 must take all reasonable steps to obtain a health monitoring report from the registered medical practitioner who carried out or supervised the monitoring as soon as practicable after the monitoring is carried out in relation to a worker.

Maximum penalty—60 penalty units.

(2) The health monitoring report must include the following—

(a) the name and date of birth of the worker;

(b) the name and registration number of the registered medical practitioner;

(c) the name and address of the person conducting the business or undertaking who commissioned the health monitoring;

(d) the date of the health monitoring;

(e) any test results that indicate whether or not the worker has been exposed to a hazardous chemical;

(f) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the work that triggered the requirement for health monitoring;

(g) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out the type of work that triggered the requirement for health monitoring;

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(h) whether medical counselling is required for the worker in relation to the work that triggered the requirement for health monitoring.

375 Duty to provide health monitoring report to worker

The person conducting a business or undertaking who commissioned health monitoring for a worker must give a copy of the health monitoring report to the worker as soon as practicable after the person obtains the report.

Maximum penalty—60 penalty units.

376 Duty to provide health monitoring report to regulator

A person conducting a business or undertaking for which a worker is carrying out work for which health monitoring is required must give a copy of the health monitoring report relating to a worker to the regulator as soon as practicable after obtaining the report if the report contains—

(a) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the work using, handling, generating or storing hazardous chemicals that triggered the requirement for health monitoring; or

(b) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out the work using, handling, generating or storing hazardous chemicals that triggered the requirement for health monitoring.

Maximum penalty—60 penalty units.

377 Duty to provide health monitoring report to relevant persons conducting business or undertakings

The person who commissioned health monitoring for a worker under section 368 must give a copy of the health

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monitoring report to all other persons conducting businesses or undertakings who have a duty to provide health monitoring for the worker as soon as practicable after obtaining the report.

Maximum penalty—60 penalty units.

378 Health monitoring records

(1) A person conducting a business or undertaking must ensure that health monitoring reports in relation to a worker carrying out work for the business or undertaking are kept as a confidential record—

(a) identified as a record in relation to the worker; and

(b) for at least 30 years after the record is made.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) The person must ensure that the health monitoring report and results of a worker are not disclosed to another person without the worker's written consent.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(3) Subsection (2) does not apply if the record is disclosed under section 376 or 377 or to a person who must keep the record confidential under a duty of professional confidentiality.

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Division 7 Induction, information, training and supervision

379 Duty to provide supervision

(1) A person conducting a business or undertaking at a workplace must provide any supervision to a worker that is necessary to protect the worker from risks to the worker's health and safety arising from the work if, at the workplace, the worker—

(a) uses, handles, generates or stores a hazardous chemical; or

(b) operates, tests, maintains, repairs or decommissions a storage or handling system for a hazardous chemical; or

(c) is likely to be exposed to a hazardous chemical.

Maximum penalty—60 penalty units.

(2) The person must ensure that the supervision of the worker is suitable and adequate having regard to—

(a) the nature of the risks associated with the hazardous chemical; and

(b) the information, training and instruction required under section 39.

Note—

In addition, section 19(3)(f) of the Act requires the provision of information, training, instruction and supervision.

Division 8 Prohibition, authorisation and restricted use

380 Using, handling and storing prohibited carcinogens

A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, a prohibited carcinogen mentioned in schedule 10, table 10.1, column 2 unless—

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(a) the prohibited carcinogen is used, handled or stored for genuine research or analysis; and

(b) the regulator has authorised the use, handling or storage of the prohibited carcinogen under section 384.

Note—

See section 43 of the Act.

381 Using, handling and storing restricted carcinogens

A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, a restricted carcinogen mentioned in an item in schedule 10, table 10.2, column 2 for a purpose mentioned in column 3 for the item unless the regulator has authorised the use, handling or storage of the restricted carcinogen under section 384.

Note—

See section 43 of the Act.

382 Using, handling and storing restricted hazardous chemicals

(1) A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, a restricted hazardous chemical mentioned in an item in schedule 10, table 10.3, column 2 for a purpose mentioned in column 3 for the item.

(2) A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, polychlorinated biphenyls (PCBs) unless the use, handling or storage is—

(a) in relation to existing electrical equipment or construction material; or

(b) for disposal purposes; or

(c) for genuine research and analysis.

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Note—

See section 43 of the Act.

383 Application for authorisation to use, handle or store prohibited and restricted carcinogens

(1) A person conducting a business or undertaking at a workplace may apply in writing to the regulator for authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen mentioned in schedule 10 at the workplace.

(2) The application must include the following information—

(a) the applicant's name and business address;

(b) if the applicant conducts the business or undertaking under a business name, that business name;

(c) the name and address of the supplier of the carcinogen;

(d) the address where the carcinogen will be used, handled or stored;

(e) the name of the carcinogen;

(f) the quantity of the carcinogen to be used, handled or stored at the workplace each year;

(g) the purpose and activity for which the carcinogen will be used, handled or stored;

(h) the number of workers that may be exposed to the carcinogen;

(i) information about how the person will manage risks to health and safety, including a summary of the steps taken, or to be taken, by the person in relation to the following—

(i) hazard identification;

(ii) control measures;

(iii) if elimination or substitution of the carcinogen is not reasonably practicable—why the elimination or substitution is not reasonably practicable;

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(j) any other information requested by the regulator.

384 Authorisation to use, handle or store prohibited carcinogens and restricted carcinogens

(1) If a person applies under section 383, the regulator may grant an authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen under this section.

(2) The regulator may authorise the person to use, handle or store a prohibited carcinogen mentioned in an item in schedule 10, table 10.1 at the workplace only if the carcinogen will be used, handled or stored only for genuine research or analysis.

(3) The regulator may authorise the person to use, handle or store a restricted carcinogen mentioned in an item in schedule 10, table 10.2 at the workplace only if the carcinogen will be used, handled or stored only for a use mentioned in column 3 for the item.

(4) The regulator may impose any conditions on the authorisation that the regulator considers necessary to achieve the objectives of the Act or this regulation.

(5) The regulator must refuse to authorise the use, handling or storage of the carcinogen for a use not mentioned in this section.

Note—

A decision to refuse an authorisation is a reviewable decision, see section 676.

385 Changes to information in application to be reported

A person who applies under section 383 for authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen must give the regulator written notice of any change in the information given in the application before the change or as soon as practicable after the person becomes aware of the change.

Maximum penalty—36 penalty units.

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386 Regulator may cancel authorisation

The regulator may cancel an authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen given under section 384 if satisfied that—

(a) the person granted the authorisation has not complied with a condition on the authorisation; or

(b) the risk to the health or safety of a worker that may be affected by using, handling or storing the carcinogen has changed since the authorisation was granted.

Note—

A decision to cancel an authorisation is a reviewable decision, see section 676.

387 Statement of exposure to be provided to workers

(1) This section applies if—

(a) a person conducting a business or undertaking at a workplace is authorised under section 384 to use, handle or store a prohibited carcinogen or restricted carcinogen at the workplace; and

(b) a worker at the workplace uses, handles or stores the prohibited carcinogen or restricted carcinogen at the workplace.

(2) The person must give to the worker, at the end of the worker's engagement by the person, a written statement of the following—

(a) the name of the prohibited or restricted carcinogen to which the worker may have been exposed during the engagement;

(b) the time the worker may have been exposed;

(c) how and where the worker may obtain records of the possible exposure;

(d) whether the worker should undertake regular health assessments, and the relevant tests to undertake.

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Maximum penalty—36 penalty units.

388 Records to be kept

(1) This section applies if a person conducting a business or undertaking at a workplace is authorised under section 384 to use, handle or store a prohibited carcinogen or restricted carcinogen at the workplace.

(2) The person must—

(a) record the full name, date of birth and address of each worker likely to be exposed to the prohibited carcinogen or restricted carcinogen during the period of authorisation; and

(b) keep a copy of each authorisation given to the person including any conditions imposed on the authorisation.

Maximum penalty—36 penalty units.

(3) The person must keep the records for 30 years after the authorisation ends.

Maximum penalty—36 penalty units.

Division 9 Pipelines

389 Management of risk by pipeline owner

(1) The owner of a pipeline used to transfer hazardous chemicals must manage risks associated with the transfer of the hazardous chemicals through that pipeline.

Maximum penalty—60 penalty units.

Example—

risks associated with the testing, installation, commissioning, operation, maintenance and decommissioning of the pipeline

(2) The owner of a pipeline used to transfer hazardous chemicals must ensure, so far as is reasonably practicable, that an activity, structure, equipment or substance that is not part of

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the pipeline does not affect the hazardous chemicals or the pipeline in a way that increases risk.

Maximum penalty—60 penalty units.

390 Pipeline builder's duties

(1) This section applies to a person who intends to build a pipeline that will—

(a) cross into a public place; and

(b) be used to transfer a schedule 11 hazardous chemical.

(2) The person must ensure that, before the building of the pipeline commences, the regulator is given the following information—

(a) the name of the pipeline's intended owner and operator;

(b) the pipeline's specifications;

(c) the intended procedures for the operation, maintenance, renewal and relaying of the pipeline;

(d) any public place that the pipeline will cross;

(e) the intended emergency response procedures.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(3) The person must ensure that the regulator is given the information in each of the following circumstances—

(a) before the pipeline is commissioned;

(b) before the pipeline is likely to contain a hazardous chemical;

(c) if there is any change in the information given under subsection (2)—when the information changes;

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(d) if part of the pipeline is to be repaired—before the pipeline is repaired;

(e) if part of the pipeline is removed, decommissioned, closed or abandoned—when the removal, decommissioning, closure or abandonment occurs.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

391 Management of risks to health and safety by pipeline operator

(1) A person conducting a business or undertaking at a workplace who is the operator of a pipeline (the ***operator***) used to transfer hazardous chemicals must manage, under part 3.1 risks to health and safety arising from the transfer of the hazardous chemicals through the pipeline.

Note—

WHS Act—section 19 (see section 9).

(2) The operator of a pipeline used to transfer a hazardous chemical must ensure, so far as is reasonably practicable, that the hazardous chemical transferred is identified by a label, sign or another way on or near the pipeline.

Maximum penalty—60 penalty units.

(3) The operator of a pipeline that transfers a schedule 11 hazardous chemical into a public place must ensure that the regulator is notified of—

(a) the supplier of the hazardous chemical; and

(b) the receiver of the hazardous chemical; and

(c) the correct classification of the hazardous chemical.

Maximum penalty—

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(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

Part 7.2 Lead

Note—

In workplaces where lead processes are carried out, this part applies in addition to part 7.1.

Division 1 Lead process

392 Meaning of *lead process*

For this part, a ***lead process*** consists of any of the following carried out at a workplace—

(a) work that exposes a person to lead dust or lead fumes arising from the manufacture or handling of dry lead compounds;

(b) work in connection with the manufacture, assembly, handling or repair of, or parts of, batteries containing lead that involves the manipulation of dry lead compounds, or pasting or casting lead;

(c) breaking up or dismantling batteries containing lead, or sorting, packing and handling plates or other parts containing lead that are removed or recovered from the batteries;

(d) spraying molten lead metal or alloys containing more than 5% by weight of lead metal;

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(e) melting or casting lead alloys containing more than 5% by weight of lead metal in which the temperature of the molten material exceeds 450°C;

(f) recovering lead from its ores, oxides or other compounds by thermal reduction process;

(g) dry machine grinding, discing, buffing or cutting by power tools alloys containing more than 5% by weight of lead metal;

(h) machine sanding or buffing surfaces coated with paint containing more than 1% by dry weight of lead;

(i) a process by which electric arc, oxyacetylene, oxy gas, plasma arc or a flame is applied for welding, cutting or cleaning, to the surface of metal coated with lead or paint containing more than 1% by dry weight of lead metal;

(j) radiator repairs that may cause exposure to lead dust or lead fumes;

(k) fire assays if lead, lead compounds or lead alloys are used;

(l) hand grinding and finishing lead or alloys containing more than 50% by dry weight of lead;

(m) spray painting with lead paint containing more than 1% by dry weight of lead;

(n) melting lead metal or alloys containing more than 50% by weight of lead metal if the exposed surface area of the molten material exceeds $0.1m^2$ and the temperature of the molten material does not exceed 450°C;

(o) using a power tool, including abrasive blasting and high pressure water jets, to remove a surface coated with paint containing more than 1% by dry weight of lead and handling waste containing lead resulting from the removal;

(p) a process that exposes a person to lead dust or lead fumes arising from manufacturing or testing detonators or other explosives that contain lead;

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(q) a process that exposes a person to lead dust or lead fumes arising from firing weapons at an indoor firing range;

(r) foundry processes involving—

(i) melting or casting lead alloys containing more than 1% by weight of lead metal in which the temperature of the molten material exceeds 450°C; or

(ii) dry machine grinding, discing, buffing or cutting by power tools lead alloys containing more than 1% by weight of lead metal;

(s) a process decided by the regulator to be a lead process under section 393.

393 Regulator may decide lead process

(1) The regulator may decide that a process to be carried out at a workplace is a lead process.

(2) The regulator must not decide that the process is a lead process unless the regulator is satisfied on reasonable grounds that the process creates a risk to the health of a worker at the workplace having regard to blood lead levels of workers, or airborne lead levels, at the workplace.

Note—

A decision that a process is a lead process is a reviewable decision, see section 676.

(3) The regulator must, within 14 days after a decision is made under subsection (1), give written notice of the decision to the person conducting a business or undertaking at the workplace.

394 Meaning of *lead risk work*

In this part, ***lead risk work*** means work carried out in a lead process that is likely to cause the blood lead level of a worker carrying out the work to exceed—

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(a) for a female of reproductive capacity—10µg/dL (0.48µmol/L); or

(b) in any other case—30µg/dL (1.45µmol/L).

395 Duty to give information about health risks of lead process

(1) A person conducting a business or undertaking that carries out a lead process must give information about the lead process to—

(a) a person who is likely to be engaged to carry out the lead process—before the person is engaged; and

(b) a worker for the business or undertaking—before the worker commences the lead process.

Maximum penalty—60 penalty units.

(2) If work is identified as lead risk work after a worker commences the work, the person conducting a business or undertaking must give information about the lead process to the worker as soon as practicable after it is identified as lead risk work and before health monitoring of the worker is provided under division 4 of this part.

Maximum penalty—60 penalty units.

(3) The information that must be given is—

(a) information about the health risks and toxic effects associated with exposure to lead; and

(b) if the lead process involves lead risk work—the need for, and details of, health monitoring under division 4 of this part.

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Division 2 Control of risk

396 Containment of lead contamination

A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that contamination by lead is confined to a lead process area at the workplace.

Maximum penalty—60 penalty units.

397 Cleaning methods

(1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that a lead process area at the workplace is kept clean.

Maximum penalty—60 penalty units.

(2) The person must ensure that the methods used to clean a lead process area—

(a) do not create a risk to the health of persons in the immediate vicinity of the area; and

(b) do not have the potential to spread the contamination of lead.

Maximum penalty—60 penalty units.

398 Prohibition on eating, drinking and smoking

(1) A person conducting a business or undertaking at a workplace must take all reasonable steps to ensure that a person does not eat, drink, chew gum, smoke or carry materials used for smoking in a lead process area at the workplace.

Maximum penalty—60 penalty units.

(2) A person conducting a business or undertaking at a workplace must provide workers with an eating and drinking area that, so far as is reasonably practicable, cannot be contaminated with lead from a lead process.

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Maximum penalty—60 penalty units.

399 Provision of changing and washing facilities

(1) A person conducting a business or undertaking at a workplace must provide and maintain in good working order changing rooms and washing, showering and toilet facilities at the workplace so as to—

(a) minimise secondary lead exposure from contaminated clothing; and

(b) minimise ingestion of lead; and

(c) avoid the spread of lead contamination.

Maximum penalty—60 penalty units.

(2) The person must ensure, so far as is reasonably practicable, that workers at the workplace remove clothing and equipment that is or is likely to be contaminated with lead, and wash their hands and faces, before entering an eating or drinking area at the workplace.

Maximum penalty—60 penalty units.

400 Laundering, disposal and removal of personal protective equipment

(1) A person conducting a business or undertaking at a workplace must ensure that personal protective equipment that is likely to be contaminated with lead dust—

(a) is sealed in a container before being removed from the lead process area; and

(b) so far as is reasonably practicable, is disposed of on the completion of the lead process work at a site equipped to accept lead-contaminated equipment; and

(c) if it is not reasonably practicable to dispose of the personal protective equipment that is clothing—

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(i) is laundered at a laundry, whether on-site or off-site, equipped to launder lead-contaminated clothing; or

(ii) if it is not practicable to launder the clothing—is kept in the sealed container until it is re-used for lead process work; and

(d) if it is not reasonably practicable to dispose of the personal protective equipment that is not clothing—

(i) is decontaminated before it is removed from the lead process area; or

(ii) if it is not practicable to decontaminate the equipment in the lead process area—is kept in the sealed container until it is re-used for lead process work.

Example—

work boots

Maximum penalty—60 penalty units.

(2) The person must ensure that a sealed container mentioned in subsection (1) is decontaminated before being removed from the lead process area.

Maximum penalty—60 penalty units.

Note—

Section 335 also requires the container to be labelled to indicate the presence of lead.

(3) The person must take all reasonable steps to ensure that clothing contaminated with lead-dust is not removed from the workplace unless it is to be—

(a) laundered in accordance with this section; or

(b) disposed of.

Maximum penalty—60 penalty units.

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401 Review of control measures

(1) A person conducting a business or undertaking at a workplace must ensure that any measures implemented to control health risks from exposure to lead at the workplace are reviewed and, as necessary, revised in the following circumstances—

(a) a worker is removed from carrying out lead risk work at the workplace under section 415;

(b) the person obtains a health monitoring report for a worker under division 4 that contains—

(i) test results that indicate that the worker has reached or exceeded the relevant blood lead level for that worker under section 415; or

(ii) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the lead risk work that triggered the requirement for health monitoring; or

(iii) any recommendation that the person conducting the business or undertaking take remedial measures, including a recommendation that the worker be removed from carrying out lead risk work at the workplace;

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

Examples—

- results of any monitoring
- a notifiable incident occurs because of the risk

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

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

(f) the results of consultation by the person under the Act or this regulation indicate that a review is necessary;

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(g) a health and safety representative requests the review under subsection (3);

(h) the regulator requires the review;

(i) at least once every 5 years.

Maximum penalty—36 penalty units.

(2) Without limiting subsection (1)(d), a change at the workplace includes—

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

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

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

(a) a circumstance mentioned in subsection (1)(a), (b), (c), (d), (e) or (f) affects or may affect the health and safety of a member of the work group represented by the health and safety representative; and

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

Division 3 Lead risk work

402 Identifying lead risk work

(1) A person conducting a business or undertaking at a workplace must assess each lead process carried out by the business or undertaking at the workplace to determine if lead risk work is carried out in the process.

Maximum penalty—60 penalty units.

(2) In assessing a lead process, the person must have regard to the following—

(a) past biological monitoring results of workers;

(b) airborne lead levels;

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(c) the form of lead used;

(d) the tasks and processes required to be undertaken with lead;

(e) the likely duration and frequency of exposure to lead;

(f) possible routes of exposure to lead;

(g) any information about incidents, illnesses or diseases in relation to the use of lead at the workplace.

(3) In assessing a lead process, the person must not have regard to the effect of using personal protective equipment on the health and safety of workers at the workplace.

(4) If a person conducting a business or undertaking at a workplace is unable to determine whether lead risk work is carried out in a lead process at the workplace, the process is taken to include lead risk work until the person determines that lead risk work is not carried out in the process.

403 Notification of lead risk work

(1) Subject to subsection (5), if a person conducting a business or undertaking at a workplace determines that work at the workplace is lead risk work, the person must give the regulator written notice within 7 days that the work is lead risk work.

Maximum penalty—36 penalty units.

(2) A notice under this section must state the kind of lead process being carried out that includes the lead risk work.

(3) The person must—

(a) keep a copy of the notice given to the regulator while the lead risk work is carried out at the workplace; and

(b) ensure that a copy of the notice is readily accessible to a worker who is likely to be exposed to lead, and the worker's health and safety representative.

Maximum penalty—36 penalty units.

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(4) Subsection (5) applies to an emergency service organisation in relation to work carried out by an emergency service worker who, at the direction of the emergency service organisation, is—

(a) rescuing a person; or

(b) providing first aid to a person.

(5) The emergency service organisation must give notice under subsection (1) as soon as practicable after determining that the work is lead risk work.

404 Changes to information in notification of lead risk work

(1) A person conducting a business or undertaking at a workplace must give the regulator written notice of any change in the information given in a notice under section 403 before the change or as soon as practicable after the person becomes aware of the change.

Maximum penalty—

(a) for an individual—$12^1/_2$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) The person must—

(a) keep a copy of the notice given to the regulator while the lead risk work is carried out at the workplace; and

(b) ensure that a copy of the notice is readily accessible to a worker who is likely to be exposed to lead, and the worker's health and safety representative.

Maximum penalty—

(a) for an individual—$12^1/_2$ penalty units; or

(b) for a body corporate—60 penalty units.

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Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

Division 4 Health monitoring

405 Duty to provide health monitoring before first commencing lead risk work

(1) A person conducting a business or undertaking at a workplace must ensure that health monitoring is provided to a worker—

(a) before the worker first commences lead risk work for the person; and

(b) 1 month after the worker first commences lead risk work for the person.

Maximum penalty—60 penalty units.

(2) If work is identified as lead risk work after a worker commences the work, the person conducting the business or undertaking must ensure that health monitoring of the worker is provided—

(a) as soon as practicable after the lead risk work is identified; and

(b) 1 month after the first monitoring of the worker under paragraph (a).

Maximum penalty—60 penalty units.

406 Duty to ensure that appropriate health monitoring is provided

Subject to section 407, a person conducting a business or undertaking must ensure that health monitoring of a worker mentioned in section 405 includes health monitoring of a type mentioned in an item in schedule 14, table 14.2 unless—

(a) an equal or better type of health monitoring is available; and

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(b) the use of that other type of monitoring is recommended by a registered medical practitioner with experience in health monitoring.

Maximum penalty—60 penalty units.

407 Frequency of biological monitoring

(1) A person conducting a business or undertaking at a workplace must arrange for biological monitoring of each worker who carries out lead risk work for the person to be carried out at the following times—

(a) for females not of reproductive capacity and males—

(i) if the last monitoring shows a blood lead level of less than 30µg/dL (1.45µmol/L)—6 months after the last biological monitoring of the worker; or

(ii) if the last monitoring shows a blood lead level of 30µg/dL (1.45µmol/L) or more but less than 40µg/dL (1.93µmol/L)—3 months after the last biological monitoring of the worker; or

(iii) if the last monitoring shows a blood lead level of 40µg/dL (1.93µmol/L) or more—6 weeks after the last biological monitoring of the worker;

(b) for females of reproductive capacity—

(i) if the last monitoring shows a blood lead level of less than 10µg/dL (0.48µmol/L)—3 months after the last biological monitoring of the worker; or

(ii) if the last monitoring shows a blood lead level of 10µg/dL (0.48µmol/L) or more—6 weeks after the last biological monitoring of the worker.

Maximum penalty—60 penalty units.

(2) The person must increase the frequency of biological monitoring of a worker who carries out lead risk work if the worker carries out an activity that is likely to significantly change the nature or increase the duration or frequency of the worker's lead exposure.

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Maximum penalty—60 penalty units.

(3) The regulator may determine a different frequency for biological monitoring of workers at a workplace, or a class of workers, carrying out lead risk work having regard to—

(a) the nature of the work and the likely duration and frequency of the workers' lead exposure; and

(b) the likelihood that the blood lead level of the workers will significantly increase.

(4) The regulator must give a person conducting a business or undertaking written notice of a determination under subsection (3) within 14 days after making the determination.

(5) The person conducting a business or undertaking at the workplace must arrange for biological monitoring to be carried out at the frequency stated in a determination notified to the person under subsection (4).

Maximum penalty for subsection (5)—60 penalty units.

Note—

A determination of a different frequency for biological monitoring is a reviewable decision, see section 676.

408 Duty to ensure health monitoring is supervised by registered medical practitioner with relevant experience

(1) A person conducting a business or undertaking must ensure that the health monitoring of a worker mentioned in this division is carried out by or under the supervision of a registered medical practitioner with experience in health monitoring.

Maximum penalty—60 penalty units.

(2) The person must consult the worker in relation to the selection of the registered medical practitioner.

Maximum penalty—60 penalty units.

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409 Duty to pay costs of health monitoring

(1) A person conducting a business or undertaking must pay all expenses relating to health monitoring mentioned in this division.

Maximum penalty—36 penalty units.

(2) If 2 or more persons conducting businesses or undertakings have a duty to provide health monitoring for a worker and have arranged for one of them to commission the health monitoring, the costs of the health monitoring for which any of those persons is liable must be apportioned equally between each of those persons unless they agree otherwise.

Maximum penalty—36 penalty units.

410 Information that must be provided to registered medical practitioner

A person conducting a business or undertaking who commissions health monitoring for a worker must provide the following information to the registered medical practitioner carrying out or supervising the health monitoring—

(a) the name and address of the person conducting the business or undertaking;

(b) the name and date of birth of the worker;

(c) the lead risk work that the worker is, or will be, carrying out that has triggered the requirement for health monitoring;

(d) if the worker has started that work, how long the worker has been carrying out that work.

411 Duty to obtain health monitoring report

(1) A person conducting a business or undertaking who commissioned health monitoring mentioned in this division must take all reasonable steps to obtain a health monitoring report from the registered medical practitioner who carried

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out or supervised the monitoring as soon as practicable after the monitoring is carried out in relation to a worker.

Maximum penalty—60 penalty units.

(2) The health monitoring report must include the following—

(a) the name and date of birth of the worker;

(b) the name and registration number of the registered medical practitioner;

(c) the name and address of the person conducting the business or undertaking who commissioned the health monitoring;

(d) the date of health monitoring;

(e) if a blood sample is taken—the date the blood sample is taken;

(f) the results of biological monitoring that indicate blood lead levels in the worker's body;

(g) the name of the pathology service used to carry out tests;

(h) any test results that indicate that the worker has reached or exceeded the relevant blood lead level for that worker under section 415;

(i) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the lead risk work that triggered the requirement for health monitoring;

(j) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out the type of work that triggered the requirement for health monitoring;

Note—

The duty under section 415 to remove a worker from carrying out lead risk work applies even if there is no recommendation of a registered medical practitioner to do so.

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(k) whether medical counselling is required for the worker in relation to the work that triggered the requirement for health monitoring.

412 Duty to provide health monitoring report to worker

A person conducting a business or undertaking who commissioned health monitoring for a worker must give a copy of the health monitoring report to the worker as soon as practicable after the person obtains the report.

Maximum penalty—60 penalty units.

413 Duty to provide health monitoring report to regulator

A person conducting a business or undertaking for which a worker is carrying out work for which health monitoring is required must give a copy of the health monitoring report relating to the worker to the regulator as soon as practicable after obtaining the report if the report contains—

(a) test results that indicate that the worker has reached or exceeded the relevant blood lead level for that person under section 415; or

(b) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the work that triggered the requirement for health monitoring; or

(c) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out the work that triggered the requirement for health monitoring.

Maximum penalty—60 penalty units.

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414 Duty to provide health monitoring report to relevant persons conducting business or undertakings

A person conducting a business or undertaking who commissioned health monitoring for a worker under this division must give a copy of the health monitoring report to all other persons conducting businesses or undertakings who have a duty to provide health monitoring for the worker as soon as practicable after obtaining the report.

Maximum penalty—60 penalty units.

415 Removal of worker from lead risk work

(1) A person conducting a business or undertaking for which a worker is carrying out work must immediately remove the worker from carrying out lead risk work if following health monitoring—

(a) biological monitoring of the worker shows that the worker's blood lead level is, or is more than—

(i) for females not of reproductive capacity and males—50µg/dL (2.42µmol/L); or

(ii) for females of reproductive capacity—20µg/dL (0.97µmol/L); or

(iii) for females who are pregnant or breastfeeding—15µg/dL (0.72µmol/L); or

(b) the registered medical practitioner who supervised the health monitoring recommends that the worker be removed from carrying out the lead risk work; or

(c) there is an indication that a risk control measure has failed and, as a result, the worker's blood lead level is likely to reach the relevant level for the worker mentioned in paragraph (a).

Maximum penalty—60 penalty units.

(2) The person must notify the regulator as soon as practicable if a worker is removed from carrying out lead risk work under subsection (1).

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Maximum penalty—36 penalty units.

416 Duty to ensure medical examination if worker removed from lead risk work

(1) This section applies if a worker is removed from carrying out lead risk work under section 415.

(2) The person conducting the business or undertaking who removes the worker from carrying out lead risk work must arrange for the worker to be medically examined by a registered medical practitioner with experience in health monitoring within 7 days after the day the worker is removed.

Maximum penalty—60 penalty units.

(3) The person must consult the worker in the selection of the registered medical practitioner.

Maximum penalty—60 penalty units.

417 Return to lead risk work after removal

(1) This section applies if—

(a) a worker is removed from carrying out lead risk work under section 415; and

(b) the person conducting a business or undertaking at the workplace who removed the worker expects the worker to return to carrying out lead risk work at the workplace.

(2) The person conducting the business or undertaking must arrange for health monitoring under the supervision of a registered medical practitioner with experience in health monitoring at a frequency decided by the practitioner to determine whether the worker's blood lead level is low enough for the worker to return to carrying out lead risk work.

Maximum penalty—60 penalty units.

(3) The person conducting the business or undertaking must ensure that the worker does not return to carrying out lead risk work until—

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(a) the worker's blood lead level is less than—

(i) for females not of reproductive capacity and males—40µg/dL (1.93µmol/L); or

(ii) for females of reproductive capacity—10µg/dL (0.48µmol/L); and

(b) a registered medical practitioner with experience in health monitoring is satisfied that the worker is fit to return to carrying out lead risk work.

Maximum penalty—60 penalty units.

418 Health monitoring records

(1) A person conducting a business or undertaking must ensure that health monitoring reports in relation to a worker carrying out work for the business or undertaking are kept as a confidential record—

(a) identified as a record in relation to the worker; and

(b) for at least 30 years after the record is made.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) The person must ensure that the health monitoring report and results of a worker are not disclosed to another person without the worker's written consent.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

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(3) Subsection (2) does not apply if the record is disclosed under section 412, 413 or 414 or to a person who must keep the record confidential under a duty of professional confidentiality.

Chapter 8 Asbestos

Part 8.1 Prohibitions and authorised conduct

419 Work involving asbestos or ACM—prohibitions and exceptions

(1) A person conducting a business or undertaking must not carry out, or direct or allow a worker to carry out, work involving asbestos.

Maximum penalty—60 penalty units.

(2) For this section, work ***involves*** asbestos if the work involves manufacturing, supplying, transporting, storing, removing, using, installing, handling, treating, disposing of or disturbing asbestos or ACM.

(3) Subsection (1) does not apply if the work involving asbestos is any of the following—

(a) genuine research and analysis;

(b) sampling and identification under this regulation;

(c) maintenance of, or service work on, non-friable asbestos or ACM, fixed or installed before 31 December 2003, under this regulation;

(d) removal or disposal of asbestos or ACM, including demolition, under this regulation;

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(e) the transport and disposal of asbestos or asbestos waste under the *Environmental Protection Act 1994*;

(f) demonstrations, education or practical training in relation to asbestos or ACM;

(g) display, or preparation or maintenance for display, of an artefact or thing that is, or includes, asbestos or ACM;

(h) management under this regulation of in situ asbestos that was installed or fixed before 31 December 2003;

(i) work that disturbs asbestos during mining operations that involve the extraction of, or exploration for, a mineral other than asbestos;

(j) laundering asbestos contaminated clothing under this regulation.

(4) Subsection (1) does not apply if the regulator approves the method adopted for managing risk associated with asbestos.

(5) Subsection (1) does not apply to—

(a) soil that a competent person has determined—

(i) does not contain any visible ACM or friable asbestos; or

(ii) if friable asbestos is visible—does not contain more than trace levels of asbestos determined in accordance with AS 4964:2004 (Method for the qualitative identification of asbestos in bulk samples);

(b) naturally occurring asbestos managed in accordance with an asbestos management plan prepared under section 432.

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Part 8.2 General duty

420 Exposure to airborne asbestos at workplace

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

(a) exposure of a person at the workplace to airborne asbestos is eliminated so far as is reasonably practicable; and

(b) if it not reasonably practicable to eliminate exposure to airborne asbestos—exposure is minimised so far as is reasonably practicable.

Note—

WHS Act—section 19 (see section 9).

(2) A person conducting a business or undertaking at a workplace must ensure that the exposure standard for asbestos is not exceeded at the workplace.

Maximum penalty—60 penalty units.

(3) Subsections (1)(a) and (2) do not apply in relation to an asbestos removal area—

(a) that is enclosed to prevent the release of respirable asbestos fibres in accordance with section 477; and

(b) in which negative pressure is used under that section.

Part 8.3 Management of asbestos and associated risks

421 Application of pt 8.3

(1) This part does not apply to naturally occurring asbestos.

(2) Sections 425 to 430 do not apply to a workplace that is domestic premises.

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422 Asbestos to be identified or assumed at workplace

(1) A person with management or control of a workplace must ensure, so far as is reasonably practicable, that all asbestos or ACM at the workplace is identified by a competent person.

Maximum penalty—60 penalty units.

(2) A person with management or control of a workplace must—

(a) if material at the workplace cannot be identified but a competent person reasonably believes that the material is asbestos or ACM—assume that the material is asbestos; and

(b) if part of the workplace is inaccessible to workers and likely to contain asbestos or ACM—assume that asbestos is present in the part of the workplace.

(3) Subsection (1) does not apply if the person—

(a) assumes that asbestos or ACM is present; or

(b) has reasonable grounds to believe that asbestos or ACM is not present.

(4) If asbestos or ACM is assumed to be present at a workplace, it is taken to be identified at the workplace.

423 Analysis of sample

(1) A person with management or control of a workplace may identify asbestos or ACM by arranging for a sample of material at the workplace to be analysed for the presence of asbestos or ACM.

(2) If a person with management or control of a workplace arranges for an analysis, the person must ensure that the sample is analysed only by—

(a) a NATA-accredited laboratory accredited for the relevant test method; or

(b) a laboratory approved by the regulator in accordance with guidelines published by Safe Work Australia; or

(c) a laboratory operated by the regulator.

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Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

424 Presence and location of asbestos to be indicated

A person with management or control of a workplace must ensure that—

(a) the presence and location of asbestos or ACM identified at the workplace under section 422 is clearly indicated; and

(b) if it is reasonably practicable to do so, indicate the presence and location of the asbestos or ACM by a label.

Maximum penalty—60 penalty units.

425 Asbestos register

(1) A person with management or control of a workplace must ensure that a register (an ***asbestos register***) is prepared and kept at the workplace.

Maximum penalty—36 penalty units.

Note—

Section 425 does not apply to a workplace that is domestic premises—see section 421(2).

(2) The person must ensure that the register is maintained to ensure the information in the register is up to date.

Maximum penalty—36 penalty units.

(3) The asbestos register must—

(a) record any asbestos or ACM identified to be at the workplace under section 422, or likely to be present at the workplace from time to time including—

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(i) the date on which the asbestos or ACM was identified; and

(ii) the location, type and condition of the asbestos or ACM; or

(b) state that no asbestos or ACM is identified at the workplace if the person knows that no asbestos or ACM is identified, or is likely to be present from time to time, at the workplace.

(4) The person is not required to prepare an asbestos register for a workplace if a register has already been prepared for that workplace.

(5) Subject to subsection (6), this section applies to buildings whenever constructed.

(6) This section does not apply to a workplace if—

(a) the workplace is a building that was constructed after 31 December 1989; and

(b) no asbestos has been identified at the workplace; and

(c) no asbestos is likely to be present at the workplace from time to time.

426 Review of asbestos register

A person with management or control of a workplace where an asbestos register is kept must ensure that the register is reviewed and, as necessary, revised if—

(a) the asbestos management plan is reviewed under section 430; or

(b) further asbestos or ACM is identified at the workplace; or

(c) asbestos is removed from, or disturbed, sealed or enclosed at, the workplace.

Maximum penalty—36 penalty units.

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427 Access to asbestos register

(1) A person with management or control of a workplace where an asbestos register is kept must ensure that the asbestos register is readily accessible to—

(a) a worker who has carried out, carries out or intends to carry out, work at the workplace; and

(b) a health and safety representative who represents a worker mentioned in paragraph (a); and

(c) a person conducting a business or undertaking who has carried out, carries out or intends to carry out, work at the workplace; and

(d) a person conducting a business or undertaking who has required, requires, or intends to require work to be carried out at the workplace.

Maximum penalty—36 penalty units.

(2) If a person conducting a business or undertaking carries out, or intends to carry out, work at a workplace that involves a risk of exposure to airborne asbestos, the person with management or control of the workplace must ensure that the person is given a copy of the asbestos register.

Maximum penalty—36 penalty units.

428 Transfer of asbestos register by person relinquishing management or control

If a person with management or control of a workplace plans to relinquish management or control of the workplace, the person must ensure, so far as is reasonably practicable, that the asbestos register is given to the person, if any, assuming management or control of the workplace.

Maximum penalty—36 penalty units.

429 Asbestos management plan

(1) This section applies if asbestos or ACM is—

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(a) identified at a workplace under section 422; or

(b) likely to be present at a workplace from time to time.

(2) A person with management or control of the workplace must ensure that a written plan (an ***asbestos management plan***) for the workplace is prepared.

Maximum penalty—60 penalty units.

(3) A person with management or control of the workplace must ensure that the asbestos management plan is maintained to ensure the information in the plan is up to date.

Maximum penalty—60 penalty units.

(4) An asbestos management plan must include information relating to the following—

(a) the identification of asbestos or ACM; and

Example—

a reference or link to the asbestos register for the workplace and signage and labelling.

(b) decisions, and reasons for decisions, about the management of asbestos at the workplace; and

Example—

safe work procedures and control measures

(c) procedures for detailing incidents or emergencies involving asbestos or ACM at the workplace; and

(d) workers carrying out work involving asbestos.

Example—

consultation, responsibilities, information and training

(5) A person with management or control of a workplace must ensure that a copy of the asbestos management plan for the workplace is readily accessible to—

(a) a worker who has carried out, carries out or intends to carry out, work at the workplace; and

(b) a health and safety representative who represents a worker mentioned in paragraph (a); and

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(c) a person conducting a business or undertaking who has carried out, carries out or intends to carry out, work at the workplace; and

(d) a person conducting a business or undertaking who has required, requires, or intends to require work to be carried out at the workplace.

Maximum penalty for subsection (5)—36 penalty units.

430 Review of asbestos management plan

(1) A person with management or control of a workplace that has an asbestos management plan must ensure that the plan is reviewed and, as necessary, revised in the following circumstances—

(a) there is a review of the asbestos register or a control measure;

(b) asbestos is removed from, or disturbed, sealed or enclosed at, the workplace;

(c) the plan is no longer adequate for managing asbestos or ACM at the workplace;

(d) a health and safety representative requests a review under subsection (2);

(e) at least once every 5 years.

Maximum penalty—36 penalty units.

(2) A health and safety representative for workers at a workplace may request a review of an asbestos management plan if the representative reasonably believes that—

(a) a circumstance mentioned in subsection (1)(a), (b) or (c) affects or may affect the health and safety of a member of the work group represented by the health and safety representative; and

(b) the person with management and control of the workplace has not adequately reviewed the asbestos management plan in response to the circumstance.

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Part 8.4 Management of naturally occurring asbestos

431 Naturally occurring asbestos

The person with management or control of a workplace must manage risks to health and safety associated with naturally occurring asbestos at the workplace.

Note—

WHS Act—section 20 (see section 9).

432 Asbestos management plan

(1) This section applies if naturally occurring asbestos is—

(a) identified at a workplace; or

(b) likely to be present at a workplace.

(2) A person with management or control of the workplace must ensure that a written plan (an ***asbestos management plan***) for the workplace is prepared in relation to the naturally occurring asbestos.

Maximum penalty—60 penalty units.

(3) A person with management or control of the workplace must ensure that the asbestos management plan is maintained to ensure the information in the plan is up to date.

Maximum penalty—60 penalty units.

(4) An asbestos management plan must include information relating to the following—

(a) the identification of naturally occurring asbestos; and

(b) decisions, and reasons for decisions, about the management of naturally occurring asbestos at the workplace;

Example—

safe work procedures and control measures

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(c) procedures for detailing incidents or emergencies involving naturally occurring asbestos at the workplace;

(d) workers carrying out work involving naturally occurring asbestos.

Example—

consultation, responsibilities, information and training

(5) A person with management or control of a workplace must ensure that a copy of the asbestos management plan for naturally occurring asbestos at the workplace is readily accessible to—

(a) a worker who has carried out, carries out or intends to carry out, work at the workplace; and

(b) a health and safety representative who represents a worker mentioned in paragraph (a); and

(c) a person conducting a business or undertaking who has carried out, carries out or intends to carry out, work at the workplace; and

(d) a person conducting a business or undertaking who has required, requires, or intends to require work to be carried out at the workplace.

Maximum penalty for subsection (5)—36 penalty units.

433 Review of asbestos management plan

A person with management or control of a workplace that has an asbestos management plan for naturally occurring asbestos must ensure that the plan is reviewed and, as necessary, revised if the plan is no longer adequate for managing naturally occurring asbestos at the workplace.

Example—

A control measure is revised under section 38.

Maximum penalty—36 penalty units.

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434 Training in relation to naturally occurring asbestos

A person conducting a business or undertaking must ensure that the training required under section 445 includes training in the hazards and risks associated with naturally occurring asbestos for workers who carry out work where naturally occurring asbestos is likely to be found.

Maximum penalty—60 penalty units.

Part 8.5 Asbestos at the workplace

Division 1 Health monitoring

435 Duty to provide health monitoring

(1) A person conducting a business or undertaking must ensure that health monitoring is provided under section 436 to a worker carrying out work for the business or undertaking if the worker is—

(a) carrying out licensed asbestos removal work at a workplace and is at risk of exposure to asbestos when carrying out the work; or

(b) carrying out other ongoing asbestos removal work or asbestos-related work and is at risk of exposure to asbestos when carrying out the work.

Maximum penalty—60 penalty units.

(2) For subsection (1)(a), the person must ensure that the health monitoring of the worker commences before the worker carries out licensed asbestos removal work.

(3) The person must ensure that the worker is informed of any health monitoring requirements before the worker carries out any work that may expose the worker to asbestos.

Maximum penalty—60 penalty units.

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436 Duty to ensure that appropriate health monitoring is provided

A person conducting a business or undertaking must ensure that the health monitoring of a worker mentioned in section 435 includes—

(a) consideration of—

(i) the worker's demographic, medical and occupational history; and

(ii) records of the worker's personal exposure; and

(b) a physical examination of the worker;

unless another type of health monitoring is recommended by a registered medical practitioner.

Maximum penalty—60 penalty units.

437 Duty to ensure health monitoring is supervised by registered medical practitioner with relevant experience

(1) A person conducting a business or undertaking must ensure that the health monitoring of a worker mentioned in section 435 is carried out by or under the supervision of a registered medical practitioner with experience in health monitoring.

Maximum penalty—60 penalty units.

(2) The person must consult the worker in relation to the selection of the registered medical practitioner.

Maximum penalty—60 penalty units.

438 Duty to pay costs of health monitoring

(1) A person conducting a business or undertaking must pay all expenses relating to health monitoring mentioned in section 435.

Maximum penalty—36 penalty units.

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(2) If 2 or more persons conducting businesses or undertakings have a duty to provide health monitoring for a worker and have arranged for one of them to commission the health monitoring, the costs of the health monitoring for which any of those persons is liable must be apportioned equally between each of those persons unless they agree otherwise.

Maximum penalty—36 penalty units.

439 Information that must be provided to registered medical practitioner

A person conducting a business or undertaking who commissions health monitoring for a worker must provide the following information to the registered medical practitioner carrying out or supervising the health monitoring—

(a) the name and address of the person conducting the business or undertaking;

(b) the name and date of birth of the worker;

(c) the work that the worker is, or will be, carrying out that has triggered the requirement for health monitoring;

(d) if the worker has started that work, how long the worker has been carrying out that work.

Maximum penalty—36 penalty units.

440 Duty to obtain health monitoring report

(1) A person conducting a business or undertaking who commissioned health monitoring mentioned in section 435 must take all reasonable steps to obtain a health monitoring report from the registered medical practitioner who carried out or supervised the monitoring as soon as practicable after the monitoring is carried out in relation to a worker.

Maximum penalty—60 penalty units.

(2) The health monitoring report must include the following—

(a) the name and date of birth of the worker;

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(b) the name and registration number of the registered medical practitioner;

(c) the name and address of the person conducting the business or undertaking who commissioned the health monitoring;

(d) the date of health monitoring;

(e) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the work that triggered the requirement for health monitoring;

(f) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out the type of work that triggered the requirement for health monitoring;

(g) whether medical counselling is required for the worker in relation to the work that triggered the requirement for health monitoring.

441 Duty to provide health monitoring report to worker

A person conducting a business or undertaking who commissioned health monitoring for a worker must give a copy of the health monitoring report to the worker as soon as practicable after the person obtains the report.

Maximum penalty—60 penalty units.

442 Duty to provide health monitoring report to regulator

A person conducting a business or undertaking for which a worker is carrying out work for which health monitoring is required must give a copy of the health monitoring report relating to a worker to the regulator as soon as practicable after obtaining the report if the report contains—

(a) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of

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carrying out the work that triggered the requirement for health monitoring;

(b) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out the work mentioned in section 435.

Maximum penalty—60 penalty units.

443 Duty to provide health monitoring report to relevant persons conducting business or undertakings

A person conducting a business or undertaking who commissioned health monitoring for a worker must give a copy of the health monitoring report to all other persons conducting businesses or undertakings who have a duty to provide health monitoring for the worker as soon as practicable after obtaining the report.

Maximum penalty—60 penalty units.

444 Health monitoring records

(1) A person conducting a business or undertaking must ensure that health monitoring reports in relation to a worker carrying out work for the business or undertaking are kept as a confidential record—

(a) identified as a record in relation to the worker; and

(b) for at least 40 years after the record is made.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

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(2) The person must ensure that the health monitoring report and results of a worker are not disclosed to another person without the worker's written consent.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(3) Subsection (2) does not apply if the record is disclosed under section 442 or 443 or to a person who must keep the record confidential under a duty of professional confidentiality.

Division 2 Training

445 Duty to train workers about asbestos

(1) In addition to the training required by part 3.2, division 1, a person conducting a business or undertaking must ensure that workers engaged by the person, whom the person reasonably believes may be involved in asbestos removal work or in the carrying out of asbestos-related work, are trained in the identification and safe handling of, and suitable control measures for, asbestos and ACM.

Maximum penalty—60 penalty units.

(2) This section does not apply to a worker to whom section 460 applies.

(3) The person must ensure that a record is kept of the training undertaken by the worker—

(a) while the worker is carrying out the work; and

(b) for 5 years after the day the worker ceases working for the person.

Maximum penalty—

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(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(4) The person must keep the record available for inspection under the Act.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

Division 3 Control on use of particular equipment

446 Duty to limit use of equipment

(1) A person conducting a business or undertaking must not use, or direct or allow a worker to use, either of the following on asbestos or ACM—

(a) high-pressure water spray;

(b) compressed air.

Maximum penalty—36 penalty units.

(2) Subsection (1)(a) does not apply to the use of a high pressure water spray for fire fighting or fire protection purposes.

(3) A person conducting a business or undertaking must not use, or direct or allow a worker to use, any of the following equipment on asbestos or ACM unless the use of the equipment is controlled—

(a) power tools;

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(b) brooms;

(c) any other implements that cause the release of airborne asbestos into the atmosphere.

Maximum penalty—36 penalty units.

(4) In subsection (3), the use of equipment is ***controlled*** if—

(a) the equipment is enclosed during its use; or

(b) the equipment is designed to capture or suppress airborne asbestos and is used in accordance with its design; or

(c) the equipment is used in a way that is designed to capture or suppress airborne asbestos safely; or

(d) any combination of paragraphs (a), (b) and (c) applies.

Part 8.6 Demolition and refurbishment

447 Application of pt 8.6

(1) This part applies to the demolition or refurbishment of any of the following—

(a) a building constructed before 31 December 1989;

(b) a structure, other than a building, constructed or installed before 31 December 2003 if there are reasonable grounds to believe asbestos or ACM is installed in the structure;

(c) plant constructed or installed before 31 December 2003 if there are reasonable grounds to believe asbestos or ACM is installed in the plant.

(2) In this section—

demolition or refurbishment does not include minor or routine maintenance work, or other minor work.

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448 Review of asbestos register

The person with management or control of a workplace must ensure that, before demolition or refurbishment is carried out at the workplace, the asbestos register for the workplace is—

(a) reviewed; and

(b) if the register is inadequate having regard to the proposed demolition or refurbishment—revised.

Example—

The register identifies an inaccessible area that is likely to contain asbestos and the area is likely to be accessible because of demolition.

Maximum penalty—36 penalty units.

449 Duty to provide asbestos register

The person with management or control of a workplace must ensure that the person conducting a business or undertaking who carries out the demolition or refurbishment is given a copy of the asbestos register before the demolition or refurbishment is commenced.

Maximum penalty—60 penalty units.

450 Duty to obtain asbestos register

A person conducting a business or undertaking who carries out demolition or refurbishment at a workplace must obtain a copy of the asbestos register from the person with management or control of the workplace, before the person commences the demolition or refurbishment.

Maximum penalty—60 penalty units.

451 Determining presence of asbestos or ACM

(1) This section applies if—

(a) demolition or refurbishment is to be carried out at a workplace; and

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(b) there is no asbestos register for the structure or plant to be demolished or refurbished at the workplace.

(2) The person conducting a business or undertaking who is to carry out the demolition or refurbishment must not carry out the demolition or refurbishment until the structure or plant has been inspected to determine whether asbestos or ACM is fixed to or installed in the structure or plant.

Maximum penalty—60 penalty units.

(3) The person conducting a business or undertaking who is to carry out the demolition or refurbishment must ensure that the decision is undertaken by a competent person.

Maximum penalty—60 penalty units.

(4) The person conducting a business or undertaking who is to carry out the demolition or refurbishment must assume that asbestos or ACM is fixed to or installed in the structure or plant if—

(a) the competent person is, on reasonable grounds, uncertain whether or not asbestos is fixed to or installed in the structure or plant; or

(b) part of the structure or plant is inaccessible and likely to be disturbed.

(5) If asbestos or ACM is determined or assumed to be fixed to or installed in the structure or plant, the person conducting a business or undertaking who is to carry out the demolition or refurbishment must inform—

(a) if the workplace is domestic premises—the occupier and owner of the premises; and

(b) in any other case—the person with management or control of the workplace.

Maximum penalty for subsection (5)—36 penalty units.

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452 Identification and removal of asbestos before demolition

(1) This section applies if a structure or plant at a workplace is to be demolished.

(2) This section does not apply—

(a) in an emergency to which section 454 applies; or

(b) to domestic premises.

(3) The person with management or control of the workplace, or of the structure or plant, must ensure—

(a) that all asbestos that is likely to be disturbed by the demolition is identified; and

(b) so far as is reasonably practicable, that the asbestos is removed before the demolition is commenced.

Maximum penalty—60 penalty units.

(4) Subsection (3)(b) does not apply if the purpose of the demolition is to gain access to the asbestos.

453 Identification and removal of asbestos before demolition of domestic premises

(1) A person conducting a business or undertaking that is to carry out the demolition of domestic premises must ensure—

(a) that all asbestos that is likely to be disturbed by the demolition is identified; and

(b) so far as is reasonably practicable, that the asbestos is removed before the demolition is commenced.

Maximum penalty—60 penalty units.

(2) This section does not apply in an emergency to which section 455 applies.

(3) Subsection (1)(b) does not apply if the purpose of the demolition is to gain access to the asbestos.

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454 Emergency procedure

(1) This section applies if—

(a) an emergency occurs at a workplace other than domestic premises; and

(b) a structure or plant at the workplace must be demolished; and

(c) asbestos is fixed to or installed in the structure or plant before the emergency occurs.

(2) The person with management or control of the workplace must ensure, so far as is reasonably practicable, that—

(a) before the demolition is commenced, a procedure is developed that will, so far as is reasonably practicable, reduce the risk of exposure of workers and persons in the vicinity of the demolition site to asbestos to below the exposure standard; and

(b) the asbestos register for the workplace is considered in the development of the procedure.

Maximum penalty—36 penalty units.

(3) The person must ensure that the regulator is given written notice about the emergency—

(a) immediately after the person becomes aware of the emergency; and

(b) before the demolition is commenced.

Maximum penalty—36 penalty units.

(4) In this section, an ***emergency*** occurs if—

(a) a structure or plant is structurally unsound; or

(b) collapse of the structure or plant is imminent.

455 Emergency procedure—domestic premises

(1) This section applies if—

(a) an emergency occurs at domestic premises; and

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(b) a structure or plant at the premises must be demolished; and

(c) asbestos is fixed to or installed in the structure or plant before the emergency occurs.

(2) A person conducting a business or undertaking who is to carry out the demolition of the domestic premises must ensure so far as is reasonably practicable, that, before the demolition is commenced, a procedure is developed that will, so far as is reasonably practicable, reduce the risk of exposure of workers and persons in the vicinity of the demolition site to asbestos to below the exposure standard.

Maximum penalty—36 penalty units.

(3) The person must ensure that the regulator is given written notice about the emergency—

(a) immediately after the person becomes aware of the emergency; and

(b) before the demolition is commenced.

Maximum penalty—36 penalty units.

(4) In this section, an ***emergency*** occurs if—

(a) a structure or plant is structurally unsound; or

(b) collapse of the structure or plant is imminent.

456 Identification and removal of asbestos before refurbishment

(1) This section applies if a structure or plant at a workplace is to be refurbished.

(2) This section does not apply to domestic premises.

(3) The person with management or control of the workplace, or of the structure or plant, must ensure—

(a) that all asbestos that is likely to be disturbed by the refurbishment is identified; and

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(b) so far as is reasonably practicable, that the asbestos is removed before the refurbishment is commenced.

Maximum penalty—60 penalty units.

457 Refurbishment of domestic premises

A person conducting a business or undertaking who is to carry out refurbishment of domestic premises must ensure—

(a) that all asbestos that is likely to be disturbed by the refurbishment is identified; and

(b) so far as is reasonably practicable, that the asbestos is removed before the refurbishment is commenced.

Maximum penalty—60 penalty units.

Part 8.7 Asbestos removal work

Note—

In this part some duties are placed on licensed asbestos removalists and some on asbestos removalists generally.

458 Duty to ensure asbestos removalist is licensed

(1) A person conducting a business or undertaking that commissions the removal of asbestos must ensure that the asbestos removal work is carried out by a licensed asbestos removalist who is licensed to carry out the work.

Maximum penalty—60 penalty units.

(2) Subsection (1) does not apply if the asbestos to be removed is—

(a) $10m^2$ or less of non-friable asbestos or ACD associated with the removal of that amount of non-friable asbestos; or

(b) ACD that is not associated with the removal of friable or non-friable asbestos and is only a minor contamination.

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(3) If subsection (2) applies, the person conducting the business or undertaking that commissions the asbestos removal work must ensure that the work is carried out by a competent person who has been trained under section 445.

Maximum penalty for subsection (3)—60 penalty units.

459 Asbestos removal supervisor must be present or readily available

A licensed asbestos removalist must ensure that the person supervising asbestos removal work under section 529 is—

(a) if the asbestos removal work requires a class A asbestos removal licence—present at the asbestos removal area whenever the asbestos removal work is being carried out; and

(b) if the asbestos removal work requires a class B asbestos removal licence and is carried out by more than 1 person—readily available to a worker carrying out asbestos removal work whenever the work is being carried out.

Maximum penalty—60 penalty units.

460 Asbestos removal worker must be trained

(1) A licensed asbestos removalist must not direct or allow a worker to carry out licensed asbestos removal work unless the removalist is satisfied that the worker holds a certification in relation to the specified VET course for asbestos removal relevant to the class of licensed asbestos removal work to be carried out by the worker.

Maximum penalty—60 penalty units.

(2) A licensed asbestos removalist must provide appropriate training to a worker carrying out licensed asbestos removal work at a workplace to ensure that the work is carried out in accordance with the asbestos removal control plan for the workplace.

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Maximum penalty—60 penalty units.

(3) In this section—

appropriate training means training designed specifically for the workplace where the licensed asbestos removal work is carried out and the work to be carried out at the workplace.

Note—

Unless this section applies, the obligation to provide training to workers carrying out unlicensed asbestos removal work is set out in section 445.

461 Licensed asbestos removalist must keep training records

(1) A licensed asbestos removalist must keep a record of the training undertaken by a worker carrying out licensed asbestos removal work—

(a) while the worker is carrying out licensed asbestos removal work; and

(b) for 5 years after the day the worker stopped carrying out licensed asbestos removal work for the removalist.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) The licensed asbestos removalist must ensure that the training record is readily accessible at the asbestos removal area and available for inspection under the Act.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

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462 Duty to give information about health risks of licensed asbestos removal work

A licensed asbestos removalist must give the following information to a person likely to be engaged to carry out licensed asbestos removal work before the person is engaged to carry out the work—

(a) the health risks and health effects associated with exposure to asbestos;

(b) the need for, and details of, health monitoring of a worker carrying out licensed asbestos removal work.

Maximum penalty—60 penalty units.

463 Asbestos removalist must obtain register

(1) An asbestos removalist must obtain a copy of the asbestos register for a workplace before the removalist carries out asbestos removal work at the workplace.

Maximum penalty—60 penalty units.

(2) Subsection (1) does not apply if the asbestos removal work is to be carried out at domestic premises.

464 Asbestos removal control plan

(1) A licensed asbestos removalist must prepare an asbestos removal control plan for any licensed asbestos removal work the removalist is commissioned to undertake.

Maximum penalty—60 penalty units.

(2) An asbestos removal control plan must include—

(a) details of how the asbestos removal will be carried out, including the method to be used and the tools, equipment and personal protective equipment to be used; and

(b) details of the asbestos to be removed, including the location, type and condition of the asbestos.

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(3) The licensed asbestos removalist must give a copy of the asbestos removal control plan to the person who commissioned the licensed asbestos removal work.

Maximum penalty—36 penalty units.

465 Asbestos removal control plan to be kept and available

(1) Subject to subsection (2), a licensed asbestos removalist must ensure that a copy of the asbestos removal control plan prepared under section 464 is kept until the asbestos removal work to which it relates is completed.

Maximum penalty—36 penalty units.

(2) If a notifiable incident occurs in connection with the asbestos removal work to which the asbestos removal control plan relates, the person must keep the asbestos removal control plan for at least 2 years after the incident occurs.

Maximum penalty—36 penalty units.

(3) The person must ensure that, for the period for which the asbestos removal control plan must be kept under this section, a copy is—

(a) readily accessible to—

(i) a person conducting a business or undertaking at the workplace; and

(ii) the person's workers at the workplace, or a health and safety representative who represents the workers; and

(iii) if the asbestos removal work is to be carried out in domestic premises—the occupants of the premises; and

(b) available for inspection under the Act.

Maximum penalty—36 penalty units.

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466 Regulator must be notified of asbestos removal

(1) A licensed asbestos removalist must give written notice to the regulator at least 5 days before the removalist commences licensed asbestos removal work.

Maximum penalty—36 penalty units.

(1A) The notice must be given in the way and in the form approved by the regulator.

(2) Despite subsection (1), licensed asbestos removal work may be commenced immediately if there is—

(a) a sudden and unexpected event, including a failure of equipment, that may cause persons to be exposed to respirable asbestos fibres; or

(b) an unexpected breakdown of an essential service that requires immediate rectification to enable the service to continue.

(3) If the asbestos must be removed immediately, the licensed asbestos removalist must give notice to the regulator—

(a) immediately by telephone; and

(b) in writing within 24 hours after notice is given under paragraph (a).

Maximum penalty—36 penalty units.

(4) A notice under subsection (1) or (3) must include the following—

(a) the following in relation to the licensed asbestos removalist—

(i) name;

(ii) registered business name;

(iii) Australian Business Number;

(iv) licence number;

(v) business contact details;

(b) if the asbestos removal work is class A asbestos removal work, or class B asbestos removal work being carried

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out by more than 1 person—the name and business contact details of the person supervising the licensed asbestos removal work under section 529;

(c) the name of the competent person or licensed asbestos assessor engaged to carry out a clearance inspection and issue a clearance certificate for the work;

(d) the name and contact details of the person for whom the work is to be carried out;

(e) the following in relation to the workplace where the asbestos is to be removed—

(i) the name, including the registered business or company name, of the person with management or control of the workplace;

(ii) the address and, if the workplace is large, the specific location of the asbestos removal;

(iii) the kind of workplace;

(f) the date of the notice;

(g) the date when the asbestos removal work is to commence and the estimated duration of the work;

(h) whether the asbestos to be removed is friable or non-friable;

(i) if the asbestos to be removed is friable—the way the area of removal will be enclosed;

(j) the estimated quantity of asbestos to be removed;

(k) the number of workers who are to carry out the asbestos removal work;

(l) for each worker who is to carry out asbestos removal work—details of the worker's competency to carry out asbestos removal work.

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467 Licensed asbestos removalist must tell particular persons about intended asbestos removal work

(1) This section applies if a licensed asbestos removalist is to carry out licensed asbestos removal work at a workplace.

(2) The licensed asbestos removalist must, before commencing the licensed asbestos removal work, tell the person with management or control of the workplace—

(a) that licensed asbestos removal work is to be carried out at the workplace; and

(b) when the work is to commence.

Maximum penalty—60 penalty units.

(3) If the workplace is domestic premises, the licensed asbestos removalist must, so far as is reasonably practicable, before commencing the licensed asbestos removal work, tell the following persons that asbestos removal work is to be carried out at the workplace, and when the work is to commence—

(a) the person who commissioned the asbestos removal work;

(b) a person conducting a business or undertaking at the workplace;

(c) the occupier of the domestic premises;

(d) the owner of the domestic premises;

(e) anyone occupying premises in the immediate vicinity of the workplace.

Maximum penalty—60 penalty units.

468 Person with management or control of workplace must tell persons about asbestos removal work

(1) This section applies if the person with management or control of a workplace is told that asbestos removal work is to be carried out at the workplace.

(2) The person must ensure that the following persons are told that asbestos removal work is to be carried out at the

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workplace, and when the work is to commence before the work commences—

(a) the person's workers and any other persons at the workplace;

(b) the person who commissioned the asbestos removal work.

Maximum penalty—60 penalty units.

(3) The person must take all reasonable steps to ensure that the following persons are told that asbestos removal work is to be carried out at the workplace, and when the work is to commence before the work commences—

(a) anyone conducting a business or undertaking at, or in the immediate vicinity of, the workplace;

(b) anyone occupying premises in the immediate vicinity of the workplace.

Maximum penalty—60 penalty units.

469 Signage and barricades for asbestos removal work

An asbestos removalist must ensure that—

(a) signs alerting persons to the presence of asbestos are placed to indicate where the asbestos removal work is being carried out; and

(b) barricades are erected to delineate the asbestos removal area.

Maximum penalty—60 penalty units.

470 Limiting access to asbestos removal area

(1) This section applies to—

(a) a person conducting a business or undertaking at a workplace who commissions a person to carry out licensed asbestos removal work at the workplace; and

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(b) a person with management or control of a workplace who is aware that licensed asbestos removal work is being carried out at the workplace.

(2) Subject to subsection (4), the person must ensure, so far as is reasonably practicable, that no-one other than the following has access to an asbestos removal area—

(a) workers engaged in the asbestos removal work;

(b) other persons associated with the asbestos removal work;

(c) anyone allowed under this regulation or another law to be in the asbestos removal area.

Maximum penalty—60 penalty units.

(3) The person may refuse to allow access to an asbestos removal area at the workplace to anyone who does not comply with—

(a) a control measure implemented for the workplace in relation to asbestos; or

(b) a direction of the licensed asbestos removalist.

(4) A person mentioned in subsection (2)(a), (b) or (c) has access to an asbestos removal area subject to any direction of the licensed asbestos removalist.

(5) If a person mentioned in subsection (2)(a), (b) or (c) has access to an asbestos removal area, the person must comply with any direction of the licensed asbestos removalist.

Maximum penalty for subsection (5)—60 penalty units.

471 Decontamination facilities

(1) An asbestos removalist must ensure that facilities are available to decontaminate—

(a) the asbestos removal area;

(b) any plant used in the asbestos removal area;

(c) workers carrying out asbestos removal work;

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(d) other persons who have access to the asbestos removal area under section 470(2)(b).

Maximum penalty—60 penalty units.

(2) An asbestos removalist must ensure that nothing that is likely to be contaminated with asbestos is removed from the asbestos removal area unless the thing—

(a) is decontaminated before being removed; or

(b) is sealed in a container, and the exterior of the container is—

(i) decontaminated; and

(ii) labelled in accordance with the GHS to indicate the presence of asbestos;

before being removed.

Maximum penalty—60 penalty units.

472 Disposing of asbestos waste and contaminated personal protective equipment

(1) Subject to subsections (2) and (3), an asbestos removalist must ensure that asbestos waste—

(a) is contained and labelled in accordance with the GHS before the waste is removed from an asbestos removal area; and

(b) is disposed of as soon as practicable at a site authorised to accept asbestos waste.

Maximum penalty—60 penalty units.

(2) An asbestos removalist must ensure that personal protective equipment used in asbestos removal work and contaminated with asbestos—

(a) is sealed in a container before being removed from an asbestos waste area; and

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(b) so far as is reasonably practicable, is disposed of on the completion of the asbestos removal work at a site authorised to accept asbestos waste; and

(c) if it is not reasonably practicable to dispose of the personal protective equipment that is clothing—

(i) is laundered at a laundry equipped to launder asbestos-contaminated clothing; or

(ii) if it is not practicable to launder the clothing—is kept in the sealed container until it is re-used for asbestos removal purposes; and

(d) if it is not reasonably practicable to dispose of the personal protective equipment that is not clothing—

(i) is decontaminated before it is removed from the asbestos removal area; or

(ii) if it is not practicable to decontaminate the equipment in the asbestos removal area—is kept in the sealed container until it is re-used for asbestos removal purposes.

Example—

work boots

Maximum penalty—60 penalty units.

(3) An asbestos removalist must ensure that a sealed container mentioned in subsection (2) is decontaminated and labelled in accordance with the GHS to indicate the presence of asbestos before being removed from the asbestos removal area.

Maximum penalty—60 penalty units.

473 Clearance inspection

(1) This section applies if a person commissions licensed asbestos removal work at a workplace.

(2) The person or, if the workplace is domestic premises, the licensed asbestos removalist must ensure that, when the licensed asbestos removal work is completed, a clearance

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inspection of the asbestos removal area at the workplace is carried out by—

(a) if the asbestos removal work must be carried out by the holder of a class A asbestos removal licence—an independent licensed asbestos assessor; or

(b) in any other case—an independent competent person.

Maximum penalty—60 penalty units.

(3) In this section—

clearance inspection is an inspection of an asbestos removal area after asbestos removal work has been completed to verify that the area is safe for normal use, that—

(a) includes a visual inspection; and

(b) may include air monitoring.

Note—

WHS Act—section 19 (see section 9).

(4) If it is not reasonably practicable for the licensed asbestos assessor or competent person to be independent, the person or licensed asbestos removalist may apply to the regulator for an exemption under part 11.2 from the requirement that the assessor or competent person be independent.

474 Clearance certificates

(1) This section applies if a clearance inspection has been made under section 473.

(2) The licensed asbestos assessor or competent person who carried out the clearance inspection must issue a certificate in accordance with this section (a ***clearance certificate***), before the asbestos removal area at the workplace can be reoccupied.

Maximum penalty—60 penalty units.

(3) The licensed asbestos assessor or competent person must ensure that the asbestos removal area does not pose a risk to health and safety from exposure to asbestos.

Maximum penalty—60 penalty units.

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(4) The licensed asbestos assessor or competent person must not issue a clearance certificate unless satisfied that—

(a) the asbestos removal area, and the area immediately surrounding it, are free from visible asbestos contamination; and

(b) if the assessor or competent person undertook air monitoring as part of the clearance inspection—the monitoring shows asbestos below 0·01 fibres/ml.

Maximum penalty—60 penalty units.

(5) The clearance certificate must be in writing and must state that—

(a) the assessor or competent person found no visible asbestos residue from asbestos removal work in the area, or in the vicinity of the area, where the work was carried out; and

(b) if air monitoring was carried out by the assessor or competent person as part of the clearance inspection—the airborne asbestos fibre level was less than 0·01 asbestos fibres/ml.

474A Obligations of licensed asbestos removalist in particular circumstances

(1) This section applies if—

(a) a competent person has issued a clearance certificate (the ***first clearance certificate***) under section 474 for an asbestos removal area; and

(b) the asbestos removal area, or the area immediately surrounding it, was not free from visible asbestos contamination when the person issued the first clearance certificate; and

(c) an inspector issues an improvement notice or prohibition notice to the licensed asbestos removalist who carried out the asbestos removal work (the ***original***

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removal work) to which the first clearance certificate relates; and

(d) the improvement notice requires, or the prohibition notice directs, the licensed asbestos removalist to take steps necessary to ensure the asbestos removal area, and the area immediately surrounding it, are free from visible asbestos contamination.

(2) The licensed asbestos removalist must ensure that a clearance inspection of the asbestos removal area is carried out by an independent competent person who—

(a) is not the independent competent person who issued the first clearance certificate; and

(b) was not involved in the original removal work; and

(c) is not, and has not previously been, involved in a business or undertaking involved in the original removal work.

Maximum penalty—60 penalty units.

(3) The licensed asbestos removalist must not seek to recover from the owner or occupier of the asbestos removal area the costs of—

(a) carrying out work required under the improvement notice, or directed under the prohibition notice; or

(b) the clearance inspection mentioned in subsection (2).

Part 8.8 Asbestos removal requiring class A asbestos removal licence

475 Air monitoring—asbestos removal requiring class A asbestos removal licence

(1) A person conducting a business or undertaking who commissions asbestos removal work requiring a class A asbestos removal licence at a workplace must ensure that an

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independent licensed asbestos assessor undertakes air monitoring of the asbestos removal area at the workplace.

Maximum penalty—60 penalty units.

(2) If the workplace is domestic premises, the licensed removalist carrying out asbestos removal work requiring a class A asbestos removal licence at the premises must ensure that an independent licensed asbestos assessor undertakes air monitoring of the asbestos removal area at the premises.

Maximum penalty—60 penalty units.

(3) The air monitoring must be carried out—

(a) immediately before the licensed asbestos removal work commences, unless glove bags are to be used for the removal; and

(b) while the licensed asbestos removal work is carried out.

(4) The person who commissions the licensed asbestos removal work must ensure that the results of the air monitoring are given to the following—

(a) workers at the workplace;

(b) health and safety representatives for workers at the workplace;

(c) a person conducting a businesses or undertaking at the workplace;

(d) other persons at the workplace.

Maximum penalty—60 penalty units.

(5) If the workplace is domestic premises, the licensed asbestos removalist carrying out the licensed asbestos removal work at the premises must ensure that the results of the air monitoring are given to the following—

(a) the person who commissioned the asbestos removal work;

(b) workers at the workplace;

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(c) health and safety representatives for workers at the workplace;

(d) persons conducting businesses or undertakings at the workplace;

(e) the occupier of the domestic premises;

(f) the owner of the domestic premises;

(g) other persons at the workplace.

Maximum penalty—60 penalty units.

(6) The independent licensed asbestos assessor must—

(a) undertake the air monitoring; and

(b) use the membrane filter method for air monitoring.

Maximum penalty for subsection (6)—60 penalty units.

476 Action if respirable asbestos fibre level too high

(1) The licensed removalist carrying out asbestos removal work requiring a class A asbestos removal licence at a workplace must—

(a) if respirable asbestos fibre levels are recorded at the asbestos removal area at 0.01 fibres/ml or more, but not more than 0.02 fibres/ml—immediately—

(i) investigate the cause of the respirable asbestos fibre level; and

(ii) implement controls to prevent exposure of anyone to asbestos; and

(iii) prevent the further release of respirable asbestos fibres; and

(b) if respirable asbestos fibre levels are recorded at the asbestos removal area at more than 0.02 fibres/ml—immediately—

(i) order the asbestos removal work to stop; and

(ii) notify the regulator; and

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(iii) investigate the cause of the respirable asbestos fibre level; and

(iv) implement controls to prevent exposure of anyone to asbestos; and

(v) prevent the further release of respirable asbestos fibre.

Maximum penalty—60 penalty units.

(2) If the licensed removalist stops asbestos removal work requiring a class A asbestos removal licence because the recorded respirable asbestos fibre level exceeds 0.02 fibres/ml, the removalist must ensure that the asbestos removal work does not resume until air monitoring shows that the recorded respirable asbestos fibre level is below 0·01 fibres/ml.

Maximum penalty—60 penalty units.

477 Removing friable asbestos

(1) A licensed asbestos removalist removing friable asbestos must ensure, so far as is reasonably practicable, the following—

(a) the asbestos removal area is enclosed to prevent the release of respirable asbestos fibres;

(b) subject to subsection (3), negative pressure is used;

(c) the wet method of asbestos removal is used;

(d) subject to subsection (3), the asbestos removal work does not commence until the air monitoring is commenced by a licensed asbestos assessor;

(e) air monitoring is undertaken during the asbestos removal work, at times decided by the independent licensed asbestos assessor undertaking the monitoring;

(f) any glove bag used to enclose the asbestos removal area is dismantled and disposed of safely.

Maximum penalty—60 penalty units.

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(2) A licensed asbestos removalist must ensure that any enclosure used in removing friable asbestos is tested for leaks.

Maximum penalty—60 penalty units.

(3) Subsections (1)(b) and (1)(d) do not apply if glove bags are used in the class A asbestos removal work.

(4) The licensed removalist must not dismantle an enclosure for a friable asbestos removal area until the removalist receives results of air monitoring, showing that the recorded respirable asbestos fibre level within the enclosure is below 0.01 fibres/ml, from—

(a) if the friable asbestos is removed from domestic premises—the licensed asbestos assessor who undertook the air monitoring; or

(b) in any other case—the person who commissioned the class A asbestos removal work.

Maximum penalty—60 penalty units.

(5) The licensed removalist must ensure that an enclosure for a friable asbestos removal area is dismantled in a way that, so far as is reasonably practicable, eliminates the release of respirable asbestos fibre.

Maximum penalty—60 penalty units.

(6) The person who commissioned the removal of the friable asbestos must obtain a clearance certificate from a licensed asbestos assessor after the enclosure for the friable asbestos removal area has been dismantled.

Maximum penalty for subsection (6)—60 penalty units.

Part 8.9 Asbestos-related work

478 Application of pt 8.9

This part applies in relation to asbestos-related work.

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479 Uncertainty as to presence of asbestos

(1) If there is uncertainty (based on reasonable grounds) as to whether work to be carried out for a business or undertaking is asbestos-related work, the person conducting the business or undertaking must ensure that analysis of a sample is undertaken to determine if asbestos or ACM is present.

Maximum penalty—60 penalty units.

(2) For subsection (1)(b), the person must ensure that the sample is analysed only by—

(a) a NATA-accredited laboratory accredited for the relevant test method; or

(b) a laboratory approved by the regulator in accordance with guidelines published by Safe Work Australia; or

(c) a laboratory operated by the regulator.

(3) Subsection (1) does not apply if the person assumes that asbestos is present.

480 Duty to give information about health risks of asbestos-related work

A person conducting a business or undertaking must give the following information to a person likely to be engaged to carry out asbestos-related work for the business or undertaking before the person is engaged to carry out the work—

(a) the health risks and health effects associated with exposure to asbestos;

(b) the need for, and details of, health monitoring of a worker carrying out asbestos-related work.

Maximum penalty—60 penalty units.

481 Asbestos-related work to be in separate area

A person conducting a business or undertaking that involves the carrying out of asbestos-related work must ensure that—

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(a) the asbestos-related work area is separated from other work areas at the workplace; and

(b) signs alerting persons to the presence of asbestos are placed to indicate where the asbestos-related work is being carried out; and

(c) barricades are erected to delineate the asbestos-related work area.

Maximum penalty—60 penalty units.

482 Air monitoring

(1) A person conducting a business or undertaking at a workplace must ensure that a competent person carries out air monitoring of the work area where asbestos-related work is being carried out if there is uncertainty as to whether the exposure standard is likely to be exceeded.

Maximum penalty—60 penalty units.

(2) If the competent person determines that the exposure standard has been exceeded at any time in a work area, the person conducting the business or undertaking must, so far as is reasonably practicable—

(a) determine the workers and other persons who were in the work area during that time; and

(b) warn those workers about possible exposure to respirable asbestos fibres; and

(c) warn the other persons about possible exposure to respirable asbestos fibres.

Maximum penalty—60 penalty units.

(3) The person conducting the business or undertaking must ensure that information about exposure to respirable asbestos fibres, including the determination made by the competent person and the results of the air monitoring, is readily accessible to the workers and other persons mentioned in subsection (2).

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Maximum penalty—36 penalty units.

483 Decontamination facilities

(1) A person conducting a business or undertaking for which asbestos-related work is carried out must ensure that facilities are available to decontaminate the following—

(a) the asbestos-related work area;

(b) any plant used in the asbestos-related work area;

(c) workers carrying out the asbestos-related work.

Maximum penalty—60 penalty units.

(2) The person must ensure that nothing that is likely to be contaminated with asbestos is removed from the asbestos-related work area unless the thing—

(a) is decontaminated before being removed; or

(b) is sealed in a container, and the exterior of the container is—

(i) decontaminated; and

(ii) labelled in accordance with the GHS to indicate the presence of asbestos;

before being removed.

Maximum penalty—60 penalty units.

484 Disposing of asbestos waste and contaminated personal protective equipment

(1) Subject to subsection (2), a person conducting a business or undertaking for which asbestos-related work is carried out must ensure that asbestos waste—

(a) is contained and labelled in accordance with the GHS before the waste is removed from an asbestos-related work area; and

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(b) is disposed of as soon as practicable at a site authorised to accept asbestos waste.

Maximum penalty—60 penalty units.

(2) The person must ensure that personal protective equipment used in asbestos-related work and contaminated with asbestos—

(a) is sealed in a container, and that the exterior of the container is decontaminated and labelled in accordance with the GHS to indicate the presence of asbestos before being removed; and

(b) so far as is reasonably practicable, is disposed of on the completion of the asbestos-related work at a site authorised to accept asbestos waste; and

(c) if it is not reasonably practicable to dispose of the personal protective equipment that is clothing—

(i) is laundered at a laundry equipped to launder asbestos-contaminated clothing; or

(ii) if it is not practicable to launder the clothing, is kept in the sealed container until it is re-used for the purposes of asbestos-related work; and

(d) if it is not reasonably practicable to dispose of the personal protective equipment that is not clothing—

(i) is decontaminated before it is removed from the asbestos removal area; or

(ii) if it is not practicable to decontaminate the equipment in the asbestos removal area, is kept in the sealed container until it is re-used for the purposes of asbestos-related work.

Example—

work boots

Maximum penalty—60 penalty units.

(3) The person must ensure that a sealed container mentioned in subsection (2) is decontaminated and labelled in accordance

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with the GHS to indicate the presence of asbestos before being removed from the asbestos-related work area.

Maximum penalty—60 penalty units.

Part 8.10 Licensing of asbestos removalists and asbestos assessors

Division 1 Asbestos removalists—requirement to be licensed

485 Requirement to hold class A asbestos removal licence

(1) A person must not carry out the removal of the following at a workplace unless the person, or the person on whose behalf the work is carried out, holds a class A asbestos removal licence—

(a) friable asbestos; or

(b) except as provided in section 486, asbestos-contaminated dust or debris (ACD).

Note—

See section 43(1) of the Act.

(2) A person who conducts a business or undertaking must not direct or allow a worker to carry out the removal of the following unless the person holds a class A asbestos removal licence—

(a) friable asbestos; or

(b) except as provided in section 486, asbestos-contaminated dust or debris (ACD).

Note—

See section 43(2) of the Act.

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486 Exception to requirement to hold class A asbestos removal licence

A class A asbestos removal licence is not required for the removal of asbestos-contaminated dust or debris (ACD) that—

(a) is associated with the removal of non-friable asbestos; or

(b) is not associated with the removal of friable or non-friable asbestos and is only a minor contamination.

487 Requirement to hold class B asbestos removal licence

(1) A person must not carry out the removal of the following at a workplace unless the person, or the person on whose behalf the work is carried out, holds a class B asbestos removal licence or a class A asbestos removal licence—

(a) more than $10m^2$ of non-friable asbestos or ACM; or

(b) asbestos-contaminated dust or debris (ACD) associated with the removal of more than $10m^2$ of non-friable asbestos or ACM.

Note—

See section 43(1) of the Act.

(2) A person who conducts a business or undertaking must not direct or allow a worker to carry out the removal of the following unless the person holds a class B asbestos removal licence or a class A asbestos removal licence—

(a) more than $10m^2$ of non-friable asbestos or ACM; or

(b) asbestos-contaminated dust or debris (ACD) associated with the removal of more than $10m^2$ of non-friable asbestos or ACM.

Note—

See section 43(2) of the Act.

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488 Recognition of asbestos removal licences in other jurisdictions

(1) In this division, a reference to an asbestos removal licence includes a reference to an equivalent licence—

(a) that was issued by a corresponding regulator under a corresponding WHS law; and

(b) that is being used in accordance with the terms and conditions under which it was granted.

(2) Subsection (1) does not apply to a licence that is suspended or cancelled or has expired in the corresponding jurisdiction.

Division 2 Asbestos assessors—requirement to be licensed

489 Requirement to hold asbestos assessor licence

A person must not carry out the following at a workplace unless the person holds an asbestos assessor licence—

(a) air monitoring during class A asbestos removal work;

(b) clearance inspections for class A asbestos removal work;

(c) issuing clearance certificates in relation to class A asbestos removal work.

Note—

See section 43(1) of the Act.

490 Recognition of asbestos assessor licences in other jurisdictions

(1) In this division, a reference to an asbestos assessor licence includes a reference to an equivalent licence—

(a) that was issued by a corresponding regulator under a corresponding WHS law; and

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(b) that is being used in accordance with the terms and conditions under which it was granted.

(2) Subsection (1) does not apply to a licence that is suspended or cancelled or has expired in the corresponding jurisdiction.

Division 3 Licensing process

491 Who may apply for a licence

(1) Only a person who conducts, or proposes to conduct, a business or undertaking may apply for an asbestos removal licence.

(2) Only an individual who holds the qualifications set out in section 495 may apply for an asbestos assessor licence.

492 Application for asbestos removal licence or asbestos assessor licence

(1) An application for an asbestos removal licence or asbestos assessor licence must be made in the way and in the form approved by the regulator.

(2) The application must include the following information—

(a) the name and address of the applicant;

(b) if required by the regulator of an applicant who is an individual, a photograph of the applicant in the form required by the regulator;

(c) any other evidence of the applicant's identity required by the regulator;

(d) the class of licence to which the application relates;

(e) if, in the case of an asbestos removal licence, the applicant conducts the business or undertaking under a business name—that business name and a certificate or other written evidence of the registration of the business name;

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(f) a declaration that the applicant does not hold an equivalent licence under a corresponding WHS law;

(g) a declaration as to whether or not the applicant (and in the case of a body corporate, any officer of the body corporate) has any relevant WHS conviction;

(h) details of any relevant WHS conviction declared under paragraph (g);

(i) a declaration as to whether or not the applicant (and in the case of a body corporate, any officer of the body corporate) has any conviction for any offence in relation to the unlawful disposal of hazardous waste under—

(i) the *Environmental Protection Act 1994*; or

Note—

See sections 437 (Offences of causing serious environmental harm), 438 (Offences of causing material environmental harm) of that Act for examples of relevant provisions.

(ii) the *Waste Reduction and Recycling Act 2011*;

Note—

See sections 103 (General littering provision) and 104 (Illegal dumping of waste provision) of that Act for examples of relevant provisions.

(j) details of any conviction declared under paragraph (i);

(k) a declaration as to whether or not the applicant (and in the case of a body corporate, any officer of the body corporate) has entered into an enforceable undertaking under a relevant WHS law;

(l) details of any enforceable undertaking declared under paragraph (k);

(m) if the applicant (and in the case of a body corporate, any officer of the body corporate) has previously been refused a similar licence under a relevant WHS law, a declaration giving details of that refusal;

(n) if the applicant (and in the case of a body corporate, any officer of the body corporate) has previously held a

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similar licence under a relevant WHS law, a declaration—

(i) describing any condition imposed on that licence; and

(ii) stating whether or not that licence had been suspended or cancelled and, if so, whether or not the applicant (and in the case of a body corporate, any officer of the body corporate) had been disqualified from applying for a similar licence; and

(iii) giving details of any suspension, cancellation or disqualification;

(o) in the case of an application for an asbestos removal licence—the additional information mentioned in section 493 or 494, as applicable;

(p) in the case of an asbestos assessor licence—the additional information mentioned in section 495;

(q) a declaration that the information contained in the application is, to the best of the applicant's knowledge, true and correct.

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

493 Content of application—class A asbestos removal licence

(1) For section 492(2)(o), an application for a class A asbestos removal licence must include the following—

(a) the names of 1 or more competent persons who have been engaged by the applicant to supervise the asbestos removal work to be authorised by the licence;

(b) evidence, as required by the regulator, that each named supervisor is at least 18 years of age;

(c) a copy of a certification issued to each named supervisor for the specified VET course for the supervision of asbestos removal work;

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(d) evidence that each named supervisor has at least 3 years of relevant industry experience;

(e) evidence that the applicant has a certified safety management system in place.

(2) If the applicant is an individual who proposes to supervise the carrying out of the class A asbestos removal work, the statement and information mentioned in subsection (1)(b), (c) and (d) must relate to the applicant.

494 Content of application—class B asbestos removal licence

(1) For section 492(2)(o), an application for a class B asbestos removal licence must include—

(a) if the applicant is an individual who proposes personally to carry out the asbestos removal work to be authorised by the licence—the applicant's name and a copy of a relevant certification issued to the applicant; or

(b) otherwise—the name of a person whom the applicant proposes to carry out the asbestos removal work and a copy of a relevant certification issued to the person.

(2) In this section—

relevant certification means a certification for the specified VET course for either class A asbestos removal work or class B asbestos removal work.

495 Content of application—asbestos assessor licence

For section 492(2)(p), an application for an asbestos assessor licence must include—

(a) evidence that the applicant has acquired through training or experience the knowledge and skills of relevant asbestos removal industry practice; and

(b) either—

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(i) a copy of a certification held by the applicant in relation to the specified VET course for asbestos assessor work; or

(ii) evidence that the applicant holds a tertiary qualification in occupational health and safety, industrial hygiene, science, building construction or environmental health.

496 Additional information

(1) If an application for a licence does not contain sufficient information to enable the regulator to make a decision whether or not to grant the licence, the regulator may ask the applicant to provide additional information.

(2) A request for additional information must—

(a) state the date (not being less than 28 days after the request) by which the additional information is to be given; and

(b) be confirmed in writing.

(3) If an applicant does not provide the additional information by the date stated, the application is to be taken to have been withdrawn.

(4) The regulator may make more than 1 request for additional information.

497 Decision on application

(1) Subject to subsection (3), the regulator must grant an asbestos removal licence or asbestos assessor licence if satisfied about—

(a) the matters mentioned in subsection (2); and

(b) the additional matters mentioned in section 498 or 499, as applicable.

(2) The regulator must be satisfied about the following—

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(a) the application has been made as required under this regulation;

(b) the applicant does not hold an equivalent licence under a corresponding WHS law unless that licence is due for renewal;

(c) if the applicant is an individual, the applicant—

(i) resides in Queensland; or

(ii) resides outside Queensland and circumstances exist that justify the grant of the licence;

(d) if the applicant is a body corporate, the applicant's registered office—

(i) is located in Queensland; or

(ii) is located outside Queensland and circumstances exist that justify the grant of the licence;

(e) the applicant will be able to ensure that the work or other activities to which the licence relates are carried out safely and competently;

(f) the applicant will be able to ensure compliance with any conditions that will apply to the licence.

(3) The regulator must refuse to grant a licence if satisfied that—

(a) the applicant is disqualified under a corresponding WHS law from holding an equivalent licence; or

(b) the applicant, in making the application, has—

(i) given information that is false or misleading in a material particular; or

(ii) failed to give any material information that should have been given.

(4) If the regulator decides to grant the licence, the regulator must notify the applicant within 14 days after making the decision.

(5) If the regulator does not make a decision within 120 days after receiving the application or the additional information

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requested under section 496, the regulator is taken to have refused to grant the licence applied for.

Note—

A refusal to grant a licence (including under subsection (5)) is a reviewable decision, see section 676.

498 Class A asbestos removal licence—regulator to be satisfied about additional matters

For section 497(1)(b), in relation to a class A asbestos removal licence, the regulator must be satisfied that—

(a) each supervisor named by the applicant—

(i) is at least 18 years of age; and

(ii) holds a certification for—

(A) the specified VET course for asbestos removal supervision for class A asbestos removal work; and

(B) the specified VET course for the class A asbestos removal work; and

(iii) has at least 3 years of relevant industry experience; and

(b) the applicant has a certified safety management system in place.

499 Class B asbestos removal licence—regulator to be satisfied about additional matters

For section 497(1)(b), in relation to a class B asbestos removal licence the regulator must be satisfied a person named by the applicant as a person to carry out asbestos removal work under the licence holds a certification for the specified VET course for either class A asbestos removal work or class B asbestos removal work.

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500 Matters to be taken into account

For section 497(2)(e) and (f), the regulator must have regard to all relevant matters including the following—

(a) any relevant WHS conviction of the applicant (or in the case of a body corporate, any officer of the body corporate);

(b) any offence in relation to the unlawful disposal of hazardous waste under either of the following Acts for which the applicant (or in the case of a body corporate, any officer of the body corporate) has a conviction—

(i) the *Environmental Protection Act 1994*; or

Note—

See sections 437 (Offences of causing serious environmental harm), 438 (Offences of causing material environmental harm) of that Act for examples of relevant provisions.

(ii) the *Waste Reduction and Recycling Act 2011*;

Note—

See sections 103 (General littering provision) and 104 (Illegal dumping of waste provision) of that Act for examples of relevant provisions.

(c) the cancellation or suspension of any equivalent licence held by the applicant (or in the case of a body corporate, any officer of the body corporate), or any refusal to grant an equivalent licence to the applicant (or officer), under a relevant WHS law;

(d) any enforceable undertaking the applicant (or in the case of a body corporate, any officer of the body corporate) has entered into under a relevant WHS law;

(e) the record of the applicant (or in the case of a body corporate, any officer of the body corporate) in relation to any matters arising under a relevant WHS law.

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501 Refusal to grant licence—process

(1) If the regulator proposes to refuse to grant a licence, the regulator must provide a written notice to the applicant—

(a) informing the applicant of the reasons for the proposed refusal; and

(b) advising the applicant that the applicant may, by a stated date being not less than 28 days after giving the notice, make a submission to the regulator in relation to the proposed refusal.

(2) After the date stated under subsection (1)(b), the regulator must—

(a) if the applicant has made a submission in relation to the proposed refusal to grant the licence—consider that submission; and

(b) whether or not the applicant has made a submission—decide whether to grant or refuse to grant the licence; and

(c) within 14 days after making the decision—give the applicant written notice of the decision, including the reasons for the decision.

Note—

A refusal to grant a licence is a reviewable decision, see section 676.

502 Conditions of licence

(1) The regulator may impose conditions on an asbestos removal licence or asbestos assessor licence when granting or renewing the licence.

(2) Without limiting subsection (1), the regulator may impose conditions in relation to any of the following matters—

(a) control measures that must be implemented in relation to the carrying out of work or activities under the licence;

(b) the recording or keeping of information;

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(c) requiring the licence holder, or, for a class A asbestos removal licence, a nominated supervisor of the licence holder, to undergo retraining or reassessment during the term of the licence;

(d) the provision of information to the regulator;

(e) the nature of work or activities authorised by the licence;

(f) the circumstances in which work or activities authorised by the licence may be carried out.

Notes—

1 A person must comply with the conditions of a licence, see section 45 of the Act.

2 A decision to impose a condition on a licence is a reviewable decision, see section 676.

503 Duration of licence

Subject to this part, an asbestos removal licence or asbestos assessor licence takes effect on the day it is granted and, unless cancelled earlier, expires 5 years after that day.

504 Licence document

(1) If the regulator grants an asbestos removal licence or asbestos assessor licence, the regulator must issue to the applicant a licence document in the form approved by the regulator.

(2) The licence document must include—

(a) the name of the licence holder; and

(b) if the licence holder conducts the business or undertaking under a business name—that business name; and

(c) in the case of an asbestos removal licence—the class of asbestos removal licence and a description of the work within the scope of the licence; and

(d) any licence conditions imposed by the regulator; and

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(e) the day on which the licence was granted; and

(f) the expiry day of the licence.

505 Licence document to be available

(1) A licence holder must keep the licence document available for inspection under the Act.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) Subsection (1) does not apply if the licence document is not in the licence holder's possession because—

(a) it has been returned to the regulator under section 512; and

(b) the licence holder has applied for, but has not received, a replacement licence document under section 513.

Division 4 Amendment of licence document

506 Changes to information

(1) The licence holder of an asbestos removal licence or asbestos assessor licence must give the regulator written notice of any change to any material particular in any information given at any time by the licence holder to the regulator in relation to the licence within 14 days after the licence holder becomes aware of the change.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

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Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) Subsection (1) applies whether the information was given in the application for grant or renewal of the licence or in any other circumstance.

507 Change to nominated supervisor

(1) If there is a change in relation to a supervisor named to the regulator by the holder of a class A asbestos removal licence (other than a licence holder who is an individual), the licence holder must—

(a) if the change is to remove a supervisor—within 14 days after the change, ask the regulator to amend the licence under section 509 to make that change; and

(b) if the change is to add a supervisor—give the regulator the information about the supervisor mentioned in section 498.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) If the change mentioned in subsection (1) is to add a supervisor, that supervisor is not a nominated supervisor for the purposes of this regulation until the regulator has approved the nomination.

508 Amendment imposed by regulator

(1) The regulator may, on the regulator's own initiative, amend an asbestos removal licence or asbestos assessor licence, including amending the licence to—

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(a) vary or delete a condition of the licence; or

(b) impose a new condition on the licence.

(2) If the regulator proposes to amend a licence under subsection (1), the regulator must provide a written notice to the licence holder—

(a) informing the licence holder of the reasons for the proposed amendment; and

(b) advising the licence holder that the licence holder may, by a stated day being not less than 28 days after giving the notice, make a submission to the regulator in relation to the proposed amendment.

(3) After the day stated under subsection (2)(b), the regulator must—

(a) if the licence holder has made a submission in relation to the proposed amendment, consider that submission; and

(b) whether or not the licence holder has made a submission—decide—

(i) to make the proposed amendment; or

(ii) not to make the proposed amendment; or

(iii) to make a different amendment that results from consideration of any submission made by the licence holder; and

(c) within 14 days after making that decision, give the licence holder written notice that—

(i) sets out the amendment; and

(ii) if a submission was made in relation to the proposed amendment—sets out the regulator's reasons for making the amendment; and

(iii) states the day, being not less than the 28 days after the licence holder is given the notice, on which the amendment takes effect.

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Note—

A decision to amend a licence is a reviewable decision, see section 676.

509 Amendment on application by licence holder

(1) The regulator may, on application by the licence holder, amend an asbestos removal licence or asbestos assessor licence, including amending the licence to vary or delete a condition of the licence.

(2) If the regulator proposes to refuse to amend the licence under subsection (1), the regulator must provide a written notice to the licence holder—

(a) informing the licence holder of the intention to refuse to amend the licence and the reasons for the proposed refusal; and

(b) advising the licence holder that the licence holder may, by a stated date being not less than 28 days after giving the notice, make a submission to the regulator in relation to the proposed refusal.

(3) After the day stated under subsection (2)(b), the regulator must—

(a) if the licence holder has made a submission in relation to the proposed refusal—consider that submission; and

(b) whether or not the licence holder has made a submission—decide to—

(i) make the amendment; or

(ii) refuse to make the amendment; or

(iii) make a different amendment that results from consideration of any submission made by the licence holder; and

(c) within 14 days after making that decision, give the licence holder written notice of the decision under this section.

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(4) If the regulator makes the amendment, the notice under subsection (3) must state the day being not less than 28 days after the licence holder is given the decision notice on which the amendment takes effect.

(5) If the regulator refuses to make the amendment or makes a different amendment, the notice under subsection (3) must—

(a) if a submission was made in relation to the proposed amendment—set out the reasons for the regulator's decision; and

(b) if the regulator makes a different amendment—

(i) set out the amendment; and

(ii) state the day being not less than 28 days after the licence holder is given the notice on which the amendment takes effect.

Note—

A refusal to make the amendment applied for, or a decision to make a different amendment, is a reviewable decision, see section 676.

510 Minor corrections to licence

The regulator may make minor amendments to a licence, including an amendment—

(a) to correct an obvious error; or

(b) to change an address; or

(c) that imposes no significant burden on the licence holder.

511 Regulator to provide amended licence

If the regulator amends an asbestos removal licence or asbestos assessor licence and considers that the licence document requires amendment, the regulator must give the licence holder an amended licence document within 14 days of making the decision.

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512 Licence holder to return licence

The holder of an asbestos removal licence or asbestos assessor licence that has been amended must return the licence document to the regulator for amendment at the written request of the regulator and within the time stated in the request.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

513 Replacement licence document

(1) A licence holder of an asbestos removal licence or an asbestos assessor licence must notify the regulator as soon as practicable if the licence document is lost, stolen or destroyed.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) If a licence document is lost, stolen or destroyed, the licence holder may apply to the regulator for a replacement document.

Note—

A licence holder is required to keep the licence document available for inspection, see section 505.

(3) An application for a replacement licence document must be made in the way and in the form approved by the regulator.

(4) The application must include—

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(a) a declaration describing the circumstances in which the original document was lost, stolen or destroyed; and

(b) a declaration that the information contained in the application is, to the best of the applicant's knowledge, true and correct; and

(c) the relevant fee.

(5) The regulator may issue a replacement licence document if satisfied that the original document was lost, stolen or destroyed.

(6) If the regulator refuses to issue a replacement licence document, it must give the licence holder written notice of this decision, including the reasons for the decision, within 14 days after making the decision.

Note—

A refusal to issue a replacement licence document is a reviewable decision, see section 676.

514 Voluntary surrender of licence

(1) A licence holder may voluntarily surrender the licence document to the regulator.

(2) The licence expires on the surrender of the licence document.

Division 5 Renewal of licence

515 Regulator may renew licence

The regulator may renew an asbestos removal licence or asbestos assessor licence on application by the licence holder.

516 Application for renewal

(1) An application for renewal of an asbestos removal licence or asbestos assessor licence must be made in the way and in the form approved by the regulator.

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(2) The application must include the following information—

(a) the name and address of the applicant;

(b) if required by the regulator of an applicant who is an individual, a photograph of the applicant in the form required by the regulator;

(c) any other evidence of the applicant's identity required by the regulator;

(d) written evidence that the applicant has obtained any retraining or reassessment or taken any other action required under section 502;

(e) a declaration by the applicant that the applicant or a supervisor named by the applicant, as applicable, has maintained the competency required to carry out the work covered by the licence.

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

(4) The application must be made before the expiry of the licence.

517 Provisions relating to renewal of licence

(1) For this division—

(a) section 496 applies as if a reference in that section to an application for a licence were a reference to an application to renew a licence; and

(b) sections 497 (except subsection (5)) and 503 apply as if a reference in those sections to the grant of a licence were a reference to the renewal of a licence; and

(c) section 500 applies as if a reference in section 497 to the grant of a licence were a reference to the renewal of a licence; and

(d) section 501 applies as if a reference in that section to a refusal to grant a licence were a reference to a refusal to renew a licence.

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(2) The regulator must not renew an asbestos removal licence unless the regulator is satisfied about the matters mentioned in section 518.

(3) The regulator may renew an asbestos removal licence or asbestos assessor licence granted to a person under a corresponding WHS law unless that licence is renewed under that law.

(4) If a licence holder applies under section 516 for the renewal of an asbestos removal licence or asbestos assessor licence, the licence is taken to continue in force from the day it would, apart from this subsection, have expired until the licence holder is given notice of the decision on the application.

Note—

A refusal to renew a licence is a reviewable decision, see section 676.

518 Renewal of asbestos removal licence—regulator to be satisfied about particular matters

For section 517, the regulator must not renew an asbestos removal licence unless satisfied that—

(a) asbestos removal work of the type authorised by the licence has been carried out by or on behalf of the applicant during the term of the licence; and

(b) for a class A asbestos removal licence—each supervisor named by the applicant—

(i) holds a certification for the specified VET course for supervision of class A asbestos removal work; and

(ii) has appropriate experience in class A asbestos removal work.

519 Status of licence during review

(1) This section applies if the regulator gives a licence holder written notice of its decision to refuse to renew the licence.

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(2) If the licence holder does not apply for internal review of the decision, the licence continues to have effect until the last of the following events—

(a) the expiry of the licence;

(b) the end of the time for applying for an internal review.

(3) If the licence holder applies for an internal review of the decision, the licence continues to have effect until the earlier of the following events—

(a) the licence holder withdraws the application for review;

(b) the regulator makes a decision on the review.

(4) If the licence holder does not apply for an external review, the licence continues to have effect until the end of the time for applying for an external review.

(5) If the licence holder applies for an external review, the licence continues to have effect until the earlier of the following events—

(a) the licence holder withdraws the application for review; or

(b) QCAT makes a decision on the review.

(6) The licence continues to have effect under this section even if its expiry date passes.

Division 6 Suspension and cancellation of licence

520 Suspension or cancellation of licence

(1) The regulator may suspend or cancel an asbestos removal licence or asbestos assessor licence if satisfied about 1 or more of the following—

(a) the licence holder has failed to ensure that the work or other activities authorised by the licence are carried out safely and competently;

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(b) the licence holder has failed to ensure compliance with a condition of the licence, including a condition requiring the following persons to undergo retraining or reassessment during the term of the licence—

(i) the licence holder;

(ii) for a class A asbestos removal licence—a nominated supervisor of the licence holder;

(c) the licence holder, in the application for the grant or renewal of the licence or on request by the regulator for additional information—

(i) gave information that was false or misleading in a material particular; or

(ii) failed to give any material information that should have been given in that application or on that request;

(d) in relation to an asbestos removal licence—the licence was granted or renewed on the basis of a certification that was obtained on the basis of the giving of false or misleading information by any person or body;

(e) in relation to a class A asbestos removal licence—the licence holder has failed to have a certified safety management system in place.

(2) It is a ground for the suspension or cancellation of a class A asbestos removal licence if the licence holder does not have a qualified nominated asbestos removal supervisor.

Note—

Section 507 provides for a holder of a class A asbestos removal licence to notify the regulator of any change in a nominated supervisor.

(3) For subsection (1)(b), a licence holder complies with a condition on the licence that requires a person to undergo retraining or reassessment during the term of the licence if the licence holder provides a certification in relation to that retraining or reassessment.

(4) If the regulator suspends or cancels a licence, the regulator may disqualify the licence holder from applying for—

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(a) a further licence of the same type; or

(b) another licence under this regulation to carry out work which requires skills that are the same as or similar to those required for the work authorised by the licence that has been suspended or cancelled.

Note—

A decision to suspend a licence, to cancel a licence or to disqualify the licence holder from applying for a further licence is a reviewable decision, see section 676.

521 Matters taken into account

(1) In making a decision under section 520, the regulator must have regard to—

(a) any submissions made by the licence holder under section 522; and

(b) any advice received from a corresponding regulator.

(2) For section 520(1)(a) and (b), the regulator must have regard to all relevant matters, including the following—

(a) any relevant WHS conviction of the licence holder;

(b) any of the following acts under a relevant WHS law—

(i) the suspension or cancellation of an equivalent licence held by the licence holder;

(ii) a refusal to grant an equivalent licence to the licence holder;

(iii) the imposition of any condition on an equivalent licence held by the licence holder;

(c) any enforceable undertaking the licence holder has entered into under a relevant WHS law;

(d) the record of the licence holder in relation to any matters arising under a relevant WHS law.

(3) For section 520(1)(a) and (b), if the licence holder is a body corporate, the regulator must have regard to all relevant

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matters, including matters referred to in subsection (2), in relation to—

(a) the body corporate; and

(b) each officer of the body corporate.

522 Notice to and submissions by licence holder

Before suspending or cancelling an asbestos removal licence or asbestos assessor licence, the regulator must—

(a) give the licence holder a written notice of the proposed suspension or cancellation and any proposed disqualification that outlines all relevant allegations, facts and circumstances known to the regulator; and

(b) give the licence holder not less than 28 days to make submissions to the regulator in relation to the proposed suspension or cancellation and any proposed disqualification.

523 Notice of decision

(1) The regulator must give the licence holder written notice of a decision under section 520 to suspend or cancel an asbestos removal licence or asbestos assessor licence within 14 days after the decision.

(2) The notice must—

(a) state that the licence is to be suspended or cancelled; and

(b) if the licence is to be suspended, state—

(i) when the suspension starts and ends; and

(ii) the reasons for the suspension; and

(iii) whether the licence holder is required to undergo retraining or reassessment or take any other action before the suspension ends; and

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(iv) whether or not the licence holder is disqualified from applying for a further licence during the suspension; and

(c) if the licence is to be cancelled, state—

(i) when the cancellation takes effect; and

(ii) the reasons for the cancellation; and

(iii) whether or not the licence holder is disqualified from applying for a further licence; and

(d) if the licence holder is disqualified from applying for a further licence, state—

(i) when the disqualification starts and ends; and

(ii) the reasons for the disqualification; and

(iii) whether or not the disqualification ending is conditional upon the licence holder undergoing retraining or reassessment or taking any other action; and

(iv) any other class of licence under this regulation that the licence holder is disqualified from applying for during the suspension or disqualification; and

(e) state when the licence document must be returned to the regulator.

524 Immediate suspension

(1) The regulator may suspend an asbestos removal licence or asbestos assessor licence on a ground mentioned in section 520 without giving notice under section 522, if satisfied that—

(a) work carried out under the licence should stop because the work may involve an imminent serious risk to the health or safety of any person; or

(b) a corresponding regulator has suspended an equivalent licence held by the licence holder under this section as applying in the corresponding jurisdiction.

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(2) If the regulator decides to suspend a licence under this section—

(a) the regulator must give the licence holder written notice of the suspension and the reasons for the suspension; and

(b) the suspension of the licence takes effect on the giving of the notice.

(3) The regulator must then give notice under section 522 within 14 days after giving the notice under subsection (2) and must make a decision under section 520 as soon as practicable.

(4) If the regulator does not give notice under subsection (3), the suspension ends at the end of the 14 day period.

(5) If the regulator gives the notice under section 522, the licence remains suspended until the decision is made under section 520.

525 Licence holder to return licence document

A licence holder, on receiving a notice under section 523, must return the licence document to the regulator in accordance with the notice.

Maximum penalty—

(a) for an individual—$12^1/_2$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

526 Regulator to return licence document after suspension

The regulator must return the licence document to the licence holder within 14 days after the licence suspension ends.

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Division 7 General

527 Asbestos removal licence register

The regulator must keep a register of—

(a) each person holding an asbestos removal licence; and

(b) each supervisor named to the regulator in relation to a class A asbestos removal licence.

528 Asbestos assessors register

The regulator must keep a publicly available register of each person holding an asbestos assessor licence.

529 Asbestos removal work must be supervised

A person who holds an asbestos removal licence must ensure that asbestos removal work authorised by the licence is supervised by—

(a) for class A asbestos removal work—a nominated supervisor of the licence holder; or

(b) for class B asbestos removal work carried out by more than 1 person—a person the licence holder is satisfied—

(i) is at least 18 years of age; and

(ii) holds a certification for the specified VET course for either class A asbestos removal work or class B asbestos removal work; and

(iii) has at least 1 year of relevant industry experience.

Maximum penalty—36 penalty units.

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Chapter 9 Major hazard facilities

Part 9.1 Preliminary

Division 1 Application and interpretation

530 This chapter does not apply to particular facilities

(1) This chapter does not apply in relation to a facility regulated by the National Offshore Petroleum Safety and Environmental Management Authority under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cwlth).

(2) This chapter does not apply in relation to a facility that is a magazine under the *Explosives Act 1999* at which no processing activity involving dangerous goods, including explosives, is carried out.

531 Meaning of *major incident*

(1) In this part, a ***major incident*** at a major hazard facility is an occurrence that—

(a) results from an uncontrolled event at the major hazard facility involving, or potentially involving, schedule 15 chemicals; and

(b) exposes a person to a serious risk to health or safety emanating from an immediate or imminent exposure to the occurrence.

(2) Without limiting subsection (1), an ***occurrence*** includes—

(a) escape, spillage or leakage; or

(b) implosion, explosion or fire.

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532 Meaning of hazardous chemicals that are *present or likely to be present*

(1) A reference in this regulation to hazardous chemicals, including schedule 15 chemicals, being ***present or likely to be present*** at a facility is a reference to the quantity of hazardous chemicals that would, if present, meet the maximum capacity of the facility, including—

(a) the maximum capacity of process vessels and interconnecting pipe systems that contain the hazardous chemicals; and

(b) the maximum capacity of storage tanks and vessels used for the hazardous chemicals; and

(c) the maximum capacity of other storage areas at the facility that could contain the hazardous chemicals; and

(d) the maximum capacity of pipe work outside process areas to contain the hazardous chemicals; and

(e) the maximum quantity of hazardous chemicals that would, in the event of failure, escape into the facility from a pipe work that is situated off the premises but is connected to the facility; and

(f) the maximum quantity of hazardous chemicals loaded into or onto, or unloaded from, vehicles, trailers, rolling stock and ships that are from time to time present at the facility in the course of the facility's operations.

(2) Subsection (1) applies with any necessary changes to hazardous chemicals that are ***likely to be present*** at a proposed facility.

(3) Schedule 15 chemicals present or likely to be present in the tailings dam of a mine are not to be considered in determining whether a mine is a facility or a major hazard facility.

533 Meaning of *operator* of a facility or proposed facility

(1) In this chapter, the ***operator*** of a facility is the person conducting the business or undertaking of operating the facility who has—

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(a) management or control of the facility; and

(b) the power to direct that the whole facility be shut down.

(2) In this chapter, ***operator of a proposed facility*** means—

(a) the operator of a proposed facility that is an existing workplace; or

(b) the person who is to be the operator of a proposed facility that is being designed or constructed.

(3) If more than 1 person is an operator of the facility within the meaning of subsection (1)—

(a) 1 of those persons must be selected as the operator of the facility for the purposes of this chapter; and

(b) that person's details must be given to the regulator.

(4) The person selected—

(a) must inform the regulator of the nomination; and

(b) may do so by including it in a notification under section 536.

(5) The person selected under subsection (3) is the operator of the facility for the purposes of this chapter.

(6) If a selection is not made, each of the following persons is taken to be an operator of the facility for the purposes of this chapter—

(a) each operator within the meaning of subsection (1) who is an individual;

(b) for each operator within the meaning of subsection (1) that is a body corporate—each officer of the body corporate.

534 Meaning of *modification* of a facility

(1) In this regulation, a reference to a ***modification*** of a major hazard facility is a reference to a change or proposed change at the major hazard facility that has or would have the effect of—

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(a) creating a major incident hazard that has not previously been identified; or

(b) significantly increasing the likelihood of a major incident occurring; or

(c) in relation to a major incident that may occur—significantly increasing—

(i) its magnitude; or

(ii) the severity of its health and safety consequences.

(2) For the purposes of subsection (1), a ***change or proposed change*** at a major hazard facility means a change or proposed change of any kind, including any of the following—

(a) a change to any plant, structure, process or chemical or other substance used in a process, including the introduction of new plant, a new structure, a new process or a new chemical;

(b) a change to the quantity of schedule 15 chemicals present or likely to be present at the major hazard facility;

(c) a change to the operation, or the nature of the operation, of the major hazard facility;

(d) a change in the workers' safety role;

(e) a change to the major hazard facility's safety management system;

(f) an organisational change at the major hazard facility, including a change in its senior management.

Division 2 Requirement to be licensed

535 A major hazard facility must be licensed

(1) A facility at which schedule 15 chemicals are present or likely to be present in a quantity that exceeds their threshold quantity must be licensed under part 9.7.

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Note—

See section 41 of the Act.

(2) A facility that is determined to be a major hazard facility under section 541 must be licensed under part 9.7.

Note—

See section 41 of the Act.

(3) Despite subsection (1) or (2), a determined major hazard facility is exempt from the requirement to be licensed during the exemption period if the operator of the major hazard facility is taken to be a suitable person to operate the facility under part 9.2.

(4) The operator of a licensed major hazard facility must hold the licence for the major hazard facility.

(5) In this section—

exemption period, in relation to a determined major hazard facility, means the period beginning on the determination of the facility and ending on the first of the following to occur—

(a) the revocation of the determination of the facility under section 546;

(b) the end of the period for applying for a licence given under section 549, unless an application for a licence for the facility is made within that period;

(c) the grant of a licence for the facility under part 9.7;

(d) if the regulator decides to refuse to grant a licence for the facility—

(i) the end of the period for applying for an external review of that decision, unless an application for external review is made within that period; or

(ii) the making of the decision on the external review.

Notes—

1 The licensing process is provided for in part 9.7.

2 Under part 9.2, an operator of a determined major hazard facility is taken to be a suitable operator if no determination is made under section 543.

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3 Under part 9.3 the operator of a determined major hazard facility is given a limited time to prepare the major hazard facility to be licensed, including by preparing a safety case.

4 Part 9.2 provides for the notification and determination of facilities and operators of facilities. The purpose of notification is to enable the regulator to determine whether—

(a) a facility or proposed facility is a major hazard facility; and

(b) the operator of a determined major hazard facility is a suitable person to—

(i) operate the facility while the determination under paragraph (a) is in force; and

(ii) apply for a licence for the facility.

Part 9.2 Determinations about major hazard facilities

536 Operators of particular facilities must notify regulator

(1) The operator of a facility at which schedule 15 chemicals are present or likely to be present in a quantity that exceeds 10% of their threshold quantity must notify the regulator of this circumstance under this part.

Maximum penalty—60 penalty units.

(2) Notification must be given—

(a) as soon as practicable (but no more than 3 months) after the operator becomes aware, or ought reasonably to have become aware, of the circumstance giving rise to the requirement to notify; or

(b) within any longer period that the regulator determines if satisfied on application by the operator that there is a reasonable excuse for the delayed notification.

537 Notification—proposed facilities

(1) The operator of a proposed facility at which schedule 15 chemicals are likely to be present in a quantity that exceeds

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10% of their threshold quantity may notify the regulator of this circumstance.

Notes—

1 See the definition of *proposed facility* in schedule 19.

2 For the meaning of *likely to be present*, see section 532.

(2) Any notification under this section must include the information required by section 538 (with any necessary changes).

538 Content of notification

(1) A notification under section 536 must be made in the way and in the form approved by the regulator.

(2) The notification must include the following—

(a) information about the facility, including the nature of its operations;

(b) information about the operator, including the matters stated in subsection (2);

(c) information about the schedule 15 chemicals present or likely to be present at the facility;

(d) the nomination of a contact person with whom the regulator can communicate for the purposes of—

(i) this part; and

(ii) the licensing process;

(e) any additional information required by the regulator.

(3) The information given under subsection (2)(b) must include—

(a) if the operator is an individual—

(i) a declaration as to whether or not the operator has any relevant WHS conviction; and

(ii) details of any relevant WHS conviction declared under subparagraph (i); and

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(iii) a declaration as to whether or not the operator has entered into an enforceable undertaking under the Act or under any corresponding WHS law; and

(iv) details of any enforceable undertaking declared under subparagraph (iii); and

(v) if the operator has previously been refused an equivalent licence under a relevant WHS law, a declaration giving details of that refusal;

(vi) if the operator has previously held an equivalent licence under a relevant WHS law, a declaration—

(A) describing any condition imposed on that licence; and

(B) stating whether or not that licence had been suspended or cancelled and, if so, whether or not the operator had been disqualified from applying for a similar licence; and

(C) giving details of any suspension, cancellation or disqualification;

(vii) a declaration that the information contained in the application is, to the best of the operator's knowledge, true and correct;

(viii) any additional information required by the regulator; and

(b) if the operator is a body corporate, the information stated in paragraph (a) in relation to—

(i) the operator; and

(ii) each officer of the operator.

539 When regulator may conduct inquiry

The regulator may conduct an inquiry under this part if a notification under section 536 or 537 discloses, or if for some other reason the regulator reasonably suspects, that—

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(a) the quantity of schedule 15 chemicals present or likely to be present at a facility (or proposed facility) exceeds 10% of their threshold quantity but does not exceed their threshold quantity; or

(b) the operator of the facility (or proposed facility) may not be a suitable person to operate the facility (or proposed facility).

540 Inquiry procedure

(1) This section sets out the procedure for an inquiry.

(2) The regulator must give a written notice to the person mentioned in subsection (3)—

(a) informing the person of the reasons for the inquiry; and

(b) advising the person that the person may, by a stated date (being not less than 28 days after the notice is given), make a submission to the regulator in relation to the inquiry.

(3) Notice under subsection (2) must be provided—

(a) for an inquiry about a facility in relation to which a notification has been given under section 536 or 537—to the contact person identified in the notification; and

(b) in any other case—to the operator of the facility.

(4) The regulator must—

(a) if the recipient of the notice has made a submission in relation to the inquiry—consider that submission; and

(b) consult with interested persons including—

(i) health and safety representatives at the facility; and

(ii) the emergency service organisations that have responsibility for the area in which the facility is located; and

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(iii) any government department or agency with a regulatory role in relation to major hazard facilities; and

(c) decide whether or not to make a determination under section 541 or 542.

(d) if it decides to make a determination under section 541 or 542—decide whether or not to make a determination in relation to the operator under section 543.

541 Determination in relation to facility, on inquiry

(1) This section applies if an inquiry discloses that the quantity of schedule 15 chemicals present or likely to be present at a facility or proposed facility exceeds 10% of their threshold quantity, but does not exceed their threshold quantity.

(2) The regulator may determine the facility or proposed facility to be a major hazard facility if the regulator considers that there is a potential for a major incident to occur at the facility or proposed facility having regard to any relevant matter, including—

(a) the quantity and combination of schedule 15 chemicals present or likely to be present at the facility; and

(b) the type of activity at the facility that involves the schedule 15 chemicals; and

(c) land use and other activities in the surrounding area.

Notes—

1 If an inquiry discloses that the quantity of schedule 15 chemicals present or likely to be present at a facility exceeds their threshold quantity, the facility is a major hazard facility. See the definition of *major hazard facility* in schedule 19.

2 A determination that a facility is a major hazard facility, or a decision not to determine a proposed facility to be a major hazard facility, is a reviewable decision, see section 676.

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542 Determination in relation to over-threshold facility

(1) This section applies if a notification under section 536 or 537 discloses that the quantity of schedule 15 chemicals present or likely to be present at a facility (or proposed facility) exceeds their threshold quantity.

(2) The regulator must make a determination confirming the facility (or proposed facility) to be a major hazard facility.

Note—

A determination that a facility is a major hazard facility is a reviewable decision, see section 676.

543 Suitability of facility operator

(1) This section applies if the regulator determines a facility or a proposed facility to be a major hazard facility under section 541 or 542.

(2) The regulator may determine that the operator of the major hazard facility or proposed major hazard facility is not a suitable person to operate the major hazard facility if the regulator—

(a) has conducted an inquiry under section 540 into the suitability of the operator; and

(b) is satisfied on reasonable grounds that the operator is not a suitable person to operate the major hazard facility or proposed major hazard facility.

(3) If no determination is made under this section, the operator of the major hazard facility or proposed major hazard facility is taken to be a suitable person to operate the major hazard facility and to apply for a major hazard facility licence.

Note—

A determination that a person is not a suitable operator is a reviewable decision, see section 676.

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544 Conditions on determination of major hazard facility

(1) The regulator may impose conditions on a determination made under section 541 or 542.

(2) Without limiting subsection (1), the regulator may impose conditions in relation to any of the following matters—

(a) additional control measures which must be implemented in relation to the carrying out of work or activities at the determined major hazard facility;

(b) the recording or keeping of additional information;

(c) the provision of additional information, training and instruction or the provision of specified information, training and instruction to additional persons or classes of persons;

(d) the provision of additional information to the regulator;

(e) if the operator is a person conducting a business or undertaking, the additional class of persons who may carry out work or activities on the operator's behalf.

(3) The operator of a determined major hazard facility, in relation to which conditions are imposed under this section, must ensure that the conditions are complied with.

Note—

A decision to impose a condition on a determination is a reviewable decision, see section 676.

545 Notice and effect of determinations

(1) If the regulator makes a determination under this part, the regulator must give the operator of the determined major hazard facility a written notice of the determination, stating—

(a) the reasons for the determination; and

(b) the date on which the determination takes effect, which must be at least 28 days after the date of the notice; and

(c) any conditions imposed on the determination under section 544.

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(2) The notice must be given within 14 days of the making of the determination.

(3) The effect of a determination under section 543 is that—

(a) the operator is not taken to be a suitable person to operate the determined major hazard facility; and

(b) the exemption provided by section 535(3) does not apply to the determined major hazard facility.

Note—

For the effect of a determination under section 541 or 542, see the definition of *determined major hazard facility* in schedule 19.

(4) A determination takes effect on the date stated in the notice.

(5) A determination is of unlimited duration unless it is revoked.

546 When regulator may revoke a determination

The regulator may revoke a determination under this part if, after consultation with the major hazard facility's contact person or operator (as applicable), the regulator is satisfied that the reasons for the determination no longer apply.

547 Re-notification if quantity of schedule 15 chemicals increases

(1) This section applies to a facility or proposed facility—

(a) at which the quantity of schedule 15 chemicals present or likely to be present exceeds 10% of their threshold quantity but does not exceed their threshold quantity; and

(b) in relation to which notification was given under section 536 or 537; and

(c) in relation to which the regulator—

(i) has not conducted an inquiry under this part; or

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(ii) on conducting an inquiry under this part, has not determined the facility or proposed facility to be a major hazard facility under section 541.

(2) The operator of the facility or proposed facility must re-notify the regulator under this part if the quantity of schedule 15 chemicals present or likely to be present at the facility or proposed facility increases, or is likely to increase, to a level that exceeds the level previously notified to the regulator.

Maximum penalty—36 penalty units.

(3) The provisions of this part apply, to the extent that they relate to a re-notification under this section, as if the re-notification were a notification under section 536.

548 Notification by new operator

(1) This section applies—

(a) in relation to a determined major hazard facility that is proposed to be operated by a new operator; and

(b) whether or not the current operator was subject to a determination under section 543.

(2) The proposed operator of the determined major hazard facility must give the regulator a notification that contains the information specified in section 538(2) in relation to the proposed operator.

Maximum penalty—36 penalty units.

(3) The provisions of this part apply, to the extent that they relate to the suitability of an operator, as if the notification under subsection (1) were a notification under section 536.

549 Time in which major hazard facility licence must be applied for

(1) Subject to this section, the operator of a determined major hazard facility must apply for a major hazard facility licence within 24 months after the determination of the facility.

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(2) The regulator may extend the time in which the operator of a determined major hazard facility must apply for a licence if satisfied, on application by the operator, that there has not been sufficient time to comply with part 9.3.

Note—

The exemption from the requirement to be licensed is conditional on an application for a licence being made within the time stated by this section, see section 535(3) and (5).

Part 9.3 Duties of operators of determined major hazard facilities

Notes—

1 The operator of a determined major hazard facility is required to comply with this part for a stated period and to prepare a safety case in order to apply for a major hazard facility licence.

2 The Act and chapter 7 of this regulation (Hazardous Chemicals) continue to apply to a determined major hazard facility.

Division 1 Application of part 9.3

550 Application of pt 9.3

This part ceases to apply to a determined major hazard facility at the end of the exemption period applying to that facility under section 535.

Division 2 Safety case outline

551 Safety case outline must be provided

The operator of a determined major hazard facility must provide the regulator with a safety case outline for the major

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hazard facility within 3 months after the facility is determined to be a major hazard facility.

Maximum penalty—36 penalty units.

552 Content

A safety case outline provided under section 551 must include the following—

(a) a written plan for the preparation of the safety case, including key steps and timelines, with reference being made to each element of the safety case;

(b) a description of the methods to be used in preparing the safety case, including methods for ensuring that all the information contained in the safety case is accurate and up to date when the safety case is provided to the regulator;

(c) details of the resources that will be applied to the preparation of the safety case, including the number of persons involved, their relevant knowledge and experience and sources of technical information;

(d) a description of the consultation with workers that—

(i) occurred in the preparation of the safety case outline; and

(ii) will occur in the preparation of the safety case;

(e) a draft of the emergency plan prepared or to be prepared under section 557;

(f) a summary of any arrangements that are to be made in relation to the security of the major hazard facility.

Example—

arrangements for preventing unauthorised access to the major hazard facility

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553 Alteration

(1) If the regulator is not satisfied that a safety case outline provided by the operator of a determined major hazard facility will lead to the development of a safety case that complies with section 561, the regulator may require the operator to alter the outline.

(2) If the regulator proposes to require an operator to alter a safety case outline, the regulator must provide a written notice to the operator—

(a) informing the operator of the proposed requirement and the reasons for it; and

(b) advising the operator that the operator may make a submission to the regulator in relation to the proposed requirement; and

(c) stating the date (being not less than 28 days) by which the submission must be made.

(3) The regulator must—

(a) if the operator has made a submission in relation to the proposed requirement to alter a safety case outline—consider that submission; and

(b) whether or not the operator has made a submission—decide whether or not to require the operator to alter the outline; and

(c) within 14 days after deciding, give the operator written notice of the decision, including details of the alteration required and the reasons why it is required.

(4) The operator must alter the outline as required.

Maximum penalty—36 penalty units.

(5) The operator must give the regulator a copy of a safety case outline that has been altered—

(a) under this section; or

(b) by the operator on the operator's initiative.

Maximum penalty—36 penalty units.

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(6) The safety case outline as altered becomes the safety case outline for the major hazard facility.

Division 3 Management of risk

554 Identification of major incidents and major incident hazards

(1) The operator of a determined major hazard facility must identify—

(a) all major incidents that could occur in the course of the operation of the major hazard facility; and

(b) all major incident hazards for the major hazard facility, including major incident hazards relating to the security of the major hazard facility.

Maximum penalty—60 penalty units.

(2) In complying with subsection (1), the operator must have regard to any advice and recommendations given by—

(a) the emergency service organisations with responsibility for the area in which the major hazard facility is located; and

(b) any government department or agency with a regulatory role in relation to major hazard facilities.

(3) The operator must document—

(a) all identified major incidents and major incident hazards; and

(b) the criteria and methods used in identifying the major incidents and major incident hazards; and

(c) any external conditions under which the major incident hazards, including those relating to the security of the major hazard facility, might give rise to the major incidents.

Maximum penalty for subsection (3)—60 penalty units.

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555 Safety assessment

(1) The operator of a determined major hazard facility must conduct a safety assessment in relation to the operation of the major hazard facility.

Maximum penalty—60 penalty units.

(2) In order to provide the operator with a detailed understanding of all aspects of risks to health and safety associated with major incidents, a safety assessment must involve a comprehensive and systematic investigation and analysis of all aspects of risks to health and safety associated with all major incidents that could occur in the course of the operation of the major hazard facility, including the following—

(a) the nature of each major incident and major incident hazard;

(b) the likelihood of each major incident hazard causing a major incident;

(c) in the event of a major incident occurring, its potential magnitude and the severity of its potential health and safety consequences;

(d) the range of control measures considered;

(e) the control measures the operator decides to implement.

(3) In conducting a safety assessment, the operator must—

(a) consider major incidents and major incident hazards cumulatively as well as individually; and

(b) use assessment methods (whether quantitative or qualitative, or both), that are suitable for the major incidents and major incident hazards being considered.

(4) The operator must document all aspects of the safety assessment, including—

(a) the methods used in the investigation and analysis; and

(b) the reasons for deciding which control measures to implement.

Maximum penalty—60 penalty units.

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(5) The operator must keep a copy of the safety assessment at the major hazard facility.

Maximum penalty for subsection (5)—36 penalty units.

556 Control of risk

(1) The operator of a determined major hazard facility must implement control measures that—

(a) eliminate, so far as is reasonably practicable, the risk of a major incident occurring; or

(b) if it is not reasonably practicable to eliminate that risk—minimise that risk so far as is reasonably practicable.

Note—

WHS Act—section 20 (see section 9).

(2) The operator of a determined major hazard facility must implement risk control measures designed to minimise, in the event of a major incident occurring, its magnitude and the severity of its consequences to persons both on-site and off-site.

Maximum penalty—60 penalty units.

557 Emergency plan

(1) The operator of a determined major hazard facility must prepare an emergency plan for the major hazard facility that—

(a) addresses all health and safety consequences of a major incident occurring; and

(b) includes all matters specified in schedule 16; and

(c) provides for testing of emergency procedures, including the frequency of testing.

Maximum penalty—60 penalty units.

(2) In preparing an emergency plan, the operator must consult with—

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(a) the emergency service organisations with responsibility for the area in which the major hazard facility is located; and

(b) in relation to the off-site health and safety consequences of a major incident occurring—the local government.

(3) The operator must ensure that the emergency plan addresses any recommendation made by the emergency service organisations consulted under subsection (2) in relation to—

(a) the testing of the emergency plan, including the manner in which it will be tested, the frequency of testing and whether or not the emergency service organisations will participate in the testing; and

(b) what incidents or events at the major hazard facility should be notified to the emergency service organisations.

(4) The operator must have regard to any other recommendation or advice given by a person consulted under subsection (2).

(5) The operator must—

(a) keep a copy of the plan at the major hazard facility; and

(b) provide a copy of the plan to—

(i) the emergency service organisations consulted under subsection (2); and

(ii) any other relevant emergency service organisations.

Maximum penalty—60 penalty units.

(6) The operator must test the emergency plan in accordance with the recommendations made by the emergency service organisations consulted under subsection (2) before applying for a licence for the major hazard facility.

Maximum penalty—60 penalty units.

(7) The operator must, as soon as possible, implement the emergency plan if—

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(a) a major incident occurs in the course of the operation of the major hazard facility; or

(b) an event occurs that could reasonably be expected to lead to a major incident.

Maximum penalty—60 penalty units.

(8) The operator must notify the emergency service organisations consulted under subsection (2) of the occurrence of an incident or event mentioned in subsection (3)(b).

Maximum penalty for subsection (8)—36 penalty units.

Note—

This section applies in addition to section 43.

558 Safety management system

(1) The operator of a determined major hazard facility must establish a safety management system for the operation of the major hazard facility, under this section.

(2) The operator of a determined major hazard facility must implement the safety management system for the major hazard facility, so far as reasonably practicable.

Maximum penalty—60 penalty units.

(3) The safety management system must—

(a) provide a comprehensive and integrated system for the management of all aspects of risk control in relation to the occurrence and potential occurrence of major incidents at the major hazard facility; and

(b) be designed to be used by the operator as the primary means of ensuring the safe operation of the major hazard facility.

(4) The safety management system must—

(a) be documented; and

(b) state the operator's safety policy, including the operator's broad aims in relation to the safe operation of the major hazard facility; and

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(c) state the operator's specific safety objectives and describe the systems and procedures that will be used to achieve those objectives; and

(d) include the matters specified in schedule 17; and

(e) be readily accessible to persons who use it.

559 Review of risk management

(1) The operator of a determined major hazard facility must review and as necessary revise each of the following, under this section—

(a) the safety assessment conducted under section 555 in order to ensure the adequacy of the control measures to be implemented by the operator;

(b) the major hazard facility's emergency plan;

(c) the major hazard facility's safety management system.

Maximum penalty—60 penalty units.

(2) Without limiting subsection (1), the operator must conduct a review and revision in each of the following circumstances—

(a) a modification to the major hazard facility is proposed;

(b) a control measure implemented under section 556 does not minimise the relevant risk so far as is reasonably practicable;

Example—

an effectiveness test indicates a deficiency in the control measure

(c) a new major hazard risk is identified;

(d) the results of consultation by the operator under part 9.5 indicate that a review is necessary;

(e) a health and safety representative requests the review;

(f) the regulator requires the review.

(3) In reviewing and revising the emergency plan, the operator must consult with the emergency service organisations mentioned in section 557(2).

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(4) For subsection (2)(e), a health and safety representative at a workplace may request a review if the representative reasonably believes that—

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

(b) the operator has not adequately conducted a review in response to the circumstance.

Division 4 Safety case

560 Safety case must be provided

The operator of a determined major hazard facility must provide the regulator with a completed safety case for the major hazard facility, that has been prepared under section 561, within 24 months after the facility was determined to be a major hazard facility.

Maximum penalty—36 penalty units.

561 Content

(1) The operator must prepare the safety case in accordance with the safety case outline prepared or altered under this division.

(2) A safety case must contain the following—

(a) a summary of the identification conducted under section 554, including a list of all major incidents identified;

(b) a summary of the safety assessment conducted under section 555;

(c) a summary of the major hazard facility's emergency plan;

(d) a summary of the major hazard facility's safety management system;

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(e) a description of any arrangements made in relation to the security of the major hazard facility;

(f) a description of the consultation with workers that took place under section 575 in the preparation of the safety case;

(g) the additional matters specified in schedule 18.

(3) The safety case must include any further information that is necessary to ensure that all information contained in the safety case is accurate and up to date.

(4) A safety case must demonstrate—

(a) that the major hazard facility's safety management system will, once implemented, control risks arising from major incidents and major incident hazards; and

(b) the adequacy of the measures to be implemented by the operator to control risks associated with the occurrence and potential occurrence of major incidents.

(5) The operator must include in the safety case a signed statement that—

(a) the information provided under subsections (1) and (2) is accurate and up to date; and

(b) as a consequence of conducting the safety assessment, the operator has a detailed understanding of all aspects of risk to health and safety associated with major incidents that may occur; and

(c) the control measures to be implemented by the operator—

(i) will eliminate the risk of a major incident occurring, so far as is reasonably practicable; and

(ii) if it is not reasonably practicable to eliminate the risk of a major incident occurring—will minimise the risk so far as is reasonably practicable; and

(iii) in the event of a major incident occurring—will minimise its magnitude and the severity of its

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health and safety consequences so far as is reasonably practicable; and

(d) all persons to be involved in the implementation of the safety management system have the knowledge and skills necessary to enable them to carry out their role safely and competently.

(6) If the operator is a body corporate, the safety case must be signed by the most senior executive officer of the body corporate who resides in Queensland.

562 Coordination for multiple facilities

(1) The regulator may require the operators of 2 or more major hazard facilities to coordinate the preparation of the safety cases for their major hazard facilities if the regulator is satisfied on reasonable grounds that such coordination is necessary in the interests of the safe operation and effective safety management of any or all of those major hazard facilities.

(2) If the regulator requires the coordinated preparation of safety cases, each operator must provide the other operators with information concerning any circumstances at the operator's facility that could constitute a major incident hazard in relation to any of the other major hazard facilities.

Maximum penalty—36 penalty units.

(3) In complying with this section, the operator is not required to disclose information that may expose the major hazard facility to a major incident hazard in relation to the security of the major hazard facility.

563 Review

The operator of a determined major hazard facility must review and as necessary revise the major hazard facility's safety case after any review is conducted under section 559.

Maximum penalty—36 penalty units.

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Note—

The operator of a licensed major hazard facility is required to tell the regulator about any change in relation to particular information about the licence. See section 588.

Part 9.4 Licensed major hazard facilities—risk management

Note—

This part applies to a major hazard facility that is licensed under part 9.7.

564 Identification of major incidents and major incident hazards

(1) The operator of a licensed major hazard facility must identify—

(a) all major incidents that could occur in the course of the operation of the major hazard facility; and

(b) all major incident hazards for the major hazard facility, including major incident hazards relating to the security of the major hazard facility.

Maximum penalty—60 penalty units.

(2) In complying with subsection (1), the operator must have regard to any advice and recommendations given by—

(a) the emergency service organisations with responsibility for the area in which the major hazard facility is located; and

(b) any government department or agency with a regulatory role in relation to major hazard facilities.

(3) The operator must document—

(a) all identified major incidents and major incident hazards; and

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(b) the criteria and methods used in identifying the major incidents and major incident hazards; and

(c) any external conditions under which the major incident hazards, including those relating to the security of the major hazard facility, might give rise to the major incidents.

Maximum penalty—60 penalty units.

(4) All major incidents and major incident hazards identified and documented under section 554 in relation to the major hazard facility are taken to have been identified and documented under this section.

565 Safety assessment

The operator of a licensed major hazard facility must keep a copy of the safety assessment documented under section 555 as revised under part 9.3 and this part at the facility.

Maximum penalty—60 penalty units.

566 Control of risk

(1) The operator of a licensed major hazard facility must implement risk control measures that—

(a) eliminate, so far as is reasonably practicable, the risk of a major incident occurring; or

(b) if it is not reasonably practicable to eliminate that risk—minimise that risk so far as is reasonably practicable.

Note—

WHS Act—section 20 (see section 9).

(2) The operator of a licensed major hazard facility must implement risk control measures designed to minimise, in the event of a major incident occurring, its magnitude and the severity of its consequences to persons both on-site and off-site.

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Maximum penalty—60 penalty units.

567 Emergency plan

(1) The operator of a licensed major hazard facility must keep a copy of the major hazard facility's emergency plan prepared under section 557 as revised under part 9.3 and this part at the facility.

Maximum penalty—60 penalty units.

(2) The operator must test the emergency plan in accordance with the recommendations made by the emergency service organisations mentioned in section 557(2).

Maximum penalty—60 penalty units.

(3) The operator must immediately implement the emergency plan if—

(a) a major incident occurs in the course of the operation of the major hazard facility; or

(b) an event occurs that could reasonably be expected to lead to a major incident.

Maximum penalty—60 penalty units.

(4) The operator must notify the regulator and the emergency service organisations mentioned in section 557(2) of the occurrence of an incident or event mentioned in section 557(3) as soon as practicable after the incident or event occurs.

Maximum penalty—36 penalty units.

568 Safety management system

(1) The operator of a licensed major hazard facility must implement the major hazard facility's safety management system established under section 558 as revised under part 9.3 and this part.

Maximum penalty—60 penalty units.

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(2) The operator must use the safety management system as the primary means of—

(a) ensuring the health and safety of workers engaged or caused to be engaged by the operator and workers whose activities in carrying out work are influenced or directed by the operator while the workers are at work in the operation of the major hazard facility; and

(b) ensuring that the health and safety of other persons is not put at risk from work carried out as part of the operation of the major hazard facility.

Note—

The operator of a licensed major hazard facility is required to inform the regulator about any change in relation to particular information about the licence, see section 588.

569 Review of risk management

(1) The operator of a licensed major hazard facility must review and as necessary revise the following, under this section—

(a) the safety assessment for the facility in order to ensure the adequacy of the control measures to be implemented by the operator;

(b) the major hazard facility's emergency plan;

(c) the major hazard facility's safety management system.

Maximum penalty—60 penalty units.

(2) Without limiting subsection (1), the operator must conduct a review and revision in each of the following circumstances—

(a) a modification to the major hazard facility is proposed;

(b) a control measure implemented under section 566 does not minimise the relevant risk so far as is reasonably practicable;

Example—

an effectiveness test indicates a deficiency in the control measure

(c) a new major hazard risk is identified;

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(d) the results of consultation by the operator under part 9.5 indicate that a review is necessary;

(e) a health and safety representative requests the review;

(f) the regulator requires the review;

(g) at least once every 5 years.

(3) In reviewing and revising the safety assessment, the operator must comply with the requirements set out in section 555(2), (3) and (4).

(4) In reviewing and revising the emergency plan, the operator must consult with the emergency service organisations mentioned in section 557(2).

(5) For subsection (2)(e), a health and safety representative at a workplace may request a review if the representative reasonably believes that—

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

(b) the operator has not adequately conducted a review in response to the circumstance.

570 Safety case—review

The operator of a licensed major hazard facility must review and as necessary revise the safety case after any review is conducted under section 569.

Maximum penalty—36 penalty units.

Note—

The operator of a licensed major hazard facility is required to tell the regulator about any change in relation to particular information about the licence. See section 588.

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571 Information for visitors

The operator of a licensed major hazard facility must ensure that a person other than a worker who enters the major hazard facility is as soon as practicable—

(a) informed about hazards at the major hazard facility that may affect that person; and

(b) instructed in safety precautions the person should take; and

(c) instructed in the actions the person should take if the emergency plan is implemented while the person is on-site.

Maximum penalty—60 penalty units.

572 Information for local community—general

(1) The operator of a licensed major hazard facility must ensure the provision of the following information to the local community and the local government—

(a) the name and location of the major hazard facility;

(b) the name, position and contact details of a contact person from whom information may be obtained;

(c) a general description of the major hazard facility's operations;

(d) the means by which the local community will be notified of a major incident occurring;

(e) the actions, as stated in the major hazard facility's emergency plan, that members of the local community should take if a major incident occurs;

(f) a summary of the safety case for the major hazard facility.

Maximum penalty—60 penalty units.

(2) The operator must ensure that the information provided under subsection (1) is—

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(a) set out and expressed in a way that is readily accessible and understandable to persons who are not familiar with the major hazard facility and its operations; and

(b) reviewed and as necessary revised if a modification is made to the major hazard facility; and

(c) sent in writing to any community or public library serving the local community.

(3) In complying with subsection (1), the operator is not required to disclose information that may expose the major hazard facility to a major incident hazard in relation to the security of the major hazard facility.

(4) The operator of a licensed major hazard facility who receives a written request from a person who reasonably believes that the occurrence of a major incident at the major hazard facility may adversely affect his or her health or safety must provide that person with a copy of the information provided to the local community under this section.

Maximum penalty—

(a) for an individual—$12^{1}/_{2}$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

573 Information for local community—major incident

(1) As soon as practicable after a major incident occurs, the operator of the major hazard facility must take all reasonable steps to provide the persons stated in subsection (2) with information about the major incident, including—

(a) a general description of the major incident; and

(b) a description of the actions the operator has taken and proposes to take to prevent any recurrence of the major incident or the occurrence of a similar major incident; and

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(c) recommended actions that the local authority and members of the local community should take to eliminate or minimise risks to health and safety.

Maximum penalty—60 penalty units.

(2) The persons to whom information about a major incident must be given are—

(a) the local community, if a member of the local community was affected by the major incident; and

(b) the local government; and

(c) any government department or agency with a regulatory role in relation to major hazard facilities.

Part 9.5 Consultation and workers' safety role

574 Safety role for workers

(1) The operator of a determined major hazard facility must, within the time stated in the safety case outline for the major hazard facility, implement a safety role for the workers at the major hazard facility that enables them to contribute to—

(a) the identification of major incidents and major incident hazards under section 554; and

(b) the consideration of control measures in the conduct of the safety assessment under section 555; and

(c) the conduct of a review under section 559.

Maximum penalty—60 penalty units.

(2) The operator of a licensed major hazard facility must implement a safety role for workers at the facility so as to enable them to contribute to the conduct of a review under section 569.

Maximum penalty—60 penalty units.

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575 Operator of major hazard facility must consult with workers

(1) For section 49(f) of the Act, the operator of a determined major hazard facility must consult with workers at the major hazard facility in relation to the following—

(a) the preparation of the safety case outline for the major hazard facility;

(b) the preparation, testing and implementation of the major hazard facility's emergency plan;

(c) the establishment and implementation of the major hazard facility's safety management system;

(d) the conduct of a review under section 559;

(e) the implementation of the workers' safety role under section 574(1);

(f) the preparation and review of the major hazard facility's safety case.

Maximum penalty—60 penalty units.

(2) For section 49(f) of the Act, the operator of a licensed major hazard facility must consult with workers at the major hazard facility in relation to the following—

(a) the testing and implementation of the major hazard facility's emergency plan;

(b) the implementation of the major hazard facility's safety management system;

(c) the conduct of a review under section 569;

(d) the implementation of the workers' safety role under section 574(2);

(e) a review of the major hazard facility's safety case.

Maximum penalty—60 penalty units.

Note—

See section 49 of the Act for other consultation duties of a person conducting a business or undertaking.

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Part 9.6 Duties of workers at licensed major hazard facilities

576 Duties

(1) While at work, a worker at a licensed major hazard facility must—

(a) comply with any procedure imposed by the operator as a control measure in relation to major incidents, including the taking of corrective action under the procedure; and

(b) comply with any procedure in the emergency plan, including the taking of corrective action under the plan; and

(c) immediately inform the operator about any circumstance that the worker believes may cause a major incident; and

(d) inform his or her supervisor about any corrective action taken by the worker.

Maximum penalty—36 penalty units.

(2) A worker is not required to comply with subsection (1) if to do so would risk the health or safety of the worker or of another worker or other person.

Part 9.7 Licensing of major hazard facilities

Division 1 Licensing process

577 Who may apply for a licence

Only an operator of a determined major hazard facility who is taken to be a suitable operator under section 543 may apply for a major hazard facility licence for that facility.

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578 Application for major hazard facility licence

(1) An application for a major hazard facility licence must be made in the way and in the form approved by the regulator.

(2) The application must include the following information—

(a) the operator's name and address;

(b) evidence of identity required by the regulator;

(c) if the operator conducts the business or undertaking under a business name—that business name and a certificate or other written evidence of the registration of the business name;

(d) the safety case prepared under part 9.3, division 4;

(e) if the operator is an individual—

(i) a declaration as to whether or not the operator has any relevant WHS conviction; and

(ii) details of any relevant WHS conviction declared under subparagraph (i); and

(iii) a declaration as to whether or not the operator has entered into an enforceable undertaking under a relevant WHS law; and

(iv) details of any enforceable undertaking declared under paragraph (iii); and

(v) if the operator has previously been refused an equivalent licence under a relevant WHS law, a declaration giving details of that refusal;

(vi) if the operator has previously held an equivalent licence under a relevant WHS law, a declaration—

(A) describing any condition imposed on that licence; and

(B) stating whether or not that licence had been suspended or cancelled and, if so, whether or not the operator had been disqualified from applying for a similar licence; and

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(C) giving details of any suspension, cancellation or disqualification;

(vii) any additional information required by the regulator;

(f) if the operator is a body corporate, the information stated in paragraph (e) in relation to—

(i) the operator; and

(ii) each officer of the operator;

(g) a declaration that the information contained in the application is, to the best of the operator's knowledge, true and correct.

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

579 Additional information

(1) If an application for a major hazard facility licence does not contain sufficient information to enable the regulator to make a decision whether or not to grant the licence, the regulator may ask the operator to provide additional information.

(2) A request for additional information must—

(a) state the date (not being less than 28 days after the request) by which the additional information is to be given; and

(b) be confirmed in writing.

(3) If an operator does not provide the additional information by the date stated, the application is to be taken to have been withdrawn.

(4) The regulator may make more than 1 request for additional information under this section.

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580 Decision on application

(1) Subject to this section, the regulator must grant a major hazard facility licence if satisfied about the matters mentioned in subsection (2).

(2) The regulator must be satisfied about the following—

(a) the application has been made under this regulation;

(b) the safety case for the facility has been prepared under part 9.3, division 4;

(c) the operator is able to operate the major hazard facility safely and competently;

(d) the operator is able to comply with any conditions that will apply to the licence.

(3) The regulator may refuse to grant a major hazard facility licence if it becomes aware of circumstances that satisfy it that the following persons are not suitable persons to exercise management or control over the major hazard facility—

(a) if the operator is an individual—the operator;

(b) if the operator is a body corporate—any officer of the body corporate.

(4) The regulator must refuse to grant a major hazard facility licence if satisfied that the operator, in making the application, has—

(a) given information that is false or misleading in a material particular; or

(b) failed to give any material information that should have been given.

(5) If the regulator decides to grant the licence, it must notify the operator within 14 days after making the decision.

(6) If the regulator does not make a decision within 6 months after receiving the application or the additional information requested under section 579, the regulator is taken to have refused to grant the licence applied for.

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Note—

A refusal to grant a major hazard facility licence (including under subsection (6)) is a reviewable decision, see section 676.

581 Matters to be taken into account

(1) For section 580(3), if the operator is an individual, the regulator must have regard to all relevant matters, including the following—

(a) any relevant WHS conviction of the operator;

(b) any enforceable undertaking the operator has entered into under the Act or under a corresponding WHS law;

(c) the suspension or cancellation of any equivalent licence held by the operator, or a refusal to grant an equivalent licence to the operator, under a relevant WHS law;

(d) any condition imposed on an equivalent licence held by the operator under a relevant WHS law, and the reason the condition was imposed;

(e) the operator's record in relation to any matters arising under a relevant WHS law;

(f) any advice or recommendations received from any agency of the State with responsibility in relation to national security.

(2) For section 580(3), if the operator is a body corporate, the regulator may have regard to any relevant matter including—

(a) in relation to the body corporate, the matters mentioned in subsection (1)(b), (c), (d) and (e); and

(b) in relation to each officer of the body corporate, the matters mentioned in subsection (1).

582 When decision is to be made

The regulator must make a decision in relation to an application for a major hazard facility licence within 6 months

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after receiving the application or the additional information requested under section 579.

583 Refusal to grant major hazard facility licence—process

(1) If the regulator proposes to refuse to grant a major hazard facility licence, the regulator must give a written notice to the operator—

(a) informing the operator of the reasons for the proposed refusal; and

(b) advising the operator that the operator may, by a stated date (being not less than 28 days after giving the notice), make a submission to the regulator in relation to the proposed refusal.

(2) After the date stated under subsection (1)(b), the regulator must—

(a) if the operator has made a submission in relation to the proposed refusal to grant the licence—consider that submission; and

(b) whether or not the operator has made a submission—decide whether to grant or refuse to grant the licence; and

(c) within 14 days after making the decision, give the operator written notice of the decision, including the reasons for the decision.

583A Conditions of licence—payment of relevant fee

It is a condition of the major hazard facility licence that the operator of the major hazard facility must pay the relevant fee—

(a) if a major hazard facility licence is granted—

(i) within 14 days after receiving notice of the regulator's decision to grant the major hazard facility licence; and

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Note—

The regulator must notify the operator within 14 days after deciding to grant a major hazard facility licence, see section 580(5).

(ii) on or before the day in each year that is the anniversary of the day on which the licence was first granted, for the period the licence is granted; or

(b) if a major hazard facility licence is renewed—

(i) within 14 days after receiving notice of the regulator's decision to renew the major hazard facility licence; and

Note—

The regulator must notify the operator within 14 days after deciding to renew the operator's major hazard facility licence, see sections 580(5) and 598(b).

(ii) on or before the day in each year that is the anniversary of the day on which the licence was renewed, for the period the licence is renewed.

584 Conditions of licence

(1) The regulator may impose conditions on a major hazard facility licence when granting or renewing the licence.

(2) Without limiting subsection (1), the regulator may impose conditions in relation to any of the following matters—

(a) additional control measures which must be implemented in relation to the carrying out of work or activities under the licence;

(b) the recording or keeping of additional information;

(c) the provision of additional information, training and instruction or the giving of specified information, training and instruction to additional persons or classes of persons;

(d) the provision of additional information to the regulator;

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(e) if the operator is a person conducting a business or undertaking, the additional class of persons who may carry out work or activities on the operator's behalf.

Notes—

1 A person must comply with the conditions of a licence, see section 45 of the Act.

2 A decision to impose a condition on a licence is a reviewable decision, see section 676.

585 Duration of licence

Subject to this part, a major hazard facility licence takes effect on the day it is granted and, unless cancelled earlier, expires on the day determined by the regulator, which must be not more than 5 years after the day the licence was granted.

586 Licence document

(1) If the regulator grants a major hazard facility licence, the regulator must issue to the operator a licence document in the form approved by the regulator.

(2) The licence document must include—

(a) the name of the operator; and

(b) if the operator conducts the business or undertaking under a business name, that business name; and

(c) the location of the major hazard facility; and

(d) the date on which the licence was granted; and

(e) the expiry date of the licence; and

(f) any licence conditions imposed by the regulator under section 584.

587 Licence document to be available

(1) The operator of the major hazard facility must keep the licence document available for inspection under the Act.

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Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) Subsection (1) does not apply if the licence document is not in the operator's possession because—

(a) it has been returned to the regulator under section 593; and

(b) the operator has applied for, but has not received, a replacement licence under section 594.

Division 2 Amendment of licence and licence document

588 Changes to information

(1) The operator of a licensed major hazard facility must give the regulator written notice of any change to any material particular in any information given at any time by the operator to the regulator in relation to the licence within 14 days after the operator becomes aware of the change.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

Example—

A change to the quantity of the hazardous chemicals present or likely to be present at the facility.

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(2) Subsection (1) applies whether the information was given in the application for grant or renewal of the licence or in any other circumstance.

589 Amendment imposed by regulator

(1) The regulator may, on its own initiative, amend a major hazard facility licence, including amending the licence to—

(a) vary or delete a condition of the licence; or

(b) impose a new condition on the licence.

(2) If the regulator proposes to amend a licence under subsection (1), the regulator must provide a written notice to the licence holder—

(a) informing the licence holder of the reasons for the proposed amendment; and

(b) advising the licence holder that the licence holder may, by a specified date (being not less than 28 days after giving the notice), make a submission to the regulator in relation to the proposed amendment.

(3) After the date stated under subsection (2)(b), the regulator must—

(a) if the licence holder has made a submission in relation to the proposed amendment—consider that submission; and

(b) whether or not the licence holder has made a submission—decide—

(i) to make the proposed amendment; or

(ii) not to make an amendment; or

(iii) to make a different amendment that results from consideration of any submission made by the licence holder; and

(c) within 14 days after making that decision, give the licence holder written notice that—

(i) sets out the amendment; and

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(ii) if a submission was made in relation to the proposed amendment—sets out the regulator's reasons for making the amendment; and

(iii) states the date (being not less than 14 days after the licence holder is given the notice) on which the amendment takes effect.

Note—

A decision to amend a licence is a reviewable decision, see section 676.

590 Amendment on application by operator

(1) The regulator, on application by the operator of a licensed major hazard facility, may amend the major hazard facility licence, including amending the licence to vary or delete a condition of the licence.

(2) If the regulator proposes to refuse to amend the licence under subsection (1), the regulator must provide a written notice to the operator—

(a) informing the operator of the intention to refuse to amend the licence and the reasons for the proposed refusal; and

(b) advising the operator that the licence holder may, by a stated date (being not less than 28 days after giving the notice), make a submission to the regulator in relation to the proposed refusal.

(3) After the date stated under subsection (2)(b), the regulator must—

(a) if the operator has made a submission in relation to the proposed refusal—consider that submission; and

(b) whether or not the operator has made a submission—decide to—

(i) make the amendment; or

(ii) refuse to make the amendment; or

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(iii) make a different amendment that results from consideration of any submission made by the operator; and

(c) within 14 days after making that decision, give the operator written notice of the decision under this section.

(4) If the regulator makes the amendment, the decision notice must state the date (not being less than 28 days after the operator is given the decision notice) on which the amendment takes effect.

(5) If the regulator refuses to make the amendment or makes a different amendment, the decision notice must—

(a) if a submission was made in relation to the proposed amendment—set out the reasons for the regulator's decision; and

(b) if the regulator makes a different amendment—

(i) set out the amendment; and

(ii) state he date (being not less than 28 days after the operator is given the decision notice) on which the amendment takes effect.

Note—

A refusal to make the amendment applied for, or a decision to make a different amendment, is a reviewable decision, see section 676.

591 Minor corrections to major hazard facility licence

The regulator may make minor amendments to a major hazard facility licence, including an amendment—

(a) to correct an obvious error; or

(b) to change an address; or

(c) that imposes no significant burden on the operator.

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592 Regulator to provide amended licence document

If the regulator amends a major hazard facility licence and considers that the licence document requires amendment, the regulator must give the operator an amended licence document within 14 days.

593 Operator to return licence

If a major hazard facility licence is amended, the operator of the licensed major hazard facility must return the licence document to the regulator for amendment at the written request of the regulator and within the time stated in the request.

Maximum penalty—

(a) for an individual—$12^1/_2$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

594 Replacement licence document

(1) The operator of a licensed major hazard facility must give written notice to the regulator as soon as practicable if the licence document is lost, stolen or destroyed.

Maximum penalty—

(a) for an individual—$12^1/_2$ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

(2) If a licence document for a licensed major hazard facility is lost, stolen or destroyed, the operator may apply to the regulator for a replacement document.

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Note—

An operator is required to keep the licence document available for inspection, see section 587.

(3) The application must be in the way and in the form approved by the regulator.

(4) The application must include—

(a) a declaration describing the circumstances in which the original document was lost, stolen or destroyed; and

(b) a declaration that the information contained in the application is, to the best of the applicant's knowledge, true and correct; and

(c) the relevant fee.

(5) The regulator must issue a replacement licence document if satisfied that the original document was lost, stolen or destroyed.

(6) If the regulator refuses to issue a replacement licence document, it must give the operator written notice of this decision, including the reasons for the decision, within 14 days after making the decision.

Note—

A refusal to issue a replacement licence document is a reviewable decision, see section 676.

Division 3 Renewal of major hazard facility licence

595 Regulator may renew licence

The regulator may renew a major hazard facility licence on application by the operator.

596 Application for renewal

(1) The operator of a licensed major hazard facility may apply to the regulator to renew a major hazard facility licence.

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(2) The application must—

(a) be made—

(i) in the way and in the form approved by the regulator; and

(ii) not less than 6 months before the licence to be renewed expires; and

(b) include a copy of the safety case for the major hazard facility as revised under section 570; and

(c) be accompanied by the relevant fee.

597 Licence continues in force until application is decided

If the operator of a licensed major hazard facility applies under section 596 for the renewal of a major hazard facility licence, the licence is taken to continue in force from the day it would, apart from this section, have expired until the operator is given notice of the decision on the application.

598 Provisions relating to renewal of licence

For this division—

(a) section 578 applies as if a reference in that section to an application for a licence were a reference to an application to renew a licence; and

(b) sections 580 (except subsection (6)) and 585 apply as if a reference in those sections to the grant of a licence were a reference to the renewal of a licence; and

(c) section 581 applies as if a reference in section 580 to the grant of a licence were a reference to the renewal of a licence; and

(d) section 583 applies as if a reference in that section to a refusal to grant a licence were a reference to a refusal to renew a licence.

Note—

A refusal to renew a licence is a reviewable decision, see section 676.

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599 Status of major hazard facility licence during review

(1) This section applies if the regulator gives the operator written notice of its decision to refuse to renew the licence.

(2) If the operator does not apply for an external review, the licence continues to have effect until the last of the following events—

(a) the expiry of the licence;

(b) the end of the period for applying for an external review.

(3) If the operator applies for an external review, the licence continues to have effect until the earlier of the following events—

(a) the operator withdraws the application for review; or

(b) QCAT makes a decision on the review.

(4) The licence continues to have effect under this section even if its expiry date passes.

Division 4 Transfer of major hazard facility licence

600 Transfer of major hazard facility licence

(1) The regulator, on the application of the operator of a major hazard facility, may transfer a major hazard facility licence to another person who is to become the operator of the major hazard facility, if satisfied that the proposed operator will achieve a standard of health and safety in the operation of the facility that is at least equivalent to the standard that the current operator has achieved.

(2) An application must be—

(a) made in the way and in the form approved by the regulator; and

(b) accompanied by the relevant fee.

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(3) The regulator may transfer the licence subject to any conditions that the regulator considers necessary and appropriate to ensure that the new operator will be able to achieve a standard of health and safety in the operation of the facility that is at least equivalent to the standard achieved by the existing operator.

(4) On the completion of the transfer, the person to whom the licence is transferred becomes the operator of the major hazard facility for the purposes of this chapter.

Note—

A decision to refuse to transfer a major hazard facility licence is a reviewable decision, see section 676.

Division 5 Suspension and cancellation of major hazard facility licence

601 Cancellation of major hazard facility licence—on operator's application

(1) The operator of a licensed major hazard facility may apply to the regulator to cancel the licence.

(2) An application must be—

(a) made in the way and in the form approved by the regulator; and

(b) accompanied by the relevant fee.

(3) The regulator must conduct an inquiry into the inventory and operations of the facility before deciding on an application to cancel a licence.

(4) The regulator must cancel a major hazard facility licence if—

(a) the quantity of schedule 15 chemicals present or likely to be present at the facility does not exceed their threshold quantity; and

(b) it is unlikely that a major incident will occur at the facility.

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(5) If the regulator cancels the licence of a facility that was determined to be a major hazard facility under part 9.2, the regulator must revoke the determination.

Note—

A decision to refuse to cancel a licence is a reviewable decision, see section 676.

602 Suspension or cancellation of licence—on regulator's initiative

(1) The regulator, on its own initiative, may suspend or cancel a major hazard facility licence if satisfied about 1 or more of the following—

(a) the operator has failed to ensure that the facility is operated safely and competently;

(b) the operator has failed to ensure compliance with a condition of the licence;

(c) the operator, in the application for the grant or renewal of the licence or on request by the regulator for additional information—

(i) gave information that was false or misleading in a material particular; or

(ii) failed to give any material information that should have been given in that application or on that request.

(2) If the regulator suspends or cancels a major hazard facility licence, the regulator may disqualify the operator from applying for a further major hazard facility licence.

Note—

A decision to suspend a licence, to cancel a licence or to disqualify the operator from applying for a further licence is a reviewable decision, see section 676.

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603 Matters to be taken into account

(1) In making a decision under section 602, the regulator must have regard to the following—

(a) any submissions made by the operator under section 604;

(b) any advice received from a corresponding regulator;

(c) any advice or recommendations received from any agency of the State, the Commonwealth or another State with responsibility in relation to national security.

(2) For section 602(1)(a) and (b), the regulator may have regard to all relevant matters, including the following—

(a) any relevant WHS conviction of the operator;

(b) any suspension or cancellation of an equivalent licence held by the operator, or any refusal to grant an equivalent licence under a relevant WHS law;

(c) any enforceable undertaking the operator has entered into under a relevant WHS law;

(d) the operator's record in relation to any matters arising under a relevant WHS law.

(3) For section 602(1)(a) and (b), if the operator is a body corporate, the regulator must have regard to all relevant matters, including matters referred to in subsection (2), in relation to—

(a) the body corporate; and

(b) each officer of the body corporate.

604 Notice to and submissions by operator

Before suspending or cancelling a major hazard facility licence, the regulator must—

(a) give the operator a written notice of the proposed suspension or cancellation or disqualification that outlines all relevant allegations, facts and circumstances known to the regulator; and

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(b) give the operator not less than 28 days to make submissions to the regulator in relation to the proposed suspension or cancellation and any proposed disqualification.

605 Notice of decision

(1) The regulator must give the operator of a major hazard facility written notice of a decision under section 602 to suspend or cancel the major hazard facility licence within 14 days after making the decision.

(2) The notice must—

(a) state that the licence is to be suspended or cancelled; and

(b) if the licence is to be suspended, state—

(i) when the suspension begins and ends; and

(ii) the reasons for the suspension; and

(iii) whether or not the operator is required to take any action before the suspension ends; and

(iv) the operator is disqualified from applying for a further major hazard facility licence during the period of suspension; and

(c) if the licence is to be cancelled, state—

(i) when the cancellation takes effect; and

(ii) the reasons for the cancellation; and

(iii) whether or not the operator is disqualified from applying for a further major hazard facility licence; and

(d) if the operator is disqualified from obtaining a further major hazard facility licence, state—

(i) when the disqualification begins and ends; and

(ii) the reasons for the disqualification; and

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(iii) whether or not the disqualification ending is conditional upon the operator taking any action; and

(e) state when the licence document must be returned to the regulator.

606 Immediate suspension

(1) The regulator may suspend a major hazard facility licence on a ground mentioned in section 602 without giving notice under section 604 if satisfied that—

(a) a person may be exposed to an imminent serious risk to his or her health or safety if the work carried out under the major hazard facility licence were not suspended; or

(b) a corresponding regulator has suspended an equivalent licence held by the operator under this section as applying in the corresponding jurisdiction.

(2) If the regulator decides to suspend a licence under this section—

(a) the regulator must give the operator of the major hazard facility written notice of the suspension and the reasons for the suspension; and

(b) the suspension of the licence takes effect on the giving of the notice.

(3) The regulator must then—

(a) give notice under section 604 within 14 days after giving the notice under subsection (2); and

(b) make its decision under section 602.

(4) If the regulator does not give notice under subsection (3), the suspension ends at the end of the 14 day period.

(5) If the regulator gives the notice under section 604, the licence remains suspended until the decision is made under section 602.

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607 Operator to return licence document

An operator, on receiving a notice under section 605, must return the licence document to the regulator in accordance with the notice.

Maximum penalty—

(a) for an individual—12½ penalty units; or

(b) for a body corporate—60 penalty units.

Note—

In relation to the separate penalty for an individual and a body corporate, see the note to section 50(2).

608 Regulator to return licence document after suspension

The regulator must return the licence document to the operator within 14 days after the suspension ends.

Chapter 10

609 Chapter number and section numbers 609–675 not used

See note to section 3.

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Chapter 11 General

Part 11.1 Review of decisions

Division 1 Reviewable decisions

676 Which decisions are reviewable

(1) The following table sets out—

(a) decisions made under this regulation that are reviewable under this part (***reviewable decisions***); and

(b) who is eligible to apply for review of a reviewable decision (the ***eligible person***).

Table 676

Item	Section under which reviewable decision is made	Eligible person in relation to reviewable decision
	High risk work licences	
1	89—Refusal to grant licence	Applicant
2	91—Refusal to grant licence	Applicant
2A	91A—Imposition of a condition when granting licence	Applicant
2B	91A—Imposition of a condition when renewing licence	Applicant
3	98—Refusal to issue replacement licence document	Licence holder
4	104—Refusal to renew licence	Applicant
5	106—Suspension of licence	Licence holder

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Item	Section under which reviewable decision is made	Eligible person in relation to reviewable decision
6	106—Cancellation of licence	Licence holder
7	106—Disqualification of licence holder from applying for another licence.	Licence holder
7A	106—Variation of licence conditions	Licence holder
	Accreditation of assessors	
8	118—Refusal to grant accreditation	Applicant An RTO that engages the applicant
9	120—Refusal to grant accreditation	Applicant An RTO that engages the applicant
10	121—Imposition of a condition when granting accreditation	Applicant An RTO that engages the applicant
11	121—Imposition of a condition when renewing accreditation	Applicant An RTO that engages the applicant
12	127—Refusal to issue replacement accreditation document	Accredited assessor An RTO that engages the accredited assessor
13	132—Refusal to renew accreditation	Applicant An RTO that engages the applicant

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Item	Section under which reviewable decision is made	Eligible person in relation to reviewable decision
14	133—Suspension of accreditation	Accredited assessor An RTO that engages the accredited assessor
15	133—Cancellation of accreditation	Accredited assessor An RTO that engages the accredited assessor
16	133—Disqualification of assessor from applying for a further accreditation	Accredited assessor An RTO that engages the accredited assessor
	Licence for demolition work	
16A	144F, 144I—Refusal to grant licence	Applicant
16B	144J—Imposition of condition on grant of licence	Licence holder
16C	144P—Amendment of licence	Licence holder
16D	144Q—Refusal to amend licence, or a decision to make a different amendment	Licence holder
16E	144U—Refusal to grant replacement of licence document	Applicant
16EA	144VC—Refusal to renew licence	Applicant
16F	144W—Suspension or cancellation of licence or disqualification from applying for a further licence (immediate suspension omitted)	Licence holder
	Registration of Plant Designs	

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Item	Section under which reviewable decision is made	Eligible person in relation to reviewable decision
17	256—Refusal to register plant design	Applicant
18	258—Imposition of a condition when granting registration of plant design	Applicant
	Registration of Plant	
19	269—Refusal to register item of plant	Applicant The person with management or control of the item of plant
20	270—Refusal to register item of plant	Applicant The person with management or control of the item of plant
21	271—Imposition of a condition when granting registration of item of plant	Applicant The person with management or control of the item of plant
21A	271—Imposition of a condition when renewing registration of item of plant	Registration holder The person with management or control of the item of plant
22	279—Refusal to renew registration of item of plant	Registration holder The person with management or control of the item of plant

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Item	Section under which reviewable decision is made	Eligible person in relation to reviewable decision
23	283—Amendment of registration, on regulator's initiative	Registration holder The person with management or control of the item of plant
24	284—Refusal to amend registration on application (or a decision to make a different amendment)	Registration holder The person with management or control of the item of plant
25	288—Refusal to issue replacement registration document	Registration holder The person with management or control of the item of plant
25A	288B—Cancellation of registration	Registration holder The person with management or control of the item of plant
	General Induction Training (Construction)	
26	322—Refusal to issue or replace general construction induction training card	Applicant
27	323—Cancellation of general construction induction training card	Card holder
	Hazardous chemicals and lead	
28	384—Refusal to grant authorisation to use, handle or store a prohibited or restricted carcinogen	Applicant

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Item	Section under which reviewable decision is made	Eligible person in relation to reviewable decision
29	386—Cancellation of authorisation to use, handle or store a prohibited or restricted carcinogen	Authorisation holder
30	393—Deciding a process to be a lead process	A person conducting a business or undertaking that carries out the lead process A worker whose interests are affected by the decision
31	407—Determining a different frequency for biological monitoring of workers at a workplace, or a class of workers, carrying out lead risk work	A person conducting a business or undertaking that carries out lead risk work A worker whose interests are affected by the decision
	Asbestos removal licences and asbestos assessor licences	
32	497—Refusal to grant licence	Applicant
33	501—Refusal to grant licence	Applicant
34	502—Imposition of a condition when granting licence	Applicant
35	502—Imposition of a condition when renewing licence	Applicant
36	508—Amendment of licence, on regulator's initiative	Licence holder
37	509—Refusal to amend licence on application (or a decision to make a different amendment)	Licence holder

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Item	Section under which reviewable decision is made	Eligible person in relation to reviewable decision
38	513—Refusal to issue replacement licence document	Applicant
39	517—Refusal to renew licence	Applicant
40	520—Suspension of licence	Licence holder
41	520—Cancellation of licence	Licence holder
42	520—Disqualification of licence holder from applying for another licence	Licence holder
	Major hazard facilities	
	Determination of facility to be major hazard facility	
43	541—Determination of facility to be a major hazard facility, on making inquiry	Operator of facility
44	541—Decision not to determine proposed facility to be a major hazard facility	Operator of facility
45	542—Determination of major hazard facility	Operator of facility
46	543—Determination of suitability of operator	Operator of facility
47	544—Imposition of a condition on a determination of a major hazard facility	Operator of facility
	Licensing of major hazard facility	
48	580—Refusal to grant licence	Operator of facility
49	584—Imposition of a condition when granting licence	Operator of facility

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Item	Section under which reviewable decision is made	Eligible person in relation to reviewable decision
50	584—Imposition of a condition when renewing licence	Operator of facility
51	589—Amendment of licence, on regulator's initiative	Operator of facility
52	590—Refusal to amend licence, on application (or a decision to make a different amendment)	Operator of facility
53	594—Refusal to issue replacement licence document	Operator of facility
54	598—Refusal to renew licence	Operator of facility
55	600—Refusal to transfer licence, on application	Operator of facility Proposed operator of facility
56	601—Refusal to cancel licence, on application	Operator of facility
57	602—Suspension of licence	Operator of facility
58	602—Cancellation of licence	Operator of facility
59	602—Disqualification of licence holder from applying for another licence	Operator of facility
	Exemptions	
60	684—Refusal to exempt person (or a class of persons) from compliance with any provision of this regulation	Applicant
61	686—Refusal to exempt person from requirement to hold a high risk work licence	Applicant

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Item	Section under which reviewable decision is made	Eligible person in relation to reviewable decision
62	688—Refusal to exempt operator of MHF from compliance with any provision of this regulation, on application	Operator of facility
63	691—Imposing condition on an exemption granted on application under part 11.2	Applicant
64	696—Refusal to grant exemption	Applicant
65	697—Amendment of an exemption granted on application under part 11.2	Applicant
66	697—Cancellation of an exemption granted on application under part 11.2	Applicant
	Transitional provisions for plant registration and plant design registration	
67	719(2)—Refusal to register item of plant under repealed WHS regulation	Applicant
68	719(2)—Refusal to register design of an item of plant under repealed WHS regulation	Applicant
	Transitional provisions for high risk work	
69	723(2)—Refusal to grant a licence to perform a class of high risk work under repealed WHS regulation	Applicant

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Item	Section under which reviewable decision is made	Eligible person in relation to reviewable decision
70	723(2)—Refusal to grant renewal of a licence to perform a class of high risk work under repealed WHS regulation	Applicant
71	723(2)—Refusal to endorse another class of high risk work under repealed WHS regulation	Applicant
72	723(2)—Refusal to remove a class of high risk work under repealed WHS regulation	Applicant
73	725(2)—Refusal to grant licence to perform class of high risk work under repealed WHS regulation	Applicant
74	728(2)—Refusal to grant exemption from holding licence to perform class of high risk work under repealed WHS regulation	Applicant
75	729(2)—Refusal to convert licence to perform class of high risk work to renewable licence under section 43 of the repealed WHS regulation	Applicant
76	730(2)—Refusal to convert licence to perform class of high risk work to renewable licence under section 43 of the repealed WHS regulation	Applicant
	Transitional certificates for performing demolition work	
77	735(1)—Refusal to grant certificate under repealed WHS regulation	Applicant

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Item	Section under which reviewable decision is made	Eligible person in relation to reviewable decision
78	735(1)—Imposition of condition on grant of certificate under repealed WHS regulation	Certificate holder
79	735(2)—Refusal to grant replacement of certificate document	Applicant
80	735(2)—Suspension of certificate under repealed WHS regulation	Certificate holder
81	735(2)—Cancellation of certificate under repealed WHS regulation	Certificate holder
	Transitional provisions for training and assessment	
82	740(2)—Refusal to grant approval to provide training and assessment under repealed WHS regulation	Applicant
	Replacement, suspension or cancellation of certificate or licence	
83	742(2)—Refusal to grant replacement certificate or licence under repealed WHS regulation	Applicant
84	743(2)—Suspension of certificate or licence under repealed WHS regulation	Certificate or licence holder
85	743(2)—Cancellation of certificate or licence under repealed WHS regulation	Certificate or licence holder
	Transitional asbestos removal certificates	

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Item	Section under which reviewable decision is made	Eligible person in relation to reviewable decision
86	748(1)—Refusal to grant certificate under repealed WHS regulation	Applicant
87	748(1)—Imposition of condition on grant of certificate under repealed WHS regulation	Certificate holder
88	748(2)—Refusal to grant replacement of certificate document	Applicant
89	748(2)—Suspension of certificate under repealed WHS regulation	Certificate holder
90	748(2)—Cancellation of certificate under repealed WHS regulation	Certificate holder
91	752(1)—Refusal to grant certificate under repealed WHS regulation	Applicant
92	752(1)—Imposition of condition on grant of certificate under repealed WHS regulation	Certificate holder
93	752(2)—Refusal to grant replacement of certificate document under repealed WHS regulation	Applicant
94	752(2)—Suspension of certificate under repealed WHS regulation	Certificate holder
95	752(2)—Cancellation of certificate under repealed WHS regulation	Certificate holder
	Transitional major hazard facilities licences	
96	771(4)—Failure to issue licence document	Operator of major hazard facility
97	771(5)—Imposition of condition on licence	Operator of major hazard facility

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Item	Section under which reviewable decision is made	Eligible person in relation to reviewable decision
98	772(3)—Failure to issue licence document	Operator of major hazard facility
99	772(4)—Imposition of condition on licence	Operator of major hazard facility
100	772(9)—Failure to issue licence document	Operator of major hazard facility
101	772(9)—Imposition of condition on licence	Operator of major hazard facility
102	773(3)—Cancellation of licence	Operator of major hazard facility
103	774(4)—Failure to issue licence document	Operator of major hazard facility
104	774(5)—Imposition of condition on licence	Operator of major hazard facility
105	774(10)—Failure to issue licence document	Operator of major hazard facility
106	774(10)—Imposition of condition on licence	Operator of major hazard facility

(2) Unless the contrary intention appears, a reference in this part to a decision includes a reference to—

(a) making, suspending, revoking or refusing to make an order, determination or decision; or

(b) giving, suspending, revoking or refusing to give a direction, approval, consent or permission; or

(c) issuing, suspending, revoking or refusing to issue an authorisation; or

(d) imposing or varying a condition; or

(e) making a declaration, demand or requirement; or

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(f) retaining, or refusing to deliver up, a thing; or

(g) doing or refusing to do any other act or thing; or

(h) being taken to refuse or do any act or thing.

Division 2 Internal review

677 Application

This division does not apply to a reviewable decision made under—

(a) chapter 9; or

(b) part 11.2.

678 Application for internal review

(1) Subject to subsection (2), an eligible person in relation to a reviewable decision may apply to the regulator for review (an ***internal review***) of the decision within—

(a) 28 days after the day on which the decision first came to the eligible person's notice; or

(b) any longer time the regulator allows.

(2) An eligible person in relation to a reviewable decision under section 89(5), 118(5), 256(5), 269(5) or 497(5) may apply to the regulator for review (an ***internal review***) of the decision within—

(a) 28 days after the day on which the 120 day period referred to in that provision; or

(b) any longer time the regulator allows.

(3) The application must be made in the way and in the form approved by the regulator.

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679 Internal reviewer

(1) The regulator may appoint a person or body to review decisions on applications under this division.

(2) The person who made the reviewable decision cannot be an internal reviewer in relation to that decision.

680 Decision of internal reviewer

(1) The internal reviewer must review the reviewable decision and make a decision as soon as practicable and within 14 days after the application for internal review, or the additional information requested under subsection (3), is received.

(2) The decision may be—

(a) to confirm or vary the reviewable decision; or

(b) to set aside the reviewable decision and substitute another decision that the internal reviewer considers appropriate.

(3) The internal reviewer may ask the applicant to provide additional information in relation to the application.

(4) The applicant must provide the additional information within the time (being not less than 7 days) stated by the internal reviewer in the request for information.

(5) If the applicant does not provide the additional information within the required time, the reviewable decision is taken to have been confirmed by the internal reviewer at the end of that time.

(6) If the reviewable decision is not varied or set aside within the 14 day period referred to in subsection (1), the reviewable decision is taken to have been confirmed by the internal reviewer.

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681 Decision on internal review

Within 14 days of making the decision on the internal review, the internal reviewer must give the applicant written notice of—

(a) the decision on the internal review; and

(b) the reasons for the decision.

682 Internal review—reviewable decision continues

Subject to any provision to the contrary in relation to a particular decision, an application for an internal review does not affect the operation of the reviewable decision or prevent the taking of any lawful action to implement or enforce the decision.

Division 3 External review

683 Application for external review

(1) An eligible person may apply to QCAT for review (an ***external review***) of—

(a) a reviewable decision made by the regulator under—

(i) chapter 9; or

(ii) part 11.2; or

(b) a decision made, or taken to have been made, on an internal review.

(2) The application must be made within—

(a) 28 days after the day on which the decision first came to the eligible person's notice; or

(b) any longer time QCAT allows.

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Part 11.2 Exemptions

Division 1 General

684 General power to grant exemptions

(1) The regulator may exempt a person or class of persons from compliance with any provision of this regulation.

(2) The exemption may be granted on the regulator's own initiative or on the written application of one or more persons.

(3) This section is subject to the limitations set out in this part.

(4) This section does not apply to an exemption from—

(a) a provision requiring a person to hold a high risk work licence; or

(b) a provision of chapter 9 relating to a major hazard facility or proposed major hazard facility.

Note—

A decision to refuse to grant an exemption is a reviewable decision, see section 676.

685 Matters to be considered in granting exemptions

In deciding whether or not to grant an exemption under section 684 the regulator must have regard to all relevant matters, including the following—

(a) whether the granting of the exemption will result in a standard of health and safety at the relevant workplace, or in relation to the relevant undertaking, that is at least equivalent to the standard that would be achieved by compliance with the relevant provision or provisions;

(b) whether the requirements of paragraph (a) will be met if the regulator imposes particular conditions in granting the exemption and those conditions are complied with;

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(c) whether exceptional circumstances justify the grant of the exemption;

(d) if the proposed exemption relates to a particular thing—whether the regulator is satisfied that the risk associated with the thing is not significant if the exemption is granted;

(e) whether the applicant has carried out consultation in relation to the proposed exemption under part 5, divisions 1 and 2 of the Act.

Division 2 High risk work licences

686 High risk work licence—exemption

(1) The regulator may exempt a person or class of persons from compliance with a provision of this regulation requiring the person or class of persons to hold a high risk work licence.

(2) The exemption may be granted on the written application of any person concerned.

Note—

A decision to refuse to grant an exemption is a reviewable decision, see section 676.

687 High risk work licence—regulator to be satisfied about particular matters

(1) The regulator must not grant an exemption under section 686 unless satisfied that granting the exemption will result in a standard of health and safety that is at least equivalent to the standard that would have been achieved without that exemption.

(2) For subsection (1), the regulator must have regard to all relevant matters including whether or not—

(a) the obtaining of the high risk work licence would be impractical; and

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(b) the competencies of the person to be exempted exceed those required for the grant of a high risk work licence; and

(c) any plant used by the person can be modified in a way that reduces the risk associated with using that plant.

Division 3 Major hazard facilities

688 Major hazard facility—exemption

(1) The regulator may exempt the operator of a major hazard facility or proposed major hazard facility from compliance with any provision of this regulation relating to that facility.

(2) The exemption may be granted on the written application of the operator of the major hazard facility or proposed major hazard facility.

Note—

A decision to refuse to grant an exemption is a reviewable decision, see section 676.

689 Major hazard facility—regulator to be satisfied about particular matters

(1) The regulator must not grant an exemption under section 688 unless satisfied about the following—

(a) 1 or more schedule 15 chemicals are present or likely to be present at the facility;

(b) the quantity of the schedule 15 chemicals exceeds the threshold quantity of the schedule 15 chemicals periodically because they are solely the subject of intermediate temporary storage;

(c) the schedule 15 chemicals are in one or more containers with the capacity of each container being no more than a total of 500kg of the schedule 15 chemical;

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(d) granting the exemption will result in a standard of health and safety in relation to the operation of the facility that is at least equivalent to the standard that would be achieved by compliance with the relevant provision or provisions.

(2) For subsection (1)(d), the regulator must have regard to all relevant matters, including whether or not—

(a) the applicant is complying with the Act and this regulation; and

(b) the applicant has processes and procedures in place which will keep the quantity of the schedule 15 chemical or chemicals present or likely to be present at or below the threshold quantity for the schedule 15 chemical or chemicals as often as practicable; and

(c) the applicant has implemented adequate control measures to minimise the risk of a major incident occurring.

Division 4 Exemption process

690 Application for exemption

An application for an exemption must be made in the way and in the form approved by the regulator.

Notes—

1 The application must be in writing, see section 684(2).

2 The regulator may grant an exemption on its own initiative, see section 684(2).

691 Conditions of exemption

(1) The regulator may impose any conditions it considers appropriate on an exemption granted under this part.

(2) Without limiting subsection (1), conditions may require the applicant to do 1 or more of the following—

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(a) monitor risks;

(b) monitor the health of persons at the workplace who may be affected by the exemption;

(c) keep particular records;

(d) use a stated system of work;

(e) report particular matters to the regulator;

(f) give notice of the exemption to persons who may be affected by the exemption.

Note—

A decision to impose a condition is a reviewable decision, see section 676.

692 Form of exemption documents

The regulator must prepare an exemption document that states the following—

(a) the name of the applicant for the exemption (if any);

(b) the person or class of persons to whom the exemption will apply;

(c) the work or thing to which the exemption relates, if applicable;

(d) the circumstances in which the exemption will apply;

(e) the provisions of this regulation to which the exemption applies;

(f) any conditions on the exemption;

(g) the date on which the exemption takes effect;

(h) the duration of the exemption.

693 Compliance with conditions of exemption

A person to whom the exemption is granted must—

(a) comply with the conditions of the exemption; and

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(b) ensure that any person under the management or control of that person complies with the conditions of the exemption.

694 Notice of decision in relation to exemption

The regulator must give a copy of the exemption document mentioned in section 692, within 14 days after making a decision to grant an exemption, to—

(a) if a person applied for the exemption—the applicant;

(b) if the regulator granted the exemption on its own initiative—each person (other than persons to whom section 695 applies) to whom the exemption will apply.

695 Publication of notice of exemption

(1) This section applies to an exemption that relates to a class of persons.

(2) The regulator must publish a copy of the exemption in the gazette.

696 Notice of refusal of exemption

(1) If the regulator refuses to grant an exemption, the regulator must give the applicant for the exemption written notice of the refusal within 14 days after making that decision.

(2) The notice must state the regulator's reasons for the refusal.

Note—

A refusal to grant an exemption is a reviewable decision, see section 676.

697 Amendment or cancellation of exemption

The regulator may at any time amend or cancel an exemption.

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Note—

A decision to amend or cancel an exemption is a reviewable decision, see section 676.

698 Notice of amendment or cancellation

(1) The regulator must give written notice of the amendment or cancellation of an exemption, within 14 days after making a decision to amend or cancel the exemption, to—

(a) if a person applied for the exemption—the applicant; or

(b) if the regulator granted the exemption on its own initiative—each person (other than persons to subsection (2) applies) to whom the exemption applies.

(2) If the exemption affects a class of persons, the regulator must publish notice of the amendment or cancellation of the exemption in the gazette.

(3) The notice must state the regulator's reasons for the amendment or cancellation.

(4) The amendment or cancellation takes effect—

(a) on the publication of the notice in the gazette, or on a later date stated in the notice; or

(b) if the notice is not required to be published in the gazette, on the giving of the notice to the applicant under subsection (1) or on a later date specified in the notice.

Part 11.3 Miscellaneous

699 Incident notification—prescribed serious illnesses

For section 36 of the Act, each of the following conditions is a serious illness—

(a) any infection to which the carrying out of work is a significant contributing factor, including any infection that is reliably attributable to carrying out work—

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(i) with microorganisms; or

(ii) that involves providing treatment or care to a person; or

(iii) that involves contact with human blood or body substances; or

(iv) that involves handling or contact with animals, animal hides, skins, wool or hair, animal carcasses or animal waste products;

(b) the following occupational zoonoses contracted in the course of work involving handling or contact with animals, animal hides, skins, wool or hair, animal carcasses or animal waste products—

(i) Q fever;

(ii) Anthrax;

(iii) Leptospirosis;

(iv) Brucellosis;

(v) Hendra Virus;

(vi) Avian Influenza;

(vii) Psittacosis.

700 Inspectors' identity cards

For section 157(1) of the Act, an identity card given by the regulator to an inspector must include the following matters—

(a) a photograph of the inspector in the form stated by the regulator;

(b) the inspector's signature;

(c) the date (if any) on which the inspector's appointment ends;

(d) any conditions to which the inspector's appointment is subject, including the kinds of workplaces in relation to which the inspector may exercise his or her compliance powers.

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701 Review of decisions under the Act—stay of decision

For section 228(6)(a) of the Act, the prescribed period is—

(a) for an external review by QCAT—28 days; or

(b) for an external review of the commission—30 days.

701A Prescribed Act—Act, s 271

Each Act stated in schedule 18A is prescribed for section 271(3)(c)(ii) of the Act.

Chapter 12 Public health and safety—schedule 1, part 1 of Act

Part 12.1 Preliminary

702 Definitions for ch 12

In this chapter—

dangerous goods see schedule 1, part 1 of the Act, section 1(6), definition *dangerous goods*.

high risk plant see schedule 1, part 1 of the Act, section 1(6), definition *high risk plant*.

notifiable incident see the Act, section 35.

occupier of premises includes any of the following in relation to the premises—

(a) the owner;

(b) a mortgagee in possession;

(c) a lessee;

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(d) a licensee;

(e) a trustee;

(f) a person in control, including as a company administrator, receiver, receiver and manager or liquidator.

owner, of high risk plant, means a person who holds legal title to the plant and includes any of the following in relation to the plant—

(a) a mortgagee in possession;

(b) a lessee;

(c) a licensee;

(d) a trustee;

(e) a person in control, including as a company administrator, receiver, receiver and manager or liquidator.

public health and safety duty means a duty imposed by section 703, 704 or 705.

relevant activity means—

(a) the storage or handling of dangerous goods at relevant premises; or

(b) the use or operation of high risk plant at relevant premises.

relevant person—

(a) means—

(i) for the storage and handling of dangerous goods—the occupier of premises where the goods are stored or handled; or

(ii) for the operation or use of high risk plant—the person who is the owner of the high risk plant; and

(b) does not include a person who is conducting a business or undertaking in relation to the goods, premises or plant.

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relevant premises means premises, other than a workplace, where a relevant activity happens.

Part 12.2 Primary duty

703 Primary duty of care

(1) A relevant person must ensure, so far as is reasonably practicable, the health and safety of all persons who may be affected by the relevant person's relevant activity.

(2) Without limiting subsection (1), for subsection (1), a relevant person must ensure, so far as is reasonably practicable for the relevant activity—

(a) the provision and maintenance of an environment without risks to health and safety; and

(b) the provision and maintenance of safe plant and structures; and

(c) the provision and maintenance of safe systems; and

(d) the safe use, handling and storage of plant, structures and substances; and

(e) the provision of any information, training, instruction or supervision that is necessary to protect all persons from risks to their health and safety arising from the relevant activity.

704 Duty of officers

(1) If a relevant person has a duty under section 703 in relation to a relevant activity, an officer of the relevant person must exercise due diligence to ensure that the relevant person complies with that duty.

(2) An officer of a relevant person may be convicted or found guilty of an offence under this part relating to a duty under this section whether or not the relevant person has been convicted or found guilty of an offence against section 703.

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(3) In this section, ***due diligence*** includes taking reasonable steps—

(a) to acquire and keep up-to-date knowledge of public health and safety matters; and

(b) to gain an understanding of the nature of the relevant activity and generally of the hazards and risks associated with those activities; and

(c) to ensure that the relevant person has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety from the relevant activities; and

(d) to ensure that the relevant person has appropriate processes for receiving and considering information regarding incidents, hazards and risks and responding in a timely way to that information; and

(e) to ensure that the relevant person has, and implements, processes for complying with section 703; and

(f) to verify the provision and use of the resources and processes mentioned in paragraphs (c) to (e).

705 Duties of other persons at relevant premises

A person at relevant premises, whether or not the person has another duty under this part, must—

(a) take reasonable care for his or her own health and safety; and

(b) take reasonable care that his or her acts or omissions do not adversely affect the health and safety of other persons; and

(c) comply, so far as the person is reasonably able, with any reasonable instruction that is given by the relevant person to allow the relevant person to comply with this part.

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706 Reckless conduct

(1) A person commits an offence if—

(a) the person has a public health and safety duty; and

(b) the person, without reasonable excuse, engages in conduct that exposes an individual to whom that duty is owed to a risk of death or serious injury or illness; and

(c) the person is reckless as to the risk to an individual of death or serious injury or illness.

Maximum penalty—300 penalty units

(2) The prosecution bears the burden of proving that the conduct was engaged in without reasonable excuse.

707 Failure to comply with health and safety duty

A person commits an offence if—

(a) the person has a public health and safety duty; and

(b) the person fails to comply with that duty; and

(c) the failure exposes an individual to a risk of death or serious injury or illness.

Maximum penalty—200 penalty units

708 Failure to comply with health and safety duty

A person commits an offence if—

(a) the person has a public health and safety duty; and

(b) the person fails to comply with that duty.

Maximum penalty—100 penalty units

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Part 12.3 Applied provisions

709 Application of provisions

(1) The following provisions apply in relation to a relevant person's relevant activity—

- part 5.1, division 7, subdivisions 1 and 2;
- part 5.2, division 1;
- sections 236 and 237;
- part 5.2, division 4, subdivision 2;
- part 5.3.

(2) Part 7.1, division 1, division 2, subdivision 3, divisions 3 to 5 and division 8 apply in relation to a relevant person's relevant activity.

(3) Section 446(1) (Duty to limit use of equipment) applies in relation to a relevant person's relevant activity.

710 Modification of applied provisions

The provisions applied under section 709 apply with the following modifications—

(a) a reference to a person conducting a business or undertaking or a person with management or control of something is taken to be a reference to a relevant person;

(b) a reference to a workplace is taken to be a reference to relevant premises;

(c) a reference to a worker is taken to be a reference to anyone at the relevant premises;

(d) a reference to health and safety is taken to be a reference to public health and safety.

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Part 12.4 Incident notification

711 Duty to notify of notifiable incidents

(1) A relevant person must ensure that the regulator is notified immediately after becoming aware that a notifiable incident arising out of the relevant activity has happened.

Maximum penalty—100 penalty units.

(2) The notice must be given as required under this section and by the fastest possible means.

(3) The notice must be given—

(a) by telephone; or

(b) in writing.

Example—

The written notice can be given by facsimile, email or other electronic means.

(4) A person giving notice by telephone must—

(a) give the details of the incident requested by the regulator; and

(b) if required by the regulator, give a written notice of the incident within 48 hours of that requirement being made.

(5) A written notice must be in a form, or contain the details, approved by the regulator.

(6) If the regulator receives a notice by telephone and a written notice is not required, the regulator must give the person conducting the business or undertaking—

(a) details of the information received; or

(b) an acknowledgement of receiving the notice.

(7) A relevant person must keep a record of each notifiable incident for at least 5 years from the day that notice of the incident is given to the regulator under this section.

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Maximum penalty—50 penalty units.

712 Duty to preserve incident sites

(1) The person with management or control of relevant premises at which a notifiable incident has happened must ensure, so far as is reasonably practicable, that the site where the incident happened is not disturbed until an inspector arrives at the site or any earlier time that an inspector directs.

Maximum penalty—100 penalty units.

(2) In subsection (1) a reference to a site includes any goods, plant, substance, structure or thing associated with the notifiable incident.

(3) Subsection (1) does not prevent any action—

(a) to assist an injured person; or

(b) to remove a deceased person; or

(c) that is essential to make the site safe or to minimise the risk of a further notifiable incident; or

(d) that is associated with a police investigation; or

(e) for which an inspector or the regulator has given permission.

Part 12.5 Authorisations

713 Meaning of *authorised*

In this part, ***authorised*** means authorised by a licence, permit, registration or other authority, however described, as required under this regulation.

714 Requirements for authorisation of plant or substance

(1) A relevant person must not use plant or a substance at relevant premises if—

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(a) this regulation requires the plant or substance or its design to be authorised; and

(b) the plant or substance or its design is not authorised under this regulation.

Maximum penalty—200 penalty units.

(2) A relevant person must not direct or allow anyone to use plant or a substance at relevant premises if—

(a) this regulation requires the plant or substance or its design to be authorised; and

(b) the plant or substance or its design is not authorised under this regulation.

Maximum penalty—200 penalty units.

715 Requirement to comply with conditions of authorisation

A person must comply with the conditions of any authorisation given to that person under this regulation in relation to a relevant activity carried out by a relevant person at relevant premises.

Maximum penalty—200 penalty units.

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Chapter 13 Transitional provisions

Part 13.1 Transitional provisions for Work Health and Safety Regulation 2011

Division 1 Emergency plans

716 Lead in time for s 43 emergency plan

(1) This section applies to a person conducting a business or undertaking at a workplace at the commencement.

(2) The first emergency plan prepared by the person under section 43 need only be prepared by the end of 30 June 2012.

Division 2 Falls

717 Staged introduction of s 80 emergency and rescue procedures

Section 80 does not apply to a fall arrest system implemented for work other than construction work as defined under section 289 until the end of 31 December 2012.

Division 3 Plant and plant design

718 Existing registration—plant and plant design

(1) This section applies to an item of plant or the design of an item of plant if—

(a) before the commencement, the item of plant or design of the item of plant is registered under part 8, division 2 of the repealed WHS regulation; and

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(b) immediately before the commencement, the registration is in force; and

Note—

See section 13 of the repealed WHS regulation for when the registration of the design of an item of plant is in force under that regulation.

(c) on the commencement, the item of plant or design of the item of plant is required to be registered under part 5.3.

(2) On the commencement—

(a) for the item of plant—

(i) the item of plant is taken to be registered by the regulator as an item of plant under part 5.3; and

(ii) despite section 272A, the registration is valid until 31 January 2012; and

(iii) any conditions applying to the registration of the item of plant immediately before the commencement continue to apply; or

(b) for the design of the item of plant—

(i) the design of the item of plant is taken to be registered by the regulator as the design of an item of plant under part 5.3; and

(ii) any conditions applying to the registration of the design of the item of plant immediately before the commencement continue to apply; and

(iii) section 13 of the repealed WHS regulation continues to apply to the design of the item of plant as if a reference in that section to a certificate of registration of registrable plant was a reference to the registration of the design of an item of plant under part 5.3.

(3) A certificate of registration under section 91 of the repealed WHS regulation is taken to be—

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(a) for a certificate of registration for an item of plant—a registration document issued by the regulator under section 274 for the item of plant; or

(b) for a certificate of registration for the design of an item of plant—a registration document issued by the regulator under section 261 for the design of the item of plant.

(4) The number on the certificate of registration for an item of plant under the repealed WHS regulation is taken to be the plant registration number under section 273 for the item of plant.

(5) The number on the certificate of registration for the design of an item of plant under the repealed WHS regulation is taken to be the plant design registration number under section 260 for the design of the item of plant.

(6) Sections 8, 9 and 10 of the repealed WHS regulation continue to apply in relation to an item of plant registered under the repealed WHS regulation if, before the commencement—

(a) the plant changed ownership; and

(b) the chief executive had not been given notice of the change of ownership.

719 Pending applications—plant and plant design

(1) This section applies if—

(a) before the commencement, an application has been made to register an item of plant or the design of an item of plant under part 8, division 2 of the repealed WHS regulation; and

(b) immediately before the commencement, the application has not been decided; and

(c) on the commencement, the item of plant or design of the item of plant is required to be registered under part 5.3.

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(2) On the commencement, the chief executive must deal or continue to deal with the application under part 8, division 2 of the repealed WHS regulation.

Note—

A refusal to grant an application, and the imposition of a condition on the grant of the application, is a reviewable decision. See section 676.

(3) If the chief executive decides to grant the application and issues a certificate—

(a) for an application to register an item of plant—

(i) the item of plant is taken to be registered by the regulator as an item of plant under part 5.3; and

(ii) any conditions of the registration granted by the chief executive continue to apply to the item of plant; or

(b) for an application to register the design of an item of plant—

(i) the design of the item of plant is taken to be registered by the regulator as the design of an item of plant under part 5.3; and

(ii) any conditions of the registration granted by the chief executive continue to apply to the design of the item of plant; and

(iii) section 13 of the repealed WHS regulation continues to apply to the design of the item of plant as if a reference in that section to a certificate of registration of registrable plant design was a reference to the registration of the design of an item of plant under part 5.3.

(4) Section 718(3) to (5) applies to the item of plant or design of the item of plant.

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720 Provision for plant that on the commencement is not required to be registered under pt 5.3

(1) This section applies if, immediately before the commencement, a person holds a certificate of registration of registrable plant for plant that is an air-conditioning unit or cooling tower under the repealed WHS regulation.

(2) This section also applies if—

(a) before the commencement, a person has made an application—

(i) under section 79 of the repealed WHS regulation for a certificate of registration of registrable plant for plant that is an air-conditioning unit or cooling tower under that regulation; or

(ii) under section 111 of the repealed WHS regulation to renew a certificate of registration of registrable plant for plant that is an air-conditioning unit or cooling tower under that regulation; or

(iii) under section 114 of the repealed WHS regulation to replace a certificate of registration of registrable plant for plant that is an air-conditioning unit or cooling tower under that regulation; and

(b) immediately before the commencement, the application has not been decided.

(3) On the commencement—

(a) the certificate is cancelled; and

(b) the application is taken to be withdrawn.

(4) The regulator must—

(a) given notice of the withdrawal of the application to the person who made the application; and

(b) refund any fee paid for the application.

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Division 4 High risk work

721 Definition for div 4

In this division—

table means the table set out in section 722.

722 Existing licence—high risk work

(1) This section applies if—

(a) before the commencement, a person held a licence issued on or after 1 July 2008 to perform a class of high risk work under the repealed WHS regulation mentioned in column 1 of the following table (the ***column 1 licence***); and

(b) immediately before the commencement, the licence is in force.

(2) On the commencement—

(a) the person is taken to hold a high risk work licence granted by the regulator under part 4.5 for a class of high risk work mentioned in column 2 of the table shown opposite the column 1 licence; and

(b) any conditions applying to the licence immediately before the commencement continue to apply.

(3) The licence to perform a class of high risk work granted under section 91 of the repealed WHS regulation is taken to be a licence document issued by the regulator under section 93 for the class of high risk work.

Table 722

	Column 1	Column 2
1	basic scaffolder	basic scaffolding
2	intermediate scaffolder	intermediate scaffolding

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	Column 1	Column 2
3	advanced scaffolder	advanced scaffolding
4	dogger	dogging
5	basic rigger	basic rigging
6	intermediate rigger	intermediate rigging
7	advanced rigger	advanced rigging
8	operator of a tower crane	tower crane
9	operator of a self-erecting tower crane	self-erecting tower crane
10	operator of a derrick crane	derrick crane
11	operator of a portal boom crane	portal boom crane
12	operator of a bridge and gantry crane having 3 or more powered operations	bridge and gantry crane
13	operator of a vehicle loading crane with a capacity of 10 metre tonnes or more	vehicle loading crane
14	operator of a non-slewing mobile crane with a capacity of more than 3t	non-slewing mobile crane
15	operator of a slewing mobile crane with a capacity of 20t or less	slewing mobile crane—with a capacity up to 20t
16	operator of a slewing mobile crane with a capacity of 60t or less	slewing mobile crane—with a capacity up to 60t
17	operator of a slewing mobile crane with a capacity of 100t or less	slewing mobile crane—with a capacity up to 100t

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	Column 1	Column 2
18	operator of a slewing mobile crane with a capacity of more than 100t	slewing mobile crane—with a capacity over 100t
19	operator of a materials hoist with a cantilever platform	materials hoist
20	operator of a materials or personnel hoist	personnel and materials hoist
21	operator of a boom-type elevating work platform with a boom length of 11m or more	boom-type elevating work platform
22	operator of a mobile truck-mounted concrete placing boom with a knuckle boom capable of power operated slewing and luffing	concrete placing boom
23	operator of a forklift truck, other than a pedestrian operated forklift truck	forklift truck
24	operator of an order picking forklift truck	order-picking forklift truck
25	basic boiler operator	standard boiler operation
26	intermediate boiler operator	standard boiler operation
27	advanced boiler operator	advanced boiler operation
28	operator of a turbine	turbine operator
29	operator of a reciprocating steam engine with a piston diameter of more than 250mm	reciprocating steam engine

723 Pending applications—high risk work

(1) This section applies if—

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(a) before the commencement, a person has made an application—

(i) under section 82 of the repealed WHS regulation for a licence to perform a class of high risk work mentioned in column 1 of the table; or

(ii) under section 96 of the repealed WHS regulation for renewal of a licence to perform a class of high risk work mentioned in column 1 of the table; or

(iii) under section 82 of the repealed WHS regulation for a variation of a licence to perform a class of high risk work to endorse another class of high risk work mentioned in column 1 of the table on the licence; or

(iv) under section 84 of the repealed WHS regulation for a variation of a licence to perform a class of high risk work mentioned in column 1 of the table to remove a class of high risk work from the licence; and

(b) on the commencement, the application has not been decided.

(2) On the commencement, the chief executive may deal, or continue to deal, with the application under the repealed WHS regulation part 8, division 2.

Note—

A refusal to grant an application, and the imposition of a condition on the grant of the application, is a reviewable decision. See section 676.

(3) If the chief executive decides to grant the licence, renewal or variation—

(a) the licence as granted, renewed or varied is taken to be a high risk work licence granted by the regulator under part 4.5 for the class of high risk work mentioned in column 2 of the table shown opposite the class of high risk work mentioned in column 1 of the table to which the application, renewal or variation relates; and

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(b) any conditions on the licence granted by the chief executive continue to apply to the high risk work licence; and

(c) the licence issued by the chief executive under section 91 of the repealed WHS regulation is taken to be a licence document issued by the regulator under section 93 for the high risk work.

724 Applications for high risk work licence until 31 December 2014 if no VET course available

(1) This section applies if—

(a) a person proposes to apply for a high risk work licence for a class of high risk work mentioned in column 2 of the table (the ***column 2 class***); and

(b) the VET course for the qualification to be held for the high risk work licence is not available; and

(c) the person holds—

(i) an assessment summary of a type defined under section 18(5) of the repealed WHS regulation for a unit of competency stated in schedule 5 of that regulation for a class of high risk work mentioned in column 1 of the table shown opposite the column 2 class; or

(ii) a statement of attainment, issued by an RTO within 60 days before the application for the high risk work licence is made, for a unit of competency stated in schedule 5 of the repealed WHS regulation for a class of high risk work mentioned in column 1 of the table shown opposite the column 2 class.

(2) Despite section 86 and schedule 4, until the end of 31 December 2014—

(a) the person may apply for the high risk work licence; and

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(b) the application must be dealt with as if the assessment summary or statement of attainment is a qualification under schedule 4 for the class of high risk work.

725 Applications for high risk work licence if statement of attainment and assessment summary held under repealed WHS regulation

(1) A person who holds both of the following may apply to the chief executive under the repealed WHS regulation, part 8, division 2, until the end of 31 December 2012 for a licence to perform a class of high risk work mentioned in column 1 of the table (the ***column 1 class***)—

(a) an assessment summary of a type defined under section 18(5) of the repealed WHS regulation for the unit of competency stated in schedule 5 of that regulation for the class of high risk work;

(b) a statement of attainment, issued by an RTO within 14 days before the application is made, for the unit of competency stated in schedule 5 of the repealed WHS regulation for the class of high risk work.

(2) The chief executive must deal, or continue to deal, with the application under part 8, division 2 of the repealed WHS regulation.

Note—

A refusal to grant an application, and the imposition of a condition on the grant of the application, is a reviewable decision. See section 676.

(3) If the chief executive decides to grant the licence—

(a) the licence is taken to be a high risk work licence granted by the regulator under part 4.5 for the class of high risk work mentioned in column 2 of the table shown opposite the column 1 class; and

(b) any conditions on the licence granted by the chief executive continue to apply to the high risk work licence; and

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(c) the licence granted by the chief executive under section 91 of the repealed WHS regulation is taken to be a licence document issued by the regulator under section 93 for the high risk work.

726 Particular licence classes to include other licence classes

(1) This section applies despite sections 81 and 86 and schedule 4.

(2) A person who holds a high risk work licence for the licence class non-slewing mobile crane may, while the licence is in force, carry out high risk work for the licence class reach stacker until the end of 31 December 2016.

(3) A person who holds a high risk work licence to carry out any of the following licence classes may, while the licence is in force, carry out high risk work for the licence class vehicle loading crane until the end of 31 December 2013—

(a) slewing mobile crane—with a capacity up to 20t;

(b) slewing mobile crane—with a capacity up to 60t;

(c) slewing mobile crane—with a capacity up to 100t;

(d) slewing mobile crane—with a capacity over 100t.

(4) A person who holds a high risk work licence to carry out any of the following licence classes may, while the licence is in force, carry out high risk work for the licence class non-slewing mobile crane until the end of 31 December 2013—

(a) slewing mobile crane—with a capacity up to 20t;

(b) slewing mobile crane—with a capacity up to 60t;

(c) slewing mobile crane—with a capacity up to 100t;

(d) slewing mobile crane—with a capacity over 100t.

(5) A person who holds a high risk work licence to carry out the licence class bridge and gantry crane or vehicle loading crane

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may, while the licence is in force, carry out the licence class dogging until the end of 31 December 2012 if—

(a) the load being lifted is lifted by remote control; and

(b) the load being lifted is lifted within the view of the person.

(6) Subsection (7) applies if a licence to perform the licence class intermediate boiler operator under the repealed WHS regulation was taken, under this division, to be a high risk work licence to carry out high risk work for the licence class standard boiler operation.

(7) In addition to carrying out high risk work for the licence class standard boiler operation, the holder of the licence may, while the licence is in force, carry out high risk work for the licence class intermediate boiler operator under the repealed WHS regulation until the end of 31 December 2013.

727 Existing exemption—high risk work

(1) This section applies if—

(a) before the commencement, the chief executive has granted an exemption from holding a licence to perform a class of high risk work mentioned in column 1 of the table (the ***column 1 class***) to a person under section 21 of the repealed WHS regulation; and

(b) immediately before the commencement, the exemption is in force.

(2) On the commencement—

(a) the regulator is taken to exempt the person under section 686 from compliance with a provision of this regulation requiring the person to hold a high risk work licence for the class of high risk work mentioned in column 2 of the table shown opposite the column 1 class; and

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(b) any restrictions placed on the exemption under section 21(7) of the repealed WHS regulation continue to apply to the exemption.

(3) The exemption ends on the earlier of the following—

(a) when the exemption would otherwise have ended under the repealed WHS regulation;

(b) the end of 31 December 2012.

(4) If the person was exempt from holding a licence to perform the licence class intermediate boiler operator under the repealed WHS regulation, in addition to being exempt from holding a licence to carry out the licence class standard boiler operation, the person continues to be exempt from holding a licence to perform the licence class intermediate boiler operator under the repealed WHS regulation until the earlier of the following—

(a) when the exemption would otherwise have ended under the repealed WHS regulation;

(b) the end of 31 December 2012.

728 Pending exemption applications—high risk work

(1) This section applies if—

(a) before the commencement, a person has applied under section 21 of the repealed WHS regulation for an exemption from holding a licence to perform a class of high risk work mentioned in column 1 of the table (the ***column 1 class***); and

(b) on the commencement, the application has not been decided.

(2) On the commencement, the chief executive must deal, or continue to deal, with the application under the repealed WHS regulation.

Note—

A refusal to grant an application is a reviewable decision. See section 676.

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(3) If the chief executive decides to grant the application—

(a) the person is taken to hold an exemption under section 686 granted by the regulator exempting the person from compliance with a provision of this regulation requiring the person to hold a high risk work licence for the class of high risk work mentioned in column 2 of the table shown opposite the column 1 class; and

(b) any restrictions placed on the exemption by the chief executive under section 21(7) of the repealed WHS regulation continue to apply to the exemption.

(4) If the application was for an exemption from holding a licence to perform the licence class intermediate boiler operator under the repealed WHS regulation, in addition to being exempt from holding a licence to carry out the licence class standard boiler operation, the person is exempt from holding a licence to perform the licence class intermediate boiler operator under the repealed WHS regulation until 31 December 2012.

729 Revival of authority—applications under s 43 of the repealed WHS regulation

(1) This section applies if—

(a) a person holds a certificate mentioned in section 41(1) of the repealed WHS regulation that is not a certificate mentioned in section 41(4) of the repealed WHS regulation; and

(b) before the commencement, the person has not made an application under section 43 of the repealed WHS regulation relating to the certificate.

(2) On the commencement, the person may make an application under section 43 of the repealed WHS regulation as continued in force by section 730.

(3) Section 41(7) and (8) of the repealed WHS regulation continues to apply in relation to the making of the application.

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730 Existing licence issued before 1 July 2008—high risk work

(1) This section applies if—

(a) a person holds a licence to perform a class of high risk work issued before 1 July 2008; and

(b) before the commencement, the licence—

(i) has not ended as provided under section 42(1) or (3) of the repealed WHS regulation; and

(ii) had not been converted to a renewable licence under section 43 of the repealed WHS regulation.

(2) Despite its repeal—

(a) part 3, division 8 of the repealed WHS regulation continues to apply to the licence; and

(b) the fee in schedule 1, section 5 of the repealed WHS regulation continues to apply to an application under section 43 of the repealed WHS regulation to convert a licence to perform a class of high risk work to a renewable licence under the repealed WHS regulation.

Note—

A refusal to grant an application is a reviewable decision. See section 676.

(3) If the licence is converted to a renewable licence under part 3, division 8 of the repealed WHS regulation for a class of high risk work mentioned in column 1 of the table, the renewable licence is taken to be a high risk work licence for a class of high risk work mentioned in column 2 of the table shown opposite the class of high risk work mentioned in column 1 of the table.

(4) However, if—

(a) the licence was for the licence class intermediate boiler operator under the repealed WHS regulation; and

(b) the licence is converted to a renewable licence as provided under subsection (3);

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in addition to holding a licence to carry out the licence class standard boiler operation, the person may, while the licence is in force, perform the licence class intermediate boiler operator under the repealed WHS regulation until the end of 31 December 2013.

Division 5 Earthmoving and particular crane work

731 Cancellation of earthmoving or particular crane work certificate and withdrawal of applications

(1) This section applies if, immediately before the commencement, a person holds under the repealed WHS regulation—

(a) an earthmoving or particular crane work certificate; or

(b) an exemption from holding an earthmoving or particular crane work certificate.

(2) This section also applies if—

(a) before the commencement, a person has made an application—

(i) under section 80 of the repealed WHS regulation for an earthmoving or particular crane work certificate; or

(ii) under section 28 of the repealed WHS regulation for an exemption from holding an earthmoving or particular crane work certificate; or

(iii) section 114 of the repealed WHS regulation to replace an earthmoving or particular crane work certificate under; and

(b) immediately before the commencement, the application has not been decided.

(3) On the commencement—

(a) the certificate or exemption is cancelled; and

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(b) the application is taken to be withdrawn.

(4) The chief executive must—

(a) give notice of the withdrawal of the application to the person who made the application; and

(b) refund any fee paid for the application.

Division 6 Certificate for prescribed activity that is demolition work

732 Existing certificate to perform demolition work continues as a transitional demolition work licence

(1) This section applies if—

(a) immediately before the commencement, a person holds a certificate to perform demolition work; or

(b) after the commencement under repealed provisions continued under section 735—

(i) the regulator grants a person a certificate to perform demolition work; or

(ii) the suspension of a certificate to perform demolition work ends before the end of the term of the certificate; or

(iii) the regulator grants a person a replacement certificate to perform demolition work.

(2) The certificate continues in effect unless—

(a) the certificate is cancelled, suspended, surrendered or replaced; or

(b) the regulator grants the holder of the certificate a licence to carry out demolition work under this regulation.

(3) The certificate continued in effect under subsection (2) expires 2 years after the day it was granted under the repealed WHS Regulation or is granted under provisions of the

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repealed WHS Regulation continued in effect under section 735.

(4) For section 143 of this regulation, the certificate is taken to be a licence (a ***transitional demolition work licence***) to carry out demolition work granted under this regulation.

(5) In this section—

certificate to perform demolition work means a certificate under the repealed WHS Regulation part 8 to perform a prescribed activity that is demolition work.

733 Transitional demolition work licence and requirement for nominated supervisor

(1) A competent person under the repealed WHS regulation named to the chief executive under that regulation before the commencement, and whose name has not been withdrawn before the commencement, is taken from the commencement to be a person named to the regulator under section 144.

(3) Sections 144O, 144Q, 144S and 144T of this regulation apply if there is a change in relation to the supervisor named to the regulator, including the supervisor taken to be named under subsection (1).

(4) However, for section 144O(1)(b) it is sufficient if the information given to the regulator satisfies the regulator that the person named is a competent person under the repealed WHS regulation.

734 Transitional demolition work licence and requirement to train worker

A person conducting a business or undertaking who employs, or otherwise allows, a worker to carry out demolition work under a transitional demolition work licence must ensure the worker has received appropriate training in safe working methods for the carrying out of the work.

Maximum penalty—30 penalty units.

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735 Existing provisions about certificate process continue to apply for a transitional demolition work licence

(1) Part 8, division 2 of the repealed WHS regulation (Applications for certificates, licences and variations of licences), despite its repeal, continues to apply to an application for the grant of a certificate to perform demolition work made before the commencement but not decided by the chief executive before the commencement.

Note—

A refusal to grant a certificate, and the imposition of a condition on the grant of a certificate, is a reviewable decision, see section 676.

(2) Part 8, division 4 (Replacement and surrender of certificates and licences) and division 5 (Suspension and cancellation of certificates and licences) of the repealed WHS regulation, despite their repeal, continue to apply in relation to a certificate to perform demolition work granted before the commencement or under subsection (1).

Note—

A refusal to grant a certificate, and the suspension or cancellation of a certificate, is a reviewable decision, see section 676.

(3) The repealed provisions applied under subsection (1) or (2) apply as if—

(a) a reference to the chief executive were a reference to the regulator for the purposes of anything that may or must be done after the commencement; and

(b) a reference to a contravention in the repealed WHS regulation, section 116(2)(a)(i) included a reference to a contravention of the Act (the *Work Health and Safety Act 2011*) or this regulation; and

(c) if the context permits, a reference to a certificate to perform demolition work includes a reference to a transitional demolition work licence.

(4) For the purpose of the regulator performing a function as provided under subsection (1) or (2) in relation to a particular matter, anything done in relation to the particular matter by or

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in relation to the chief executive before the commencement is taken to have been done by or in relation to the regulator.

(5) Unless otherwise provided, part 4.6, divisions 3 to 5 of this regulation do not apply to a transitional demolition work licence.

736 Conditions for transitional demolition work licence

A transitional demolition work licence is subject to the following conditions—

(a) if the certificate to perform demolition work to which it relates was in existence before the commencement—any condition imposed by the chief executive under the repealed WHS regulation;

(b) any condition imposed by the regulator under the repealed provisions applied under section 735;

(c) a condition that the holder of the licence must take all reasonable steps to ensure that the person continues to satisfy the approved criteria stated in Information Paper D1 (Approved criteria for a certificate to perform the prescribed activity of demolition work) issued by the chief executive.

Note—

This continues in effect repealed WHS regulation section 48(a).

Division 7 Accredited providers and approvals

737 Cancellation of certificate of appointment as accredited provider and withdrawal of applications

(1) This section applies to a person who, immediately before the commencement, holds a certificate of appointment as an accredited provider under part 8, division 2 of the repealed WHS regulation.

(2) This section also applies if—

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(a) before the commencement, a person has made an application—

(i) under section 79 of the repealed WHS regulation for a certificate of appointment as an accredited provider under that regulation; or

(ii) under section 114 of the repealed WHS regulation to replace a certificate of appointment as an accredited provider under that regulation; and

(b) immediately before the commencement, the application has not been decided.

(3) On the commencement—

(a) the certificate is cancelled; and

(b) the application is taken to be withdrawn.

(4) The chief executive must—

(a) give notice of the withdrawal of the application to the person who made the application; and

(b) refund any fee paid for the application.

738 Training and assessment in high risk work under repealed WHS regulation

(1) This section applies if, immediately before the commencement, a registered training organisation is—

(a) providing training in a unit of competency under the repealed WHS regulation for part 3 of that regulation; or

(b) performing an assessment in a unit of competency under the repealed WHS regulation for part 3 of that regulation.

(2) On the commencement, part 7, divisions 2 and 3 of the repealed WHS regulation continues to apply to the registered training organisation in providing the training and performing the assessment until the end of 31 December 2012.

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739 Existing approval—providing training and assessment for high risk work

(1) This section applies to an approval to provide training and assessment for a unit of competency for a class of high risk work under section 70 of the repealed WHS regulation if, immediately before the commencement, the approval is in force.

(2) Despite the repeal of section 70 of the repealed WHS regulation, on the commencement the approval continues in force and is valid for the term starting on the day the approval was granted and ending on the end of 31 December 2012.

(3) Part 7, division 5 of the repealed WHS regulation continues to apply to the approval.

740 Pending applications—providing training and assessment for high risk work

(1) This section applies if—

(a) before the commencement, an individual has applied to the chief executive for approval to provide training and assessment for a unit of competency for a class of high risk work under section 70 of the repealed WHS regulation; and

(b) immediately before the commencement, the application has not been decided.

(2) On the commencement, the chief executive may deal, or continue to deal, with the application under part 7, division 4 of the repealed WHS regulation.

Note—

A refusal to grant an application, and the imposition of a condition on the grant of the application, is a reviewable decision. See section 676.

(3) If the chief executive decides to grant the application, the approval is valid for the term starting on the day the application is granted and ending on the end of 31 December 2012.

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(4) Part 7, division 5 of the repealed WHS regulation continues to apply to the approval.

741 Cancellation of approval to provide training and assessment for earthmoving and particular crane occupation and withdrawal of applications

(1) This section applies to an approval to provide training and assessment for a unit of competency for an earthmoving or particular crane occupation under section 70 of the repealed WHS regulation if, immediately before the commencement, the approval is in force.

(2) This section also applies to an application for approval to provide training and assessment for a unit of competency for an earthmoving or particular crane occupation under section 70 of the repealed WHS regulation made but not decided before the commencement.

(3) On the commencement—

(a) the approval is cancelled; and

(b) the application is taken to be withdrawn.

(4) The chief executive must—

(a) give notice of the withdrawal of the application to the person who made the application; and

(b) refund any fee paid for the application.

Division 8 Certificates and licences

742 Replacement of existing certificates and licences

(1) This section applies if—

(a) before the commencement, the holder of any of the following certificates or licences under the repealed WHS regulation has applied to the chief executive for a replacement certificate or licence under section 114 of the repealed WHS regulation—

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(i) certificate of registration of registrable plant that on the commencement is required to be registered under part 5.3;

(ii) certificate of registration of registrable plant design;

(iii) a licence to perform a class of high risk work; and

(b) immediately before the commencement, the application has not been decided.

(2) On the commencement, section 114 of the repealed WHS regulation continues to apply to the application despite—

(a) the repeal of that section; and

(b) the registration or licence being taken to be registration or a licence under this regulation.

Note—

A refusal to grant a replacement certificate or licence is a reviewable decision. See section 676.

743 Suspension and cancellation of existing certificates and licences

(1) This section applies if, before the commencement, the chief executive, under part 8, division 5 of the repealed WHS regulation, has suspended, or has proposed to suspend or cancel, any of the following certificates or licences under the repealed WHS regulation—

(a) certificate of registration of registrable plant that on the commencement is required to be registered under part 5.3;

(b) certificate of registration of registrable plant design;

(c) a licence to perform a class of high risk work.

(2) On the commencement, the chief executive may act or continue to act under part 8, division 5 of the repealed WHS regulation despite—

(a) the repeal of the division; and

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(b) the registration, licence or appointment being taken to be registration, a licence or accreditation under this regulation.

Note—

A decision to suspend or cancel a certificate or licence is a reviewable decision. See section 676.

Division 9 Asbestos related provisions

744 Definitions for div 9

In this division—

asbestos management code means former NOHSC document entitled 'Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC:2018 (2005)]'.

bonded asbestos removal certificate means a bonded asbestos removal certificate—

(a) granted by the chief executive under the repealed WHS regulation, section 91; or

(b) to which the repealed WHS regulation, section 376 (Particular bonded asbestos removal certificates to end 31 December 2012) applies.

competent person, under the repealed WHS regulation, means a person, mentioned in the repealed WHS regulation, section 50(3), definition *competent person*, paragraph (b), who is competent under Information Paper AR2.

former NOHSC means the National Occupational Health and Safety Commission under the repealed *National Occupational Health and Safety Commission Act 1985* (Cwlth).

friable asbestos certificate means a certificate under the repealed WHS regulation, section 91, to perform a prescribed activity that is work to remove friable asbestos containing material.

Information paper AR1 means Information Paper AR1 (Approved criteria for a certificate to perform work to remove

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friable asbestos containing material) issued under the repealed WHS regulation.

Information paper AR2 means Information Paper AR2 (Requirements for a competent person to supervise work to remove friable asbestos containing material) issued under the repealed WHS regulation.

Editor's note—

The information papers may be obtained at no cost from any office of the department dealing with work health and safety, or the department's website.

transitional class A asbestos removal licence means a class A asbestos removal licence taken to exist under section 745(4).

transitional class B asbestos removal licence means a class B asbestos removal licence taken to exist under section 750(4).

745 Existing friable asbestos certificate continues as a transitional class A asbestos removal licence

(1) This section applies if—

(a) immediately before the commencement, a person holds a friable asbestos certificate; or

(b) after the commencement under repealed provisions continued under section 748—

(i) the regulator grants a person a friable asbestos certificate; or

(ii) the suspension of a friable asbestos certificate ends before the end of the term of the certificate; or

(iii) the regulator grants a person a replacement friable asbestos certificate.

(2) The certificate continues in effect unless—

(a) the certificate is cancelled, suspended, surrendered or replaced; or

(b) the regulator grants the holder of the certificate a class A asbestos removal licence under this regulation.

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(3) The certificate continued in effect under subsection (2) expires on 31 December 2013, despite any other expiry date otherwise applying under the repealed WHS regulation.

Note—

Under the repealed WHS regulation, section 47(3), a friable asbestos certificate was valid for 2 years from the day it was granted unless suspended or cancelled. This section 745(3) prevails over the repealed WHS regulation, section 47(3).

(4) For the following provisions of this regulation, the certificate is taken to be a class A asbestos removal licence that authorises the carrying out of licensed asbestos removal work by the licence holder as a worker or by or on behalf of the licence holder as a person conducting a business or undertaking—

(a) parts 8.7, 8.8 and 8.10, division 1;

(b) schedule 19, dictionary, definitions *licensed asbestos removalist* and *licensed asbestos removal work.*

Notes—

1 Effectively, the holder of a friable asbestos removal licence to which this section applies, from the commencement, may carry out both class A asbestos removal work and class B asbestos removal work.

2 The definition *licensed asbestos removalist* only relates to a person conducting a business or undertaking so the declaration in this subsection, so far as it applies to the definition, only applies to a person conducting a business or undertaking who holds a transitional class A asbestos removal licence.

746 Transitional class A asbestos removal licence and requirement for nominated asbestos removal supervisor

(1) This section applies for section 459 if the asbestos removal work is class A asbestos removal work carried out by a licensed asbestos removalist as the holder of a transitional class A asbestos removal licence.

(2) A competent person under the repealed WHS regulation named to the chief executive under the repealed WHS regulation before the commencement, and whose name has

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not been withdrawn before the commencement, is taken from the commencement to be a person named to the regulator under section 529.

(3) Sections 507, 509, 511 and 512 of this regulation apply if there is a change in relation to the supervisor named to the regulator, including the supervisor taken to be named under subsection (2).

(4) However, for section 507(1)(b) it is sufficient if the information given to the regulator satisfies the regulator that the person named is a competent person under the repealed WHS regulation.

747 Transitional class A asbestos removal licence and requirement to train worker

A person conducting a business or undertaking who employs, or otherwise allows, a worker to carry out class A asbestos removal work under a transitional class A asbestos removal licence must ensure the worker has received appropriate training in safe working methods for the carrying out of the removal.

Maximum penalty—30 penalty units.

748 Existing provisions about certificate process continue to apply for a transitional class A asbestos removal licence

(1) Part 8, division 2 of the repealed WHS regulation (Applications for certificates, licences and variations of licences), despite its repeal, continues to apply to an application for the grant of a friable asbestos certificate made before the commencement but not decided by the chief executive before the commencement.

Note—

A refusal to grant a certificate is a reviewable decision, see section 676.

(2) Part 8, division 4 (Replacement and surrender of certificates and licences) and division 5 (Suspension and cancellation of certificates and licences) of the repealed WHS regulation,

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despite their repeal, continue to apply in relation to a friable asbestos certificate granted before the commencement or under subsection (1).

Note—

A refusal to grant a replacement certificate on a decision to suspend or cancel a certificate or to impose a condition on the grant of a certificate, is a reviewable decision, see section 676.

(3) The repealed provisions applied under subsection (1) or (2) apply as if—

(a) a reference to the chief executive were a reference to the regulator for the purposes of anything that may or must be done after the commencement; and

(b) a reference to a contravention in the repealed WHS regulation, section 116(2)(a)(i) included a reference to a contravention of the Act (the *Work Health and Safety Act 2011*) or this regulation; and

(c) if the context permits, a reference to a certificate to perform prescribed activity that is work to remove friable asbestos containing material includes a reference to a transitional class A asbestos removal licence.

(4) For the purpose of the regulator performing a function as provided under subsection (1) or (2) in relation to a particular matter, anything done in relation to the particular matter by or in relation to the chief executive before the commencement is taken to have been done by or in relation to the regulator.

(5) Unless otherwise provided, part 8.10, divisions 3 to 6 does not apply to a transitional class A asbestos removal licence.

749 Conditions for transitional class A asbestos removal licence

A transitional class A asbestos removal licence is subject to the following conditions—

(a) if the friable asbestos certificate to which it relates was in existence before the commencement—any condition

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imposed by the chief executive under the repealed WHS regulation;

(b) any condition imposed by the regulator under the repealed provisions applied under section 748;

(c) a condition that the holder of the licence must take all reasonable steps to ensure that the person continues to satisfy the approved criteria stated in Information Paper AR1.

Note—

This continues in effect repealed WHS regulation section 48(b).

750 Existing bonded asbestos removal certificate continues as transitional class B asbestos removal licence

(1) This section applies if—

(a) immediately before the commencement, a person holds a bonded asbestos removal certificate; or

(b) after the commencement under repealed provisions continued under section 752—

(i) the regulator grants a person a bonded asbestos removal certificate; or

Note—

A renewed certificate is not mentioned because under the repealed WHS regulation, section 376, there should be no renewals happening before 31 December 2012, the day to which certificates were extended under the section.

(ii) the suspension of a bonded asbestos removal certificate ends before the end of the term of the certificate; or

(iii) the regulator grants a person a replacement bonded asbestos removal certificate.

(2) The certificate continues in effect unless—

(a) the certificate is cancelled, suspended, surrendered or replaced; or

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(b) the regulator grants the holder of the certificate a class B asbestos removal licence under this regulation.

(3) The certificate continued in effect under subsection (2) expires at the end of 31 December 2014, despite any other expiry date otherwise applying under the repealed WHS regulation.

Note—

Under the repealed WHS regulation, section 54, a bonded asbestos removal certificate was for a term of 5 years. Under the repealed WHS regulation, 376, a certificate to which the section applied had an expiry date of the end of 31 December 2012. This section 750(3) prevails over or replaces those provisions of the repealed WHS regulation.

(4) For the following provisions of this regulation, the certificate is taken to be a class B asbestos removal licence that authorises the carrying out of class B asbestos removal work by the licence holder as a worker or by or on behalf of the licence holder as a person conducting a business or undertaking—

(a) parts 8.7 and 8.10, division 1;

(b) schedule 19, dictionary, definitions *licensed asbestos removalist* and *licensed asbestos removal work.*

Note—

The definition *licensed asbestos removalist* only relates to a person conducting a business or undertaking so the declaration in this subsection, so far as it applies to the definition, only applies to a person conducting a business or undertaking who holds a transitional class B asbestos removal licence.

751 Holder of transitional class B asbestos removal licence to notify change of address

The holder of a transitional class B asbestos removal licence under section 750 must notify the regulator of a change of the certificate holder's residential or postal address within 14 days after the change.

Maximum penalty—10 penalty units.

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Note—

This continues in effect repealed WHS regulation, section 55.

752 Existing provisions about certificate process continue to apply for a transitional class B asbestos removal licence

(1) Part 8, division 2 of the repealed WHS regulation (Applications for certificates, licences and variations of licences), despite its repeal, continues to apply to an application for the grant of a bonded asbestos removal certificate made before the commencement but not decided by the chief executive before the commencement.

Note—

A refusal to grant a certificate and a decision to impose a condition on the grant of a certificate is a reviewable decision, see section 676.

(2) Part 8, division 4 (Replacement and surrender of certificates and licences) and division 5 (Suspension and cancellation of certificates and licences) of the repealed WHS regulation, despite their repeal, continue to apply in relation to a bonded asbestos removal certificate granted before the commencement or under subsection (1).

Note—

The refusal to grant a replacement certificate or to suspend or cancel a certificate is a reviewable decision, see section 676.

(3) The repealed provisions applied under subsection (1) or (2) apply as if—

(a) a reference to the chief executive were a reference to the regulator for the purposes of anything that may or must be done after the commencement; and

(b) a reference to a contravention in the repealed WHS regulation, section 116(2)(a)(i) included a reference to a contravention of the Act (the *Work Health and Safety Act 2011*) or this regulation; and

(c) if the context permits, a reference to a bonded asbestos removal certificate includes a reference to a transitional class B asbestos removal licence.

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(4) For the purpose of the regulator performing a function as provided under subsection (1) or (2) in relation to a particular matter, anything done in relation to the particular matter by or in relation to the chief executive before the commencement is taken to have been done by or in relation to the regulator.

(5) Part 8.10, divisions 3 to 6 of this regulation do not apply to a transitional class B asbestos removal licence.

753 Conditions for transitional class B asbestos removal licence

A transitional class B asbestos removal licence is subject to the following conditions—

(a) if the bonded asbestos removal certificate to which it relates was in existence before the commencement—any condition imposed by the chief executive under the repealed WHS regulation;

(b) any condition imposed by the regulator under the repealed provisions applied under section 752 (Existing provisions about certificate process continue to apply for a transitional class B asbestos removal licence).

755 Training requirement for worker under section 460(1) satisfied by alternative to certification

(1) This section applies to the requirement under section 460(1) of this regulation that a licensed asbestos removalist be satisfied for the purposes of the subsection that a particular worker holds a particular certification in relation to a specified VET course.

(2) The requirement does not apply to—

(a) class A asbestos removal work carried out under a transitional class A asbestos removal licence held by the licensed asbestos removalist; or

(b) class B asbestos removal work carried out under a transitional class B asbestos removal licence held by the licensed asbestos removalist.

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(3) The requirement in relation to the worker is taken to be satisfied if the work is class B asbestos removal work and—

(a) the worker holds a transitional class B asbestos removal licence; or

(b) the worker holds an assessment summary of the type described in the repealed WHS regulation, section 52(4) about the worker's competence to perform work to remove bonded asbestos containing material that was issued within 60 days before the day on which the work is to be performed; or

(c) the worker—

(i) has applied under the repealed WHS regulation, section 53, for a bonded asbestos removal certificate; and

(ii) has not yet been granted the certificate or been given notice of the refusal of the application; or

(d) the worker has been assessed before 31 December 2013 by an RTO, under the approved criteria, as competent to perform work to remove non-friable asbestos containing material.

(4) For subsection (3)(b), it does not matter whether the assessment summary is issued before or after the commencement.

(5) Also, the requirement in relation to the worker is taken to be satisfied if—

(a) the work is class B asbestos removal work; and

(b) the licensed asbestos removalist holds a transitional class A asbestos removal licence that allows the worker to perform the work.

(6) In this section—

approved criteria mean the criteria stated in Information Paper AR3 (Approved criteria for a certificate to perform work to remove bonded asbestos containing material) issued under the repealed WHS regulation.

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756 Application for class A asbestos removal licence when specified VET course unavailable for named supervisors

(1) This section applies if—

(a) a person applies to the regulator under section 492 for a class A asbestos removal licence; and

(b) the applicant satisfies the regulator that the specified VET course mentioned in section 493(1)(c) is not reasonably available within the State for the training of 1 or more persons named as a supervisor.

(2) It is sufficient compliance with section 493(1)(c) if each person named as a supervisor is a competent person under Information Paper AR2.

(3) If the regulator grants the licence, the following are conditions of the licence—

(a) each person named as a supervisor under subsection (2) must obtain certification in relation to the specified VET course for the supervision of asbestos removal work, as soon as practicable after the course becomes available, in no case later than 31 December 2014;

(b) the licence holder must give a copy of each certification to the regulator as soon as practicable after the certification is issued.

757 Application for class B asbestos removal licence when specified VET course unavailable for named supervisors

(1) This section applies if—

(a) a person applies to the regulator under section 492 for a class B asbestos removal licence; and

(b) the applicant satisfies the regulator that the specified VET course mentioned in section 494(1)(c) is not reasonably available within the State for the training of 1 or more persons named as a supervisor.

(2) It is sufficient compliance with section 494(1)(c) if each person named as a supervisor holds—

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(a) a transitional class B asbestos removal licence; or

(b) a certification for the specified VET course for class A asbestos removal work; or

(c) a certification for the specified VET course for class B asbestos removal work.

(3) If the regulator grants the licence, the following are conditions of the licence—

(a) each person named as a supervisor under subsection (2) must obtain certification in relation to the specified VET course for the supervision of asbestos removal work, as soon as practicable after the course becomes available, in no case later than 31 December 2014;

(b) the licence holder must give a copy of each certification to the regulator as soon as practicable after the certification is issued.

758 No need for asbestos register in particular transitional circumstances

(1) This section applies to—

(a) the requirement under section 425 that a person with management or control of a workplace must ensure that an asbestos register is prepared and kept at the workplace; and

(b) requirements related to the asbestos register under sections 426, 427, 428, 448, 449 and 450.

(2) The person does not have to comply with the requirements until after 31 December 2014 if the register was not required to be kept under the repealed WHS regulation, part 13, division 3.

759 No need for asbestos management plan in particular transitional circumstances

(1) This section applies to—

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(a) the requirements under section 429 that a person with management or control of a workplace must ensure that an asbestos management plan is prepared and maintained at the workplace; and

(b) requirements related to the asbestos management plan under sections 429 and 430.

(2) The person does not have to comply with the requirements until after 31 December 2014 if the plan was not required to be kept under the repealed WHS regulation, part 13, division 3.

760 Transitional licensed asbestos assessor

Until the end of 31 December 2013, a reference in this regulation to a licensed asbestos assessor includes a person who is not licensed under section 497 but who—

(a) has acquired through training or experience the knowledge and skills of relevant asbestos removal industry practice; and

(b) either—

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

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

761 Transitional competent person for ss 473 and 474 clearance inspection and certificates

Until the end of 31 December 2014, a reference in sections 473 and 474 to a competent person is taken to include a person who has acquired through training, qualifications and experience the knowledge and skills to carry out the task the person is required to perform under the sections.

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Division 10 Lead

762 Results of health surveillance

(1) This section applies if, before the commencement—

(a) a person has arranged for health surveillance of the person or a worker of the person under section 237 of the repealed WHS regulation; and

(b) the person has not given the chief executive notice of the results of the health surveillance under section 237(4)(d) of the repealed WHS regulation.

(2) On the commencement, the relevant person must instead give a copy of a health surveillance report for the health surveillance, given to the person under section 237(4)(c)(i) of the repealed WHS regulation, to the regulator within 6 months of receiving the report.

Division 11 Construction work

763 General induction card

(1) This section applies if—

(a) before the commencement, a person has completed the general induction training course under the repealed WHS regulation; and

(b) immediately before the commencement, the person holds a general induction card under the repealed WHS regulation.

(2) On the commencement—

(a) the person is taken to have successfully completed general construction induction training for part 6.5; and

(b) the person's general induction card is taken to be a general construction induction training card issued by the regulator under part 6.5.

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764 Work method statement taken to be safe work method statement

(1) This section applies to a work method statement for a high risk construction activity under the repealed WHS regulation, prepared under section 294 of that regulation, before the commencement if the high risk construction activity will start or continue on the commencement.

(2) The work method statement for the high risk construction activity is taken to be a safe work method statement for high risk construction work that is the high risk construction activity.

(3) The statement is taken to comply with section 299(2).

(4) The statement only applies to the high risk construction activity for which the work method statement was prepared.

765 Construction safety plan taken to be WHS management plan

(1) This section applies to a construction safety plan under the repealed WHS regulation, prepared under section 263 of that regulation before the commencement, if the construction safety plan is for a construction project, within the meaning of section 292, that will start or continue on the commencement.

(2) On the commencement—

(a) the construction safety plan is taken to be a WHS management plan for the construction project prepared under part 6.4; and

(b) the plan is taken to include the matters required to be included under section 309(2).

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Division 12 Miscellaneous

766 Keeping of documents

If a provision of the repealed WHS regulation requires a document or information to be kept for a particular period, that provision continues to apply to the keeping of the document until the period ends.

767 References to repealed WHS regulation

In subordinate legislation or another document, a reference to the repealed WHS regulation may, if the context permits, be taken to be a reference to this regulation.

Part 13.2 Transitional provisions for Dangerous Goods Safety Management Regulation 2001

Division 1 Preliminary

768 Definitions for pt 13.2

In this part—

commencement means the commencement of this part.

repealed DGSM Act means the *Dangerous Goods Safety Management Act 2001*.

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Division 2 Major hazard facilities

769 Existing major hazard facility

(1) This section applies to a facility that immediately before the commencement is a major hazard facility under the repealed DGSM Act.

(2) On the commencement, the facility is taken to be a determined major hazard facility under this regulation.

(3) However, subsection (4) applies if, as decided under this regulation, schedule 15 chemicals are not present or likely to be present at the facility in a quantity that exceeds 10% of their threshold quantity.

(4) The facility is taken not to be a determined major hazard facility under this regulation.

770 Existing notification of facility awaiting chief executive decision

(1) This section applies to a facility if immediately before the commencement—

(a) a notification has been given to the chief executive about the facility under the repealed DGSM Act, section 36 or 37; but

(b) the chief executive has not decided whether to classify the facility as a major hazard facility.

(2) On the commencement, the notice is taken to have been given to the regulator under section 536 of this regulation.

(3) If the notification did not include information mentioned in section 538, the operator must give the information to the regulator within 3 months.

771 Existing major hazard facility with validated safety report

(1) This section applies if—

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(a) immediately before the commencement—

(i) the occupier of a major hazard facility within the meaning of the repealed DGSM Act has complied with section 47 of that Act in relation to the safety report or any update to the safety report required under the section; and

(ii) the chief executive has validated the report or any update by written notice given to the occupier of acceptance of the report as at a particular audit date mentioned in the notice; and

(b) on the commencement, the facility is required to be licensed as a major hazard facility under part 9.7.

(2) Subsections (3) to (8) apply on the commencement.

(3) A licence under part 9.7 of this regulation is taken to be granted for the facility on the application of the operator of the major hazard facility and the facility is a licensed major hazard facility under this regulation.

(4) The regulator must issue to the operator a licence document for the licence taken to exist under subsection (3).

Note—

A failure to issue the licence document is a reviewable decision, see section 676.

(5) In issuing the licence document under subsection (4), the regulator may impose conditions on the licence under section 584(2) of this regulation as if the regulator had granted the licence.

Note—

A decision to impose a condition on the grant of a licence is a reviewable decision, see section 676.

(6) The licence taken to exist under subsection (3) expires on a day set by the regulator, after consulting with the operator, but not beyond a period of 5 years after the audit date.

(7) Part 9.7, division 3 applies to the licence, despite subsection (6).

(8) Part 9.7 divisions 2, 4 and 5 apply to the licence.

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772 Existing major hazard facility with safety report not yet validated

(1) This section applies if—

(a) immediately before the commencement—

(i) the occupier of a major hazard facility within the meaning of the repealed DGSM Act has under section 47 of that Act given the chief executive a safety report or any update to the safety report required under the section (a ***transitional report or update***); and

(ii) the chief executive has not yet validated the transitional report or update; and

(b) on the commencement, the facility is required to be licensed as a major hazard facility under part 9.7.

(2) On the commencement, a licence under part 9.7 of this regulation is taken to be granted for the facility on the application of the operator of the major hazard facility.

(3) The regulator must issue to the operator a licence document for the licence taken to exist under subsection (2).

Note—

A failure to issue the licence document is a reviewable decision, see section 676.

(4) In issuing the licence document, the regulator may impose conditions on the licence under section 584(2) of this regulation as if the regulator had granted the licence.

Note—

A decision to impose a condition on the grant of a licence is a reviewable decision, see section 676.

(5) The licence taken to exist under subsection (2) expires at the end of a period of 6 months after the commencement unless suspended or cancelled.

(6) Part 9.7, divisions 2, 4 and 5 apply to the licence.

(7) The regulator must deal with the transitional report or update in the same way as the report or update would have been dealt

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with under the repealed DGSM Act by the chief executive if it had been given to, and dealt with by, the chief executive before the repeal of the repealed DGSM Act.

(8) Subsection (9) applies if the regulator validates the transitional report or update by written notice given to the operator of the facility of acceptance of the report as at a particular audit date mentioned in the notice.

(9) On the giving of the notice, section 771(3) to (8) applies to the facility.

773 Operator must provide information within 3 months

(1) Within 3 months after the commencement, the operator of a major hazard facility taken to be licensed under section 771(3) or 772(2) must give to the regulator in writing the information mentioned in section 578(2)(e) and (f).

(2) The information must include a declaration to the effect that the information is, to the best of the operator's knowledge, true and correct.

(3) If an operator fails to comply with subsection (1), the regulator, by written notice given to the operator, may cancel the licence.

Note—

A decision to cancel the licence is a reviewable decision, see section 676.

(4) Part 9.7, division 5 does not apply to the cancellation.

774 Existing major hazard facility with directive not yet satisfied

(1) This section applies if—

(a) immediately before the commencement—

(i) under the repealed DGSM Act, section 95, an authorised officer has given the occupier of a major hazard facility within the meaning of the repealed

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DGSM Act a directive under section 95 of that Act to review a safety report; and

(ii) the chief executive has not yet validated the update of the safety report based on the review (the ***transitional update***); and

(b) on the commencement, the facility is required to be licensed as a major hazard facility under part 9.7.

(2) Section 769(2) does not apply to the facility.

(3) However, on the commencement, for the period provided under subsection (6), a licence under part 9.7 of this regulation is taken to be granted for the facility on the application of the operator of the major hazard facility.

(4) The regulator must issue to the operator a licence document for the licence taken to exist under subsection (3).

Note—

A failure to issue the licence document is a reviewable decision, see section 676.

(5) In issuing the licence document, the regulator may impose conditions on the licence under section 584(2) of this regulation as if the regulator had granted the licence.

Note—

A decision to impose a condition on the grant of a licence is a reviewable decision, see section 676.

(6) The licence taken to exist under subsection (3) expires at the end of a period of 6 months after the regulator gives written notice to the operator that the directive is closed.

(7) Part 9.7, divisions 2, 4 and 5 apply to the licence.

(8) The regulator must deal with the transitional update in the same way as the update would have been dealt with under the repealed DGSM Act by the chief executive if it had been given to, and dealt with by, the chief executive before the repeal of the repealed DGSM Act.

(9) Subsection (10) applies if, under subsection (8), the regulator validates the transitional update by written notice given to the

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operator of the facility of acceptance of the report as at a particular audit date mentioned in the notice.

(10) On the giving of the notice, section 771(3) to (8) applies to the facility.

775 Operator given 12 months to be fully compliant

(1) From the commencement into effect of any licence of a major hazard facility taken to be granted under this division, the operator of the facility must comply with parts 9.3 to 9.6 but only to the extent the requirements of the parts were also substantially requirements imposed by the repealed DGSM Act on the occupiers of major hazard facilities within the meaning of that Act.

(2) From the end of a period of 12 months from the commencement, an operator of a major hazard facility that continues to be taken to be licensed under this division must comply fully with parts 9.3 to 9.6.

Division 3 Large dangerous goods location

776 Existing notification of large dangerous goods location

(1) This section applies if—

(a) before the commencement, an occupier of a place has given notice (the ***old notice***) to the chief executive under section 49 of the repealed DGSM Act of information about the storage and handling of dangerous goods or combustible liquids (the ***notified matter***), within the meaning of that Act, at the place; and

(b) on the commencement, a person conducting a business or undertaking at the place has a duty to give written notice under section 348 of this regulation to the regulator of the notified matter because it has a quantity of hazardous chemicals or group of hazardous chemicals to which that section applies.

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(2) On the commencement, the old notice is taken to be a written notice under section 348 of this regulation—

(a) given by the person conducting the business or undertaking at the place to the regulator; and

(b) to the extent it effectively provides the information required to be given under section 348(3) of this regulation.

(3) Section 348(4) applies to the person conducting the business or undertaking.

(4) However, subsection (2) only applies to an old notice for a period of 12 months after the commencement.

(5) At the end of the period of 12 months mentioned in subsection (4), the person conducting the business or undertaking—

(a) must comply with section 348 in relation to the notified matter; and

(b) may be prosecuted for a contravention of that section if the person fails to do so.

Part 13.3 Other transitional provisions

777 Particular provision for audiometric testing

(1) This section applies if a person conducting a business or undertaking is required to provide audiometric testing under section 58(2)(a) for a worker who commences work mentioned in that section before 1 January 2015.

Note—

Section 58 was repealed by the *Work Health and Safety and Another Regulation Amendment Regulation (No. 1) 2014*.

(2) Section 58(2)(a) does not apply in relation to the worker.

(3) The 2-year periods mentioned in section 58(2)(b) start to apply in relation to the worker from 1 January 2015.

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778 Requirements for dive supervisors of high risk diving work until 31 December 2012

Despite sections 183 and 184, until the end of 31 December 2012 a person may carry out high risk diving work as a dive supervisor if the person has—

(a) the same qualification required by a person conducting the high risk diving work to be supervised; and

(b) experience in the type of high risk diving work to be supervised.

779 Registration of design of particular item of plant not needed until end of 31 December 2014

Despite part 5.3, the design of the following items of plant need not be registered until the end of 31 December 2014—

(a) concrete placement units with delivery booms;

(b) prefabricated formwork.

Note for paragraph (b)—

The requirement to register the design of prefabricated formwork was repealed by the *Work Health and Safety and Another Regulation Amendment Regulation (No. 1) 2013*.

781 Introductory period for GHS

(1) This section applies until the end of 31 December 2016.

(2) This section applies for a provision of this regulation that makes provision for a matter by reference to compliance with the GHS.

(3) Despite the reference to the GHS, a person is taken to comply with the provision to the extent it requires compliance with the GHS, if the person complies with a transitional standard for the matter.

(4) In this section—

transitional standard, for a matter, means any of the following to the extent it relates to the matter—

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(a) the ADG Code;

(b) the Approved Criteria for Classifying Hazardous Substances [NOHSC: 1008(2004)];

(c) another system approved by the regulator by gazette notice.

782 Existing abandoned tank used to store flammable gases and flammable liquids

(1) This section applies if, on the commencement of this section, section 367 of this regulation applies to a person conducting a business or undertaking in relation to a tank because—

(a) the tank has not been used to store flammable gases or flammable liquids for the 2 years before the commencement; or

(b) the person does not intend to use the tank to store flammable gases or flammable liquids again.

(2) The time limit imposed for notifying the regulator under section 367(3) does not apply and subsection (3) of this section applies instead.

(3) The person must notify the regulator of the abandonment of the tank within a period of 12 months after the commencement.

(4) A contravention of subsection (3) is a contravention of section 367(3).

783 Existing use, handling or storing of prohibited or restricted carcinogens

(1) This section applies if on the commencement of this section a person conducting a business or undertaking at a workplace is using, handling or storing—

(a) a prohibited carcinogen to which section 380 applies (the ***relevant section***); or

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(b) a restricted carcinogen to which section 381 applies (also the ***relevant section***).

(2) Subsection (3) applies to the person if the person makes an application (a ***transitional application***) to the regulator under section 383 for an authorisation for use, handling or storage within 12 months after the commencement of this section.

(3) The relevant section does not apply to the person until—

(a) the transitional application is granted; or

(b) the transitional application is refused and any review or appeal in relation to the decision to refuse the application has ended.

784 Existing pipeline builder's duties

(1) This section applies if on the commencement a person has commenced to build or has built a pipeline that—

(a) crosses or will cross into a public place; and

(b) is used or will be used to transfer schedule 11 hazardous chemicals.

(2) Section 390 applies to the pipeline as provided under subsections (3) and (4).

(3) For section 390(2), the person must inform the regulator of the information mentioned in the subsection if, within a period of 12 months after the commencement, the person takes any step to continue to build the pipeline.

(4) Section 390(3) applies to the pipeline if any of the circumstances mentioned in section 390(3) arise after the commencement.

(5) For subsection (2), and for subsection (4) to the extent a circumstance arises within 12 months after the commencement, it is sufficient if the person informs the regulator of the information before the end of the period of 12 months after the commencement.

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(6) A contravention of subsection (3) is a contravention of section 390(2) and a contravention of subsection (4) is a contravention of section 390(3).

785 Existing facility with schedule 15 chemicals exceeding 10% of threshold quantity—additional 3 months to give notice (section 536)

(1) This section applies to a facility if—

(a) on the commencement of this section there is present or likely to be present at the facility, as mentioned in section 536(1), schedule 15 chemicals in a quantity that exceeds 10% of their threshold quantity; but

(b) immediately before the commencement of this section, the occupier of the facility was not required under the repealed *Dangerous Goods Safety Management Act 2001*, section 35, 36 or 37 to notify the chief executive about the facility under any of those sections.

(2) Section 536(2) of this regulation does not apply and subsection (3) of this section applies instead.

(3) Notification for the purpose of section 536(1) must be given before the end of 6 months after the commencement of this section.

(4) A contravention of subsection (3) is a contravention of section 536(1).

786 Transitional provision for particular high risk work licences

(1) This section applies—

(a) to a high risk work licence that would, other than for this section, expire on or after 1 July 2013 but before 1 October 2013; and

(b) despite section 92.

(2) Unless cancelled earlier, the licence expires 5 years and 6 months after the day it took effect.

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786A Applications for class B asbestos removal licence

(1) This section applies if an application for a class B asbestos removal licence has not been decided immediately before the commencement of this section.

(2) The regulation as in force immediately before the commencement continues to apply for the application as if the *Work Health and Safety and Another Regulation Amendment Regulation (No. 1) 2014* had not been made.

786B Transitional class B asbestos removal licence holders—supervision of asbestos removal work

(1) Despite section 529, the holder of a transitional class B asbestos removal licence may supervise class B asbestos removal work carried out under the licence by more than 1 person.

(2) A reference in this regulation to the person supervising licensed asbestos removal work under section 529 includes a reference to the holder of a transitional class B asbestos removal licence supervising licensed asbestos removal work under subsection (1).

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Schedule 1 Schedule number not used

See note to section 3.

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Schedule 2 Fees

schedule 19, definition *relevant fee*

1 Purpose of this schedule

This schedule specifies fees to be paid under this regulation.

Note—

See the definition *relevant fee* in schedule 19.

Table 2.1

		$
1	Application for high risk work licence (s 87(3)), for each class of high risk work	91.50
2	Application for replacement of high risk work licence document (s 98(4)(c))	36.30
3	Application for renewal of high risk work licence (s 101(3))	83.05
4	Application for accreditation as accredited assessor (s 116(3)), for each class of high risk work to which the application relates	209.10
5	Application for replacement of accreditation document (s 127(4)(c))	36.30
6	Application for renewal of accreditation (s 130(2)(b))	83.05
7	Application for licence to carry out demolition work (s 144C(3))	91.50
8	Application for replacement of licence to carry out demolition work (s 144U(4)(c))	36.30
9	Application for renewal of licence to carry out demolition work (s 144VB(3))	91.50
10	Application for registration of design of item of plant (s 250(4))	114.10

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			$
11	Application for registration (s 266(3)) or renewal of registration (s 277(3)) of an item of plant, for each year—		
	(a)	for a boiler mentioned in schedule 5, part 2, section 3, item 3.1 with a heating surface of—	
		(i) not more than $5m^2$	85.50
		(ii) more than $5m^2$ but $10m^2$ or less	207.80
		(iii) more than $10m^2$ but $60m^2$ or less	326.70
		(iv) more than $60m^2$ but $500m^2$ or less	623.60
		(v) more than $500m^2$ but $2,000m^2$ or less	1,093.00
		(vi) more than $2,000m^2$	1,860.00
	(b)	for a pressure vessel mentioned in schedule 5, part 2, section 3, item 3.2 with a capacity of—	
		(i) not more than $0.5m^3$	nil
		(ii) more than $0.5m^3$ but $5m^3$ or less	93.80
		(iii) more than $5m^3$ but $15m^3$ or less	160.30
		(iv) more than $15m^3$ but $30m^3$ or less	237.60
		(v) more than $30m^3$	320.80
	(c)	for a tower crane including self-erecting tower crane mentioned in schedule 5, part 2, section 3, item 3.3 with a safe working load of—	
		(i) not more than 10t	172.10
		(ii) more than 10t but 50t or less	368.10
		(iii) more than 50t	457.30
	(d)	for a lift included in schedule 5, part 2, section 3, item 3.4—	
		(i) for a service lift, other than in domestic premises	66.60

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			$
		(ii) for a lift other than a service lift or lift in domestic premises	114.10 plus $26.70 for each floor
		(iii) for a lift in domestic premises	nil
		(iv) for an escalator	89.00
	(e)	for a building maintenance unit	95.00
	(f)	for an amusement device mentioned in schedule 5, part 2, section 3, item 3.6 classified as—	
		(i) a class 2 amusement device mentioned in AS 3533.1, other than a coin-operated amusement device	172.10
		(ii) a class 3 amusement device mentioned in AS 3533.1	267.20
		(iii) a class 4 amusement device mentioned in AS 3533.1	368.10
		(iv) a class 5 amusement device mentioned in AS 3533.1	368.10
	(g)	for a concrete placing boom	172.10
	(h)	for a mobile crane mentioned in schedule 5, part 2, section 3, item 3.8 with a safe working load of—	
		(i) not more than 10t	172.10
		(ii) more than 10t but 50t or less	368.10
		(iii) more than 50t	457.30
12	Application for general construction induction training card (s 319(3)(c))		nil
13	Application for replacement of general construction induction training card (s 321(3)(b))		nil
14	Application for asbestos removal licence or asbestos assessor licence (s 492(3))		180.50

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		$
15	Application for replacement of asbestos removal licence or asbestos assessor licence document (s 513(4)(c))	36.30
16	Application for renewal of asbestos removal licence or asbestos assessor licence (s 516(3))	180.50
17	Application for major hazard facility licence (s 578(3))	nil
18	Relevant fee for grant of major hazard facility licence, for each year as provided under section 583A(a)—	
	(a) for a tier 1 major hazard facility	17,810.00
	(b) for a tier 2 major hazard facility	32,660.00
	(c) for a tier 3 major hazard facility	47,510.00
19	Relevant fee for renewal of major hazard facility licence, for each year as provided under section 583A(b)—	
	(a) for a tier 1 major hazard facility	17,810.00
	(b) for a tier 2 major hazard facility	32,660.00
	(c) for a tier 3 major hazard facility	47,510.00
20	Application for replacement of major hazard facility licence document (s 594(4)(c))	nil
21	Application for renewal of major hazard facility licence (s 596(2)(c))	nil
22	Application for transfer of major hazard facility licence (s 600(2)(b))	nil
23	Application to cancel major hazard facility licence (s 601(2)(b))	nil
24	Preparation of report about the occupational health and safety performance of an employer or a group employer for the purpose of an application or renewal for self-insurance under the *Workers' Compensation and Rehabilitation Act 2003* (Act, sch 2, s 24(2))—	
	(a) for an employer other than a group employer	1,289.00
	(b) for a group employer	1,715.00

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Schedule 3 High risk work licences and classes of high risk work

section 81

Table 3.1

Item	High risk work licence	Description of class of high risk work
Scaffolding work		
1	Basic scaffolding	Scaffolding work involving any of the following— (a) modular or prefabricated scaffolds; (b) cantilevered materials hoists with a maximum working load of 500kg; (c) ropes; (d) gin wheels; (e) safety nets and static lines; (f) bracket scaffolds (tank and formwork); but excluding scaffolding work involving equipment, loads or tasks listed in item 2(2)(a) to (g) and item 3(2)(a) to (c)
2	Intermediate scaffolding	(1) Scaffolding work included in the class of Basic scaffolding; and (2) Scaffolding work involving any of the following— (a) cantilevered crane loading platforms;

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Item	High risk work licence	Description of class of high risk work
		(b) cantilevered scaffolds; (c) spur scaffolds; (d) barrow ramps and sloping platforms; (e) scaffolding associated with perimeter safety screens and shutters; (f) mast climbing work platforms; (g) tube and coupler scaffolds (including tube and coupler covered ways and gantries); but excluding scaffolding work involving equipment, loads or tasks listed in item 3(2)(a) to (c)
3	Advanced scaffolding	(1) Scaffolding work included in the class of Intermediate scaffolding; and (2) Scaffolding work involving any of the following— (a) cantilevered hoists; (b) hung scaffolds, including scaffolds hung from tubes, wire ropes or chains; (c) suspended scaffolds
Dogging and rigging work		
4	Dogging	Dogging work
5	Basic rigging	(1) Dogging work (2) Rigging work involving any of the following—

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Item	High risk work licence	Description of class of high risk work
		(a) structural steel erection; (b) hoists; (c) precast concrete members of a structure; (d) safety nets and static lines; (e) mast climbing work platforms; (f) perimeter safety screens and shutters; (g) cantilevered crane loading platforms; but excluding rigging work involving equipment, loads or tasks listed in item 6(b) to (f) and item 7(b) to (e)
6	Intermediate rigging	Rigging work involving any of the following— (a) rigging work in the class Basic Rigging; (b) hoists with jibs and self-climbing hoists; (c) cranes, conveyors, dredges and excavators; (d) tilt slabs; (e) demolition of structures or plant; (f) dual lifts; but excluding rigging work involving equipment listed in item 7(b) to (e)

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Item	High risk work licence	Description of class of high risk work
7	Advanced rigging	Rigging work involving any of the following— (a) rigging work in the class Intermediate Rigging; (b) gin poles and shear legs; (c) flying foxes and cable ways; (d) guyed derricks and structures; (e) suspended scaffolds and fabricated hung scaffolds
Crane and hoist operation		
8	Tower crane	Use of a tower crane
9	Self-erecting tower crane	Use of a self-erecting tower crane
10	Derrick crane	Use of a derrick crane
11	Portal boom crane	Use of a portal boom crane
12	Bridge and gantry crane	Use of a bridge crane or gantry crane that is— (a) controlled from a permanent cabin or control station on the crane; or (b) remotely controlled and having more than 3 powered operations; including the application of load estimation and slinging techniques to move a load

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Item	High risk work licence	Description of class of high risk work
13	Vehicle loading crane	Use of a vehicle loading crane with a capacity of 10 metre tonnes or more, including the application of load estimation and slinging techniques to move a load
14	Non-slewing mobile crane	Use of a non-slewing mobile crane with a capacity exceeding 3t
15	Slewing mobile crane—with a capacity up to 20t	(1) Use of a slewing mobile crane with a capacity of 20t or less (2) Use of a vehicle loading crane with a capacity of 10 metre tonnes or more, excluding the application of load estimation and slinging techniques to move a load (3) Use of a non-slewing mobile crane with a capacity exceeding 3t (4) Use of a reach stacker
16	Slewing mobile crane—with a capacity up to 60t	(1) Use of a slewing mobile crane with a capacity of 60t or less (2) Use of a vehicle loading crane with a capacity of 10 metre tonnes or more, excluding the application of load estimation and slinging techniques to move a load (3) Use of a non-slewing mobile crane with a capacity exceeding 3t (4) Use of a reach stacker

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Item	High risk work licence	Description of class of high risk work
17	Slewing mobile crane—with a capacity up to 100t	(1) Use of a slewing mobile crane with a capacity of 100t or less (2) Use of a vehicle loading crane with a capacity of 10 metre tonnes or more, excluding the application of load estimation and slinging techniques to move a load (3) Use of a non-slewing mobile crane with a capacity exceeding 3t (4) Use of a reach stacker
18	Slewing mobile crane—with a capacity over 100t	(1) Use of a slewing mobile crane with a capacity exceeding 100t (2) Use of a vehicle loading crane with a capacity of 10 metre tonnes or more, excluding the application of load estimation and slinging techniques to move a load (3) Use of a non-slewing mobile crane with a capacity exceeding 3t (4) Use of a reach stacker
19	Materials hoist	Use of a materials hoist
20	Personnel and materials hoist	(1) Use of a personnel and materials hoist (2) Use of a materials hoist
21	Boom-type elevating work platform	Use of a boom-type elevating work platform where the length of the boom is 11m or more
22	Concrete placing boom	Use of a concrete placing boom

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Item	High risk work licence	Description of class of high risk work
Reach stackers		
23	Reach stacker	Operation of a reach stacker of greater than 3t capacity that incorporates an attachment for lifting, moving and travelling with a shipping container, but does not include a portainer crane
Forklift operation		
24	Forklift truck	Use of a forklift truck other than an order-picking forklift truck
25	Order-picking forklift truck	Use of an order-picking forklift truck
Pressure equipment operation		
26	Standard boiler operation	Operation of a boiler with a single fuel source that does not have a pre-heater, superheater or economiser attached
27	Advanced boiler operation	Operation of a boiler, including a standard boiler, which may have one or more of the following— (a) multiple fuel sources; (b) pre-heater; (c) superheater; (d) economiser
28	Steam turbine operation	Operation of a steam turbine that has an output of 500 kilowatts or more and—

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Item	High risk work licence	Description of class of high risk work
		(a) is multi-wheeled; or (b) is capable of a speed greater than 3,600 revolutions per minute; or (c) has attached condensers; or (d) has a multi-staged heat exchange extraction process
29	Reciprocating steam engine	Operation of a reciprocating steam engine where the diameter of any piston exceeds 250mm

1 Boom-type elevating work platform

For table 3.1 item 21, the length of a boom is the greater of the following—

(a) the vertical distance from the surface supporting the boom-type elevating work platform to the floor of the platform, with the platform extended to its maximum height;

(b) the horizontal distance from the centre point of the boom's rotation to the outer edge of the platform, with the platform extended to its maximum distance.

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Schedule 4 High risk work licences—competency requirements

section 81

The following table sets out the qualifications for high risk work licences—

Table 4.1

Item	Licence class	VET course
1	Basic scaffolding	Licence to erect, alter and dismantle scaffolding basic level
2	Intermediate scaffolding	Licence to erect, alter and dismantle scaffolding basic level; and Licence to erect, alter and dismantle scaffolding intermediate level
3	Advanced scaffolding	Licence to erect, alter and dismantle scaffolding basic level; and Licence to erect, alter and dismantle scaffolding intermediate level; and Licence to erect, alter and dismantle scaffolding advanced level
4	Dogging	Licence to perform dogging
5	Basic rigging	Licence to perform dogging; and Licence to perform rigging basic level
6	Intermediate rigging	Licence to perform dogging; and Licence to perform rigging basic level; and Licence to perform rigging intermediate level

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Item	Licence class	VET course
7	Advanced rigging	Licence to perform dogging; and Licence to perform rigging basic level; and Licence to perform rigging intermediate level; and Licence to perform rigging advanced level
8	Tower crane	Licence to operate a tower crane
9	Self-erecting tower crane	Licence to operate a self-erecting tower crane
10	Derrick crane	Licence to operate a derrick crane
11	Portal boom crane	Licence to operate a portal boom crane
12	Bridge and gantry crane	Licence to operate a bridge and gantry crane
13	Vehicle loading crane	Licence to operate a vehicle loading crane (capacity 10 metre tonnes and above)
14	Non-slewing mobile crane	Licence to operate a non-slewing mobile crane (greater than 3t capacity)
15	Slewing mobile crane—with a capacity up to 20t	Licence to operate a slewing mobile crane (up to 20t)
16	Slewing mobile crane—with a capacity up to 60t	Licence to operate a slewing mobile crane (up to 60t)
17	Slewing mobile crane—with a capacity up to 100t	Licence to operate a slewing mobile crane (up to 100t)
18	Slewing mobile crane—with a capacity over 100t	Licence to operate a slewing mobile crane (over 100t)
19	Materials hoist	Licence to operate a materials hoist

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Item	Licence class	VET course
20	Personnel and materials hoist	Licence to operate a personnel and materials hoist
21	Boom-type elevating work platform	Licence to operate a boom-type elevating work platform (boom length 11m or more)
22	Concrete placing boom	Licence to operate a concrete placing boom
23	Reach stacker	Licence to operate a reach stacker of greater than 3t capacity
24	Forklift truck	Licence to operate a forklift truck
25	Order-picking forklift truck	Licence to operate an order picking forklift truck
26	Standard boiler operation	Licence to operate a standard boiler
27	Advanced boiler operation	Licence to operate a standard boiler; and Licence to operate an advanced boiler
28	Steam turbine operation	Licence to operate a steam turbine
29	Reciprocating steam engine operation	Licence to operate a reciprocating steam engine

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Schedule 5 Registration of plant and plant designs

sections 243 and 246

Part 1 Plant requiring registration of design

1 Items of plant requiring registration of design

1.1 Pressure equipment, other than pressure piping, and categorised as hazard level A, B, C or D according to the criteria in section 2.1 of AS 4343:2005 (Pressure equipment—hazard levels)

1.2 Gas cylinders covered by section 1.1 of AS 2030.1:2009 (Gas cylinders—General Requirements)

1.3 Tower cranes including self-erecting tower cranes

1.4 Lifts, escalators and moving walkways

1.5 Building maintenance units

1.6 Hoists with a platform movement exceeding 2.4m, designed to lift people

1.7 Work boxes designed to be suspended from cranes

1.8 Amusement devices classified by section 2.1 of AS 3533.1:2009 (Amusement rides and devices—Design and construction), except devices and structures stated in section 2(2)

1.9 Concrete placing booms

1.10 Prefabricated scaffolding

1.11 Boom-type elevating work platforms

1.12 Gantry cranes with a safe working load greater than 5t or bridge cranes with a safe working load of greater than 10t, and

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any gantry crane or bridge crane which is designed to handle molten metal or schedule 11 hazardous chemicals

1.13 Vehicle hoists

1.14 Mast climbing work platforms

1.15 Mobile cranes with a rated capacity of greater than 10t

2 Exceptions

(1) The items of plant listed in section 1 do not include—

(a) a heritage boiler; or

(b) a crane or hoist that is manually powered; or

(c) an elevating work platform that is a scissor lift or a vertically moving platform; or

(d) a tow truck; or

(e) any pressure equipment (other than a gas cylinder) excluded from the scope of AS/NZS 1200:2000 (Pressure equipment); or

Note—

See section A1 of Appendix A to AS/NZS 1200:2000.

(f) a reach stacker.

(2) The following devices and structures are excluded from section 1.8—

(a) an amusement ride or device classified as class 1 under section 2.1 of AS 3533.1:2009 (Amusement rides and devices—Design and construction);

(b) playground structures;

(c) water slides where water facilitates patrons to slide easily, predominantly under gravity, along a static structure;

(d) wave generators where patrons do not come into contact with the parts of machinery used for generating water waves;

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(e) inflatable devices, other than inflatable devices (continuously blown) with a platform height of 3 metres or more.

Part 2 Items of plant requiring registration

3 Items of plant requiring registration

3.1 Boilers categorised as hazard level A, B or C according to criteria in section 2.1 of AS 4343:2005 (Pressure equipment—Hazard levels)

3.2 Pressure vessels categorised as hazard level A, B or C according to the criteria in section 2.1 of AS 4343:2005 (Pressure equipment—Hazard levels), except—

(a) gas cylinders; and

(b) LP Gas fuel vessels for automotive use; and

(c) serially produced vessels

3.3 Tower cranes including self-erecting tower cranes

3.4 Lifts, escalators and moving walkways, except lifts stated in section 4(2)

3.5 Building maintenance units

3.6 Amusement devices classified by section 2.1 of AS 3533.1:2009 (Amusement rides and devices—Design and construction), except devices and structures stated in section 4(3)

3.7 Concrete placing booms

3.8 Mobile cranes with a rated capacity of greater than 10t.

4 Exceptions

(1) The items of plant listed in section 3 do not include—

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(a) any pressure equipment (other than a gas cylinder) excluded from the scope of AS/NZS 1200:2000 (Pressure equipment); or

Note—

See section A1 of Appendix A to AS/NZS 1200:2000.

(b) a crane or hoist that is manually powered; or

(c) a reach stacker.

(2) Lifts installed in a private residence within the meaning of AS 1735.1:2003 (Lifts, escalators and moving walks—General requirements) are excluded from section 3.4.

(3) The following devices and structures are excluded from section 3.6—

(a) an amusement ride or device classified as class 1 under section 2.1 of AS 3533.1:2009 (Amusement rides and devices—Design and construction);

(b) playground structures;

(c) water slides where water facilitates patrons to slide easily, predominantly under gravity, along a static structure;

(d) wave generators where patrons do not come into contact with the parts of machinery used for generating water waves;

(e) inflatable devices, other than inflatable devices (continuously blown) with a platform height of 3 metres or more.

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Schedule 5A Principal contractors—particular amenities for construction work

section 315A

Part 1 Definitions for schedule 5A

1 Definitions

In this schedule—

construction person means a principal contractor or worker who is performing construction work.

reasonably available, to a person, in relation to an amenity, means—

(a) available at a location reasonably convenient to the person; and

(b) the person's use of the amenity is not unreasonably restricted.

Part 2 Toilets

2 Toilets

(1) The principal contractor for construction work must ensure that toilets complying with this part are reasonably available to each construction person.

Examples of toilets that are reasonably available—

- toilets located within the site compound boundary
- toilets located within the boundary of the workplace where the construction work is being performed

Maximum penalty—20 penalty units.

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(2) There must be at least 1 toilet for each 15, or part of 15, construction persons.

Examples—

- For 1 to 15 construction persons, there must be at least 1 toilet.
- For 20 construction persons, there must be at least 1 toilet for the first 15 construction persons plus at least 1 toilet for the other 5, making a total of at least 2 toilets.

(3) If the workplace includes at least 4 levels of a structure that is a building (not counting ground level), a toilet is, for section 1, definition *reasonably available*, paragraph (a), at a location reasonably convenient to each construction person only if there is at least 1 toilet on at least each of the following levels of the building—

(a) ground level;

(b) the fourth level (not counting ground level);

(c) each third level after that fourth level.

Example—

For a workplace that includes ground level and levels 1 to 10 of a structure that is a building, there must be at least 1 toilet on ground level, level 4, level 7 and level 10.

(4) Subsection (3) does not limit subsection (2).

3 When toilet must be connected toilet or portable toilet

(1) If there are less than 15 construction persons, the toilet must be a connected toilet or a portable toilet.

(2) If there are at least 15 construction persons, each toilet must be—

(a) if a sewerage or septic connection is available—a connected toilet; or

(b) otherwise—a portable toilet.

(3) However, if—

(a) a portable toilet is made available under subsection (1); and

(b) a sewerage or septic connection becomes available;

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the portable toilet must be replaced by a connected toilet complying with this part within 2 weeks after the first time that there are at least 15 construction persons after the connection becomes available.

(4) Despite subsection (2)(b), if—

(a) a portable toilet is made available under subsection (2)(b); and

(b) a sewerage or septic connection becomes available;

the portable toilet must be replaced by a connected toilet complying with this part within 2 weeks after the connection becomes available.

(5) In this section—

connected toilet means a toilet that—

(a) is connected to a sewerage or septic system; or

(b) is a pump-out holding tank storage type system.

portable toilet means a toilet that can be moved, and provides for tanked waste.

4 Privacy, ventilation and toilet paper

(1) Each toilet must be located—

(a) in a position that gives privacy; and

(b) in a cubicle, or room, that—

(i) is fitted with a door that gives privacy and is lockable from inside the cubicle or room; and

(ii) is constantly supplied with fresh air from openings to the outside air or from mechanical ventilation.

(2) Each toilet made available to a female construction person must—

(a) have facilities to dispose of sanitary items for females; and

(b) be separated from urinals so that no urinal can be seen by her.

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Examples—

- locating a toilet for females in a separate room from urinals
- putting a screen between urinals and a toilet for females

(3) Each toilet may be a unisex toilet.

(4) Each toilet must have an adequate supply of toilet paper.

Part 3 Other amenities

5 Room, or sheltered area, to eat meals in

(1) The principal contractor for construction work must ensure that a room, or sheltered area, to eat meals and take breaks in is reasonably available to each construction person.

Maximum penalty—20 penalty units.

(2) The room or sheltered area must—

(a) be hygienic and separated from work activity that exposes or is likely to expose a construction person to a health or safety risk; and

(b) if there are at least 15 construction persons—

(i) have adequate space and seating for the maximum number of construction persons likely to use the room or sheltered area at the one time; and

(ii) have appropriate facilities for washing and storing utensils, boiling water, and storing food in a cool place.

6 Hands and face washing facilities

(1) The principal contractor for construction work must ensure the following facilities are reasonably available to each construction person—

(a) adequate clean water for washing the hands and face;

(b) an appropriate facility for supplying the water.

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Examples of an appropriate facility—

- a hose at a housing construction site
- a water container with a tap at a road construction site
- a washbasin included with a portable toilet or connected toilet at a high rise building construction site

Maximum penalty—20 penalty units.

(2) However, the facilities must not be unisex facilities that are located inside a toilet block, room or cubicle (***toilets***), unless the toilets are unisex toilets.

7 Drinking water

(1) The principal contractor for construction work must ensure that an adequate supply of potable, clean and cool drinking water is reasonably available to each construction person.

Examples of a supply of water that, for section 1, definition reasonably available, paragraph (a), is at a location reasonably convenient to the construction person—

- a supply located within 30m of where the construction person is working on a single level building
- a supply located on the ground level and then every second level of a high rise building being built

Maximum penalty—20 penalty units.

(2) The supply of water must not be located in toilets.

Example of toilets—

a toilet block or a cubicle used as a toilet

(3) If the water is made available in a container, the construction person must be able to drink the water without having to drink directly from the same container as someone else.

(4) This section does not prevent the supply of water also being made available under section 6 for hands and face washing.

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Schedule 6 Classification of mixtures

schedule 19, def *GHS*

1 Purpose of this schedule

The tables in this schedule replace some of the tables in the GHS.

Note—

See the definition of *GHS* in schedule 19.

Table 6.1 Classification of mixtures containing respiratory or skin sensitisers

Cut-off values/concentration limits of ingredients of a mixture classified as either a respiratory sensitiser or a skin sensitiser that would trigger classification of the mixture.

Item	Ingredient classification	Mixture classification		
		Skin sensitiser	**Respiratory sensitiser**	
		All physical states	**Solid / liquid**	**Gas**
1	Skin sensitiser Category 1	≥ 1.0%		
2	Skin sensitiser Subcategory 1A	≥ 0.1%		
3	Skin sensitiser Subcategory 1B	≥ 1.0%		
4	Respiratory sensitiser Category 1		≥ 1.0%	≥ 0.2%
5	Respiratory sensitiser Subcategory 1A		≥ 0.1%	≥ 0.1%

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6	Respiratory sensitiser Subcategory 1B	≥ 1.0%	≥ 0.2%

Note—

Table 6.1 replaces table 3.4.5 in the GHS, p. 151.

Table 6.2 Classification of mixtures containing carcinogens

Cut-off values/concentration limits of ingredients of a mixture classified as a carcinogen that would trigger classification of the mixture.

Item	Ingredient classification	Mixture classification	
		Category 1A carcinogen	**Category 1B carcinogen**
1	Category 1 carcinogen	≥ 0.1%	
2	Category 2 carcinogen		≥ 1.0%

Notes—

1 The concentration limits in table 6.2 apply to solids and liquids (w/w units) and gases (v/v units).

2 Table 6.2 replaces table 3.6.1 in the GHS, p. 166.

Table 6.3 Classification of mixtures containing reproductive toxicants

Cut-off values/concentration limits of ingredients of a mixture classified as a reproductive toxicant or for effects on or via lactation that would trigger classification of the mixture.

Item	Ingredient classification	Mixture classification		
		Category 1 reproductive toxicant	**Category 2 reproductive toxicant**	**Additional category for effects on or via lactation**
1	Category 1 reproductive toxicant	≥ 0·3%		

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Item	Ingredient classification	Mixture classification		
		Category 1 reproductive toxicant	**Category 2 reproductive toxicant**	**Additional category for effects on or via lactation**
2	Category 2 reproductive toxicant		≥ 3·0%	
3	Additional category for effects on or via lactation			≥ 0·3%

Notes—

1 The concentration limits in table 6.3 apply to solids and liquids (w/w units) and gases (v/v units).

2 Table 6.3 replaces table 3.7.1 in the GHS, p. 180.

Table 6.4 Classification of mixtures containing specific target organ toxicants (single exposure)

Cut-off values/concentration limits of ingredients of a mixture classified as a specific target organ toxicant that would trigger classification of the mixture.

Item	Ingredient classification	Mixture classification	
		Category 1	**Category 2**
1	Category 1 specific target organ toxicant	Concentration ≥10%	1.0%≤ concentration < 10%
2	Category 2 specific target organ toxicant		Concentration ≥10%

Notes—

1 The concentration limits in table 6.4 apply to solids and liquids (w/w units) and gases (v/v units).

2 Table 6.4 replaces table 3.8.2 in the GHS, p. 192.

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Table 6.5 Classification of mixtures containing specific target organ toxicants (repeated exposure)

Cut-off values/concentration limits of ingredients of a mixture classified as a specific target organ toxicant that would trigger classification of the mixture.

Item	Ingredient classification	Mixture classification	
		Category 1	**Category 2**
1	Category 1 specific target organ toxicant	Concentration ≥10%	1.0%≤ concentration < 10%
2	Category 2 specific target organ toxicant		Concentration ≥10%

Notes—

1 The concentration limits in table 6.5 apply to solids and liquids (w/w units) and gases (v/v units).

2 Table 6.5 replaces table 3.9.3 in the GHS, p. 203.

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Schedule 7 Safety data sheets

sections 330 and 331

1 Safety data sheets—content

(1) A safety data sheet for a hazardous chemical must—

(a) contain unit measures expressed in Australian legal units of measurement under the *National Measurement Act 1960* (Cwlth); and

(b) state the date it was last reviewed or, if it has not been reviewed, the date it was prepared; and

(c) state the name, and the Australian address and business telephone number of—

(i) the manufacturer; or

(ii) the importer, who must reside in Australia; and

(d) state an Australian business telephone number from which information about the chemical can be obtained in an emergency; and

(e) be in English.

(2) A safety data sheet for a hazardous chemical must state the following information about the chemical—

(a) Section 1: Identification: Product identifier and chemical identity;

(b) Section 2: Hazard(s) identification;

(c) Section 3: Composition and information on ingredients, in accordance with schedule 8;

(d) Section 4: First aid measures;

(e) Section 5: Firefighting measures;

(f) Section 6: Accidental release measures;

(g) Section 7: Handling and storage, including how the chemical may be safely used;

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(h) Section 8: Exposure controls and personal protection;

(i) Section 9: Physical and chemical properties;

(j) Section 10: Stability and reactivity;

(k) Section 11: Toxicological information;

(l) Section 12: Ecological information;

(m) Section 13: Disposal considerations;

(n) Section 14: Transport information;

(o) Section 15: Regulatory information;

(p) Section 16: Any other relevant information.

(3) The safety data sheet must use the headings and be set out in the order set out in subclause (2).

(4) The safety data sheet must be in English.

Note—

Sections 330 and 331 provide that section 2 will apply instead of section 1 in particular cases.

2 Safety data sheets—research chemical, waste product or sample for analysis

For section 331, a safety data sheet for a hazardous chemical that is a research chemical, waste product or sample for analysis must—

(a) be in English; and

(b) state the name, Australian address and business telephone number of—

(i) the manufacturer; or

(ii) the importer, who must be resident in Australia; and

(c) state that full identification or hazard information is not available for the chemical, and in the absence of full identification or hazard information, a precautionary approach must be taken by a person using, handling or storing the chemical; and

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(d) state the chemical identity or structure of the chemical or chemical composition, as far as is reasonably practicable; and

(e) state any known or suspected hazards; and

(f) state any precautions that a person using, handling or storing the chemical must take to the extent that the precautions have been identified.

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Schedule 8 Disclosure of ingredients in safety data sheet

schedule 7, section 1(2)(c)

1 Purpose of this schedule

This schedule sets out the way in which the ingredients of a hazardous chemical must be disclosed in Section 3: Composition and information on ingredients, in accordance with schedule 8, of a safety data sheet prepared under this regulation.

Note—

See schedule 7, section 1(2)(c).

2 Identity of ingredients to be disclosed

(1) This section applies if an ingredient in a hazardous chemical causes the correct classification of the chemical to include a hazard class and hazard category mentioned in table 8.1.

(2) The identity of the ingredient must be disclosed in English on the label and safety data sheet of the hazardous chemical.

Table 8.1

Column 1 Item	Column 2 GHS hazard class	Column 3 GHS hazard category
1	Acute toxicity—oral	Category 1
		Category 2
		Category 3
		Category 4
2	Acute toxicity—dermal	Category 1
		Category 2

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Column 1 Item	Column 2 GHS hazard class	Column 3 GHS hazard category
		Category 3
		Category 4
3	Acute toxicity—inhalation	Category 1
		Category 2
		Category 3
		Category 4
4	Respiratory sensitiser	Category 1
5	Skin sensitiser	Category 1
6	Mutagenicity	Category 1A
		Category 1B
		Category 2
7	Carcinogenicity	Category 1A
		Category 1B
		Category 2
8	Toxic to reproduction	Category 1A
		Category 1B
		Category 2
		Additional category for effects on or via lactation
9	Target organ toxicity—single exposure	Category 1
		Category 2
		Category 3
10	Target organ toxicity—repeat exposure	Category 1
		Category 2

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Column 1 Item	Column 2 GHS hazard class	Column 3 GHS hazard category
11	Aspiration hazards	Category 1
12	Skin corrosion or irritation	Category 1A
		Category 1B
		Category 1C
		Category 2
13	Serious eye damage or eye irritation	Category 1
		Category 2A

3 Generic names used to disclose identity of ingredients

(1) This section applies if an ingredient of a hazardous chemical must be disclosed under section 2.

(2) The ingredient—

(a) may be disclosed by its generic name if—

(i) the ingredient causes the correct classification of the hazardous chemical to include a hazard class and hazard category mentioned in table 8.2; and

(ii) the ingredient does not cause the correct classification of the hazardous chemical to include any other hazard class and hazard category in table 8.1; and

(iii) the identity of the ingredient is commercially confidential; and

(iv) an exposure standard for the ingredient has not been established; or

(b) in any other case—must be disclosed by its chemical identity.

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Table 8.2

Column 1 Item	Column 2 Hazard class and hazard category
1	Acute toxicity (category 4)
2	Aspiration hazard (category 1)
3	Serious eye damage or eye irritation (category 2A)
4	Skin corrosion or irritation (category 2)
5	Specific target organ toxicity (single exposure) (category 3)

4 Disclosing proportions of ingredients

(1) This section applies if an ingredient of a hazardous chemical must be disclosed under section 2.

(2) The proportion of the ingredient to the hazardous chemical must be disclosed—

(a) if the exact proportion of the ingredient is not commercially confidential—as the exact proportion of the chemical, expressed as a percentage by weight or volume; or

(b) if the exact proportion of the ingredient is commercially confidential—as one of the following ranges within which the exact proportion fits, expressed as a percentage by weight or volume—

(i) < 10%;

(ii) 10 – 30%;

(iii) 30 – 60%;

(iv) > 60%;

(v) a range that is narrower than the range set out in subparagraph (i), (ii), (iii) or (iv).

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Schedule 9 Classification, packaging and labelling requirements

sections 329, 334 and 335

Part 1 Correct classification

1 Correct classification of a substance, mixture or article

(1) A substance or mixture (other than a research chemical, sample for analysis or waste product) is ***correctly classified*** if a determination is made about whether the substance or mixture can be classified into a hazard class under the GHS including a mixture classification mentioned in schedule 6.

Note—

The schedule 6 tables replace some tables in the GHS.

(2) A substance or mixture that is a research chemical, sample for analysis or waste product is ***correctly classified*** if, so far as is reasonably practicable having regard to the known or suspected properties of the substance or mixture—

(a) a determination is made about the identity of the substance or mixture; and

(b) a determination is made about whether the substance or mixture can be classified into a hazard class under the GHS.

(3) An article that contains a substance or mixture that may be released during the use, handling or storage of the article is ***correctly classified*** if the substance or mixture is correctly classified.

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Part 2 Correct packing

2 Correctly packing hazardous chemicals

(1) A hazardous chemical is ***correctly packed*** if the chemical is packed in a container that—

(a) is in sound condition; and

(b) will safely contain the chemical for the time the chemical is likely to be packed; and

(c) is made of material that is compatible with, and will not be adversely affected by, the chemical; and

(d) does not usually contain food or beverages and cannot be mistakenly identified as containing food or beverages.

(2) Despite subsection (1), a hazardous chemical supplied by a retailer to a person, in a container provided by the person, is only ***correctly packed*** if—

(a) for a hazardous chemical with a classification that includes flammable gases or gases under pressure—the container—

(i) has a capacity less than the capacity stated for a hazardous chemical stored in bulk; and

(ii) complies with the ADG Code; and

(b) in any other case—the container—

(i) has a capacity that does not exceed the capacity stated for a hazardous chemical stored in bulk; and

(ii) is clearly marked with the product identifier or chemical identity; and

(iii) complies with paragraphs (a) to (d) of subsection (1).

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Part 3 Correct labelling

Note—

More than one section of this part may apply to a hazardous chemical depending on the nature of the hazardous chemical, its container and other matters.

3 Labelling hazardous chemicals—general

(1) A hazardous chemical is ***correctly labelled*** if the chemical is packed in a container that has a label in English including the following—

(a) the product identifier;

(b) the name, and the Australian address and business telephone number of—

(i) the manufacturer; or

(ii) the importer, who must be reside in Australia;

(c) for each ingredient of the chemical—the identity and proportion disclosed in accordance with schedule 8;

(d) any hazard pictogram consistent with the correct classification of the chemical;

(e) any hazard statement, signal word and precautionary statement consistent with the correct classification of the chemical;

(f) any information about the hazards, first aid and emergency procedures relevant to the chemical, not otherwise included in the hazard statement or precautionary statement mentioned in paragraph (e);

(g) if the chemical has an expiry date—the expiry date.

(2) The label may include any other information that does not contradict or cast doubt on the matters mentioned in subsection (1).

(3) This section is subject to sections 4 to 10 of this schedule.

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4 Labelling hazardous chemicals—small container

(1) This section applies if a hazardous chemical is packed in a container that is too small for a label attached to it to include all the information mentioned in section 3(1).

(2) The hazardous chemical is ***correctly labelled*** if the chemical is packed in a container that has a label in English including the following—

(a) the product identifier;

(b) the name, and the Australian address and business telephone number of—

(i) the manufacturer; or

(ii) the importer, who must reside in Australia;

(c) a hazard pictogram or hazard statement consistent with the correct classification of the chemical;

(d) any other information mentioned in section 3(1) that it is reasonably practicable to include.

5 Labelling hazardous chemicals—research chemicals or samples for analysis

(1) This section applies to a hazardous chemical that is a research chemical or sample for analysis.

(2) The hazardous chemical is ***correctly labelled*** if the chemical is packed in a container that has a label in English including the following—

(a) the product identifier;

(b) a hazard pictogram or hazard statement consistent with the correct classification of the chemical.

6 Labelling hazardous chemicals—decanted or transferred chemicals

(1) This section applies if—

(a) a hazardous chemical is decanted or transferred from the container in which it is packed; and

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(b) either—

(i) will not be used immediately; or

(ii) is supplied to someone else.

(2) The hazardous chemical is ***correctly labelled*** if the chemical is packed in a container that has a label in English including the following—

(a) the product identifier;

(b) a hazard pictogram or hazard statement consistent with the correct classification of the chemical.

7 Labelling hazardous chemicals—known hazards

(1) This section applies to a hazardous chemical if—

(a) the chemical is not being supplied to another workplace; and

(b) the hazards relating to the chemical are known to the workers involved in using, handling or storing the chemical.

(2) The hazardous chemical is ***correctly labelled*** if the chemical is packed in a container that has a label in English including the following—

(a) the product identifier;

(b) a hazard pictogram or hazard statement consistent with the correct classification of the chemical.

8 Labelling hazardous chemicals—waste products

(1) This section applies to a waste product if it is reasonably likely that the waste product is a hazardous chemical.

(2) The waste product is ***correctly labelled*** if it is packed in a container that has a label in English including the following for the hazardous chemical—

(a) the product identifier;

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(b) the name, and the Australian address and business telephone number of—

(i) the manufacturer; or

(ii) the importer, who must be resident in Australia;

(c) a hazard pictogram and hazard statement consistent with the correct classification of the chemical.

9 Labelling hazardous chemicals—explosives

(1) This section applies to a hazardous chemical that may be classified in the explosives hazard class.

(2) The hazardous chemical is ***correctly labelled*** if the chemical is packed in a container that has a label in English that—

(a) complies with the Australian Code for the Transport of Explosives by Road and Rail; and

(b) includes the following—

(i) the proper shipping name and UN number;

(ii) any hazard pictogram consistent with the correct classification of the chemical in relation to health hazards;

(iii) any hazard statement consistent with the correct classification of the chemical in relation to health hazards;

(iv) any precautionary statement consistent with the correct classification of the chemical in relation to health hazards.

10 Labelling hazardous chemicals—agricultural and veterinary chemicals

(1) A hazardous chemical that is an agricultural or veterinary chemical is ***correctly labelled*** if—

(a) the chemical is labelled in accordance with the requirements of the Australian Pesticides and Veterinary Medicines Authority; and

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(b) the label is in English and includes the following—

(i) any hazard statement consistent with the correct classification of the chemical;

(ii) any precautionary statement consistent with the correct classification of the chemical.

(2) In this section—

agricultural or veterinary chemical means an agricultural chemical product or veterinary chemical product under the *Agricultural and Veterinary Chemicals Code Act 1994* (Cwlth).

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Schedule 10 Prohibited carcinogens, restricted carcinogens and restricted hazardous chemicals

sections 340 and 380–384

Note—

The prohibited or restricted uses of carcinogens listed in table 10.1, column 2 and table 10.2, column 2 apply to the pure substance and where the substance is present in a mixture at a concentration greater than 0.1%.

Table 10.1 Prohibited carcinogens

Column 1 Item	Column 2 Prohibited carcinogen [CAS number]
1	2-Acetylaminofluorene [53-96-3]
2	Aflatoxins
3	4-Aminodiphenyl [92-67-1]
4	Benzidine [92-87-5] and its salts (including benzidine dihydrochloride [531-85-1])
5	bis(Chloromethyl) ether [542-88-1]
6	Chloromethyl methyl ether [107-30-2] (technical grade which contains bis(chloromethyl) ether)
7	4-Dimethylaminoazobenzene [60-11-7] (Dimethyl Yellow)
8	2-Naphthylamine [91-59-8] and its salts
9	4-Nitrodiphenyl [92-93-3]

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Table 10.2 Restricted carcinogens

Column 1 Item	Column 2 Restricted carcinogen [CAS number]	Column 3 Restricted use
1	Acrylonitrile [107-13-1]	All
2	Benzene [71-43-2]	All uses involving benzene as a feedstock containing more than 50% of benzene by volume Genuine research or analysis
3	Cyclophosphamide [50-18-0]	When used in preparation for therapeutic use in hospitals and oncological treatment facilities, and in manufacturing operations Genuine research or analysis
4	3,3'-Dichlorobenzidine [91-94-1] and its salts (including 3,3'-Dichlorobenzidine dihydrochloride [612-83-9])	All
5	Diethyl sulfate [64-67-5]	All
6	Dimethyl sulfate [77-78-1]	All
7	Ethylene dibromide [106-93-4]	When used as a fumigant Genuine research or analysis
8	4,4'-Methylene bis(2-chloroaniline) [101-14-4] MOCA	All
9	3-Propiolactone [57-57-8] (Beta-propiolactone)	All

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Column 1 Item	Column 2 Restricted carcinogen [CAS number]	Column 3 Restricted use
10	o-Toluidine [95-53-4] and o-Toluidine hydrochloride [636-21-5]	All
11	Vinyl chloride monomer [75-01-4]	All

Table 10.3 Restricted hazardous chemicals

Column 1 Item	Column 2 Restricted hazardous chemical	Column 3 Restricted use
1	Antimony and its compounds	For abrasive blasting at a concentration of greater than 0.1% as antimony
2	Arsenic and its compounds	For abrasive blasting at a concentration of greater than 0.1% as arsenic
		For spray painting
3	Benzene (benzol), if the substance contains more than 1% by volume	For spray painting
4	Beryllium and its compounds	For abrasive blasting at a concentration of greater than 0.1% as beryllium
5	Cadmium and its compounds	For abrasive blasting at a concentration of greater than 0.1% as cadmium
6	Carbon disulphide (carbon bisulphide)	For spray painting
7	Chromate	For wet abrasive blasting

Column 1 Item	Column 2 Restricted hazardous chemical	Column 3 Restricted use
8	Chromium and its compounds	For abrasive blasting at a concentration of greater than 0.5% (except as stated for wet blasting) as chromium
9	Cobalt and its compounds	For abrasive blasting at a concentration of greater than 0.1% as cobalt
10	Free silica (crystalline silicon dioxide)	For abrasive blasting at a concentration of greater than 1%.
11	Lead and compounds	For abrasive blasting at a concentration of greater than 0.1% as lead or which would expose the operator to levels in excess of those set in the sections covering lead
12	Lead carbonate	For spray painting
13	Methanol (methyl alcohol), if the substance contains more than 1% by volume	For spray painting
14	Nickel and its compounds	For abrasive blasting at a concentration of greater than 0.1% as nickel
15	Nitrates	For wet abrasive blasting
16	Nitrites	For wet abrasive blasting
17	Radioactive substance of any kind where the level of radiation exceeds 1 Bq/g	For abrasive blasting, so far as is reasonably practicable
18	Tetrachloroethane	For spray painting

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Column 1 Item	Column 2 Restricted hazardous chemical	Column 3 Restricted use
19	Tetrachloromethane (carbon tetrachloride)	For spray painting
20	Tin and its compounds	For abrasive blasting at a concentration of greater than 0.1% as tin
21	Tributyl tin	For spray painting

Note—

Section 382 deals with polychlorinated biphenyls (PCBs).

Schedule 11 Placard and manifest quantities

sections 347–350, 361, 390 and 391

Table 11.1

Column 1 Item	Column 2 Description of hazardous chemical	Column 3	Column 4 Placard quantity	Column 5 Manifest quantity
1	Flammable gases	Category 1	200L	5,000L
2	Gases under pressure	With acute toxicity, categories 1, 2, 3 or 4	50L	500L
3		With skin corrosion categories 1A, 1B or 1C	50L	500L
4		Aerosols	5,000L	10,000L
5		Not stated elsewhere in this table	1,000L	10,000L
6	Flammable liquids	Category 1	50L	500L
7		Category 2	250L	2,500L
8		Category 3	1,000L	10,000L
9		Any combination of chemicals from items 6 to 8 where none of the items exceeds the quantities in columns 4 or 5 on their own	1,000L	10,000L
10		Category 4	10,000L	100,000L

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Column 1 Item	Column 2 Description of hazardous chemical	Column 3	Column 4 Placard quantity	Column 5 Manifest quantity
11	Self-reactive substances	Type A	5kg or 5L	50kg or 50L
12		Type B	50kg or 50L	500kg or 500L
13		Type C to F	250kg or 250L	2,500kg or 2,500L
14	Flammable solids	Category 1	250kg	2,500kg
15		Category 2	1,000kg	10,000kg
16		Any combination of chemicals from items 12 to 15 where none of the items exceeds the quantities in columns 4 or 5 on their own	1,000kg or 1,000L	10,000kg or 10,000L
17	Pyrophoric liquids and pyrophoric solids	Category 1	50kg or 50L	500kg or 500L
18	Self-heating substances and mixtures	Category 1	250kg or 250L	2,500kg or 2,500L
19		Category 2	1,000kg or 1,000L	10,000kg or 10,000L
20		Any combination of chemicals from items 17 to 19 where none of the items exceeds the quantities in columns 4 or 5 on their own	1,000kg or 1,000L	10,000kg or 10,000L

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Column 1	Column 2	Column 3	Column 4	Column 5
Item	**Description of hazardous chemical**		**Placard quantity**	**Manifest quantity**
21	Substances which in contact with water emit flammable gas	Category 1	50kg or 50L	500kg or 500L
22		Category 2	250kg or 250L	2,500kg or 2,500L
23		Category 3	1,000kg or 1,000L	10,000kg or 10,000L
24		Any combination of chemicals from items 21 to 23 where none of the items exceeds the quantities in columns 4 or 5 on their own	1,000kg or 1,000L	10,000kg or 10,000L
25	Oxidising liquids and oxidising solids	Category 1	50kg or 50L	500kg or 500L
26		Category 2	250kg or 250L	2,500kg or 2,500L
27		Category 3	1,000kg or 1,000L	10,000kg or 10,000L
28		Any combination of chemicals from items 25 to 27 where none of the items exceeds the quantities in columns 4 or 5 on their own	1,000kg or 1,000L	10,000kg or 10,000L
29	Organic peroxides	Type A	5kg or 5L	50kg or 50L
30		Type B	50kg or 50L	500kg or 500L

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Column 1 Item	Column 2 Description of hazardous chemical	Column 3	Column 4 Placard quantity	Column 5 Manifest quantity
31		Type C to F	250kg or 250L	2,500kg or 2,500L
32		Any combination of chemicals from items 30 and 31 where none of the items exceeds the quantities in columns 4 or 5 on their own	250kg or 250L	2,500kg or 2,500L
33	Acute toxicity	Category 1	50kg or 50L	500kg or 500L
34		Category 2	250kg or 250L	2,500kg or 2,500L
35		Category 3	1,000kg or 1,000L	10,000kg or 10,000L
36		Any combination of chemicals from items 33 to 35 where none of the items exceeds the quantities in columns 4 or 5 on their own	1,000kg or 1,000L	10,000kg or 10,000L
37	Skin corrosion	Category 1A	50kg or 50L	500kg or 500L
38		Category 1B	250kg or 250L	2,500kg or 2,500L
39		Category 1C	1,000kg or 1,000L	10,000kg or 10,000L
40	Corrosive to metals	Category 1	1,000kg or 1,000L	10,000kg or 10,000L

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Column 1 Item	Column 2 Description of hazardous chemical	Column 3	Column 4 Placard quantity	Column 5 Manifest quantity
41		Any combination of chemicals from items 37 to 40 where none of the items exceeds the quantities in columns 4 or 5 on their own	1,000kg or 1,000L	10,000kg or 10,000L
42	Unstable explosives		5kg or 5L	50kg or 50L
43	Unstable chemicals	Any combination of chemicals from items 11, 29 and 42 where none of the items exceeds the quantities in columns 4 or 5 on their own	5kg or 5L	50kg or 50L

Notes—

1 In item 2, Gases under pressure with acute toxicity, category 4 only applies up to a LC50 of 5,000 ppmV. This is equivalent to dangerous goods of Division 2.3.

2 Item 4 includes flammable aerosols.

1 Determination of classification of flammable liquids

For this table, if a flammable liquid category 4 is used, handled or stored in the same spill compound as one or more flammable liquids of categories 1, 2 or 3, the total quantity of flammable liquids categories 1, 2 or 3 must be determined as if the flammable liquid category 4 had the same classification as the flammable liquid in the spill compound with the lowest flash point.

Example—

For placarding and manifest purposes, a spill compound containing 1,000L of flammable liquid category 1 and 1,000L of flammable liquid category 4 is considered to contain 2,000L of flammable liquid category 1.

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Schedule 12 Manifest requirements

section 347(2)

1 Manifest—general information

The manifest of hazardous chemicals must include—

(a) the name of the person conducting the business or undertaking; and

(b) the address of the workplace; and

(c) the date the manifest was last amended or, if it has not been amended, the date it was prepared; and

(d) business hours and after hours telephone numbers for at least 2 persons who may be contacted if there is a notifiable incident at the workplace.

2 Manifest—bulk storage and containers

(1) This section applies if a hazardous chemical is stored at a workplace in bulk or in a container.

(2) For each hazardous chemical stored in bulk other than in a container, the manifest of hazardous chemicals must include—

(a) the name of the chemical; and

(b) the quantity of the chemical stored.

(3) For each container storing the hazardous chemical, the manifest of hazardous chemicals must include—

(a) the identification number or code of the container; and

(b) the type and capacity of the container; and

(c) for a fixed vertical tank used to store fire risk hazardous chemicals—the diameter of the tank.

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3 Manifest—identification of hazardous chemical

The manifest of hazardous chemicals must include—

(a) for a hazardous chemical, other than a flammable liquid category 4, unstable explosive, organic peroxide type A or self-reactive substance type A—

(i) the proper shipping name as stated in Table 3.2.3 of the ADG Code for the chemical; and

(ii) the UN number as stated in Table 3.2.3 of the ADG Code for the hazardous chemical; and

(iii) the class and division of the hazardous chemical as stated in Table 3.2.3 of the ADG Code; and

(b) for a flammable liquid category 4—

(i) the product identifier; and

(ii) the words ‘combustible liquid’; and

(c) for an unstable explosive, organic peroxide type A or self-reactive substance type A—

(i) the name of the hazardous chemical stated in the ADG Code, Appendix A; and

(ii) the words ‘goods too dangerous to be transported’.

4 Manifest—storage area for packaged hazardous chemicals

(1) This section applies if—

(a) a storage area—

(i) contains, or is likely to contain, a packaged hazardous chemical, or a hazardous chemical in an IBC; and

(ii) is required under this regulation to have a placard; and

(b) the hazardous chemicals are dangerous goods under the ADG Code.

(2) The manifest of hazardous chemicals must include—

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(a) the identification number or code for the storage area; and

(b) the largest quantity of each class of hazardous chemicals likely to be kept in the storage area; and

(c) for the stated hazardous chemicals that are likely to be kept in the storage area—

(i) the proper shipping name of the hazardous chemical as specified in Table 3.2.3 of the ADG Code; and

(ii) the class to which the hazardous chemical is assigned as specified in Table 3.2.3 of the ADG Code; and

(iii) the largest quantity of the hazardous chemical likely to be kept in the storage area; and

(d) for an unstable explosive, organic peroxide type A or self-reactive substance type A that is likely to be kept in the storage area—

(i) the name of the hazardous chemical; and

(ii) the words 'goods too dangerous to be transported'; and

(iii) the largest quantity of the hazardous chemical likely to be kept in the storage area; and

(e) for hazardous chemicals with an assigned class specified in Table 3.2.3 of the ADG Code—the class to which the hazardous chemical is assigned; and

(f) for flammable liquids category 4—the words 'combustible liquid'.

(3) In this section—

specified hazardous chemicals means any of the following—

(a) flammable liquid category 1;

(b) self-reactive substances type B;

(c) substances which in contact with water emit flammable gas category 1;

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(d) pyrophoric liquids category 1;

(e) pyrophoric solids category 1;

(f) organic peroxides type B;

(g) acute toxicity category 1;

(h) oxidising solids category 1;

(i) oxidising liquids category 1;

(j) skin corrosion category 1A;

(k) gases under pressure with acute toxicity categories 1, 2 or 3 or skin corrosion categories 1A, 1B or 1C.

5 Manifest—hazardous chemicals being manufactured

For each area in which hazardous chemicals are manufactured, the manifest must include—

(a) the identification number or code of the area; and

(b) a description of the hazardous chemicals manufactured in the area; and

(c) the average and largest quantity of each hazardous chemical likely to be manufactured in the area.

6 Manifest—hazardous chemicals in transit

(1) This section applies to hazardous chemicals at a workplace if the hazardous chemicals are—

(a) dangerous goods under the ADG Code in transit at the workplace; and

(b) accompanied by dangerous goods transport documents (the ***transport documents***) in relation to the hazardous chemicals that comply with the ADG Code.

(2) The person conducting a business or undertaking at the workplace is taken to comply with clauses 4 and 5 in relation to the hazardous chemicals if the manifest includes a compilation of the transport documents.

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7 Manifest—plan of workplace

The manifest of hazardous chemicals at a workplace must include a scale plan of the workplace that—

(a) shows the location of—

(i) containers and other storage of hazardous chemicals in bulk; and

(ii) storage areas for packaged hazardous chemicals and IBCs; and

(iii) each area where hazardous chemicals are manufactured; and

(b) includes a description in words of the location of—

(i) the things mentioned in paragraph (a); and

(ii) hazardous chemicals in transit; and

(c) provides the identification number or code, and a legend for the identification numbers and codes, for the things mentioned in paragraph (a); and

(d) shows the location of—

(i) the main entrance and other places of entry to and exit from the workplace; and

(ii) essential site services, including fire services and isolation points for fuel and power; and

(iii) all drains on the site; and

(iv) the manifest; and

(e) includes the direction of true north; and

(f) describes the nature of the occupancy of adjoining sites or premises.

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Schedule 13 Placard requirements

sections 349(2) and 350(2)

1 Displaying placards

(1) This section applies if a person conducting a business or undertaking at a workplace must display a placard at the workplace in relation to a hazardous chemical.

(2) The person must ensure that the placard is—

(a) clearly legible by persons approaching the placard; and

(b) separate from any other sign or writing that contradicts, qualifies or distracts attention from the placard; and

(c) if a placard quantity of the hazardous chemical is contained in a building—

(i) located as close as is reasonably practicable to the main entrance of the building; and

(ii) located at the entrance to each room or walled section of the building in which the hazardous chemical is used, handled or stored; and

(d) if the hazardous chemical is contained in a container or outside storage area—located next to the container or outside storage area; and

(e) for a placard to which section 3 applies—located at each entrance to the workplace where an emergency services organisation may enter the workplace; and

(f) for a placard to which section 4 applies—located on or next to each container or storage area in which the hazardous chemicals are stored; and

(g) for a placard to which section 6 applies—located at each entrance to a storage area in which the hazardous chemicals are stored.

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2 Maintaining placards

A person who is required to display a placard must—

(a) amend the placard as soon as practicable if—

(i) the type or quantity of hazardous chemical used, handled or stored at the workplace changes; and

(ii) the change requires the information displayed on the placard to be amended; and

(b) ensure that the placard is—

(i) kept clean; and

(ii) maintained in good repair; and

(iii) not covered or obscured.

3 Outer warning placards—requirements

(1) This section applies if a person conducting a business or undertaking at a workplace must display an outer warning placard at the workplace in relation to a hazardous chemical.

Note—

Section 349 sets out when an outer warning placard is required, and states that it is not required for retail fuel outlets.

(2) The outer warning placard must—

(a) comply with the form shown in figure 13.1; and

(b) display the word 'HAZCHEM' in red letters on a white or silver background.

600 mm

Figure 13.1 Form and dimensions of outer warning placard

(3) In this section—

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red means the colour 'signal red' in accordance with AS 2700S–1996 (R13) (Colour standards for general purposes—signal red).

4 Placards for particular hazardous chemicals stored in bulk

(1) This section applies if a person conducting a business or undertaking at a workplace must display a placard at the workplace in relation to the storage in bulk of the following hazardous chemicals—

(a) gases under pressure, including flammable gases and flammable aerosols;

(b) flammable liquids category 1, 2 or 3;

(c) flammable solids category 1 or 2, self-reactive substances types B to F, self-heating substances category 1 or 2 or substances that, in contact with water, emit flammable gases;

(d) organic peroxides types B to F, oxidising solids and oxidising liquids category 1, 2 or 3;

(e) acute toxicity category 1, 2 or 3;

(f) skin corrosion category 1A, 1B or 1C and corrosive to metals category 1.

(2) The placard must—

(a) comply with the template in figure 13.2; and

(b) subject to subsection (4)(b) and (c), have dimensions not less than those shown in figure 13.2.

(3) The placard must include the following in figure 13.2 for the hazardous chemical—

(a) in space (p)—the proper shipping name for the hazardous chemical as stated in Table 3.2.3 of the ADG Code;

(b) in space (q)—the UN Number for the hazardous chemical as specified in Table 3.2.3 of the ADG Code;

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(c) in space (r)—the Hazchem Code for the hazardous chemical as stated in Table 3.2.3 of the ADG Code;

(d) in space (s)—the class label and subsidiary risk label for the hazardous chemical as specified in Table 3.2.3 of the ADG Code.

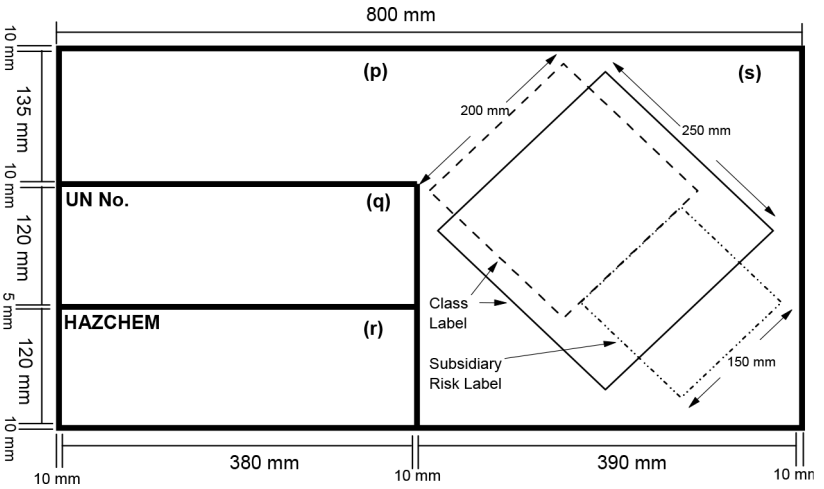

Figure 13.2 Template for a placard for a hazardous chemical stored in bulk

(4) For subsection (3)(a) to (c), the numerals and letters used for showing the proper shipping name, UN number and Hazchem Code must be—

(a) black on a white background, unless a letter of the Hazchem Code is white on a black background; and

(b) if the proper shipping name requires a single line only—at least 100mm high; and

(c) if the proper shipping name requires 2 lines—at least 50mm high.

(5) For subsection (3)(d)—

(a) the class label and subsidiary risk label (if any) must have the form and colouring stated in the ADG Code for the hazardous chemical; and

(b) the class label must have—

(i) if there is a subsidiary risk label—sides not less than 200mm; or

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(ii) in any other case—sides of not less than 250mm; and

(c) if there is a subsidiary risk label—the subsidiary risk label must have sides of not less than 150mm; and

(d) if there are 2 or more subsidiary risk labels—the width of the right hand part of the placard may be extended.

5 Placards for unstable explosives, organic peroxides type A or self-reactive substances type A stored in bulk

(1) This section applies if a person conducting a business or undertaking at a workplace must display a placard at the workplace in relation to unstable explosives, organic peroxides type A or self-reactive substances type A that are stored in bulk.

(2) The placard must—

(a) comply with the form in figure 13.2; and

(b) have dimensions not less than those shown in figure 13.2.

(3) The placard must include the following, as indicated in figure 13.2, for the hazardous chemical—

(a) in space (p)—the name stated in the ADG Code for the hazardous chemical;

(b) in space (q)—the space left blank;

(c) in space (r)—the space left blank;

(d) in space (s)—the label in figure 13.3.

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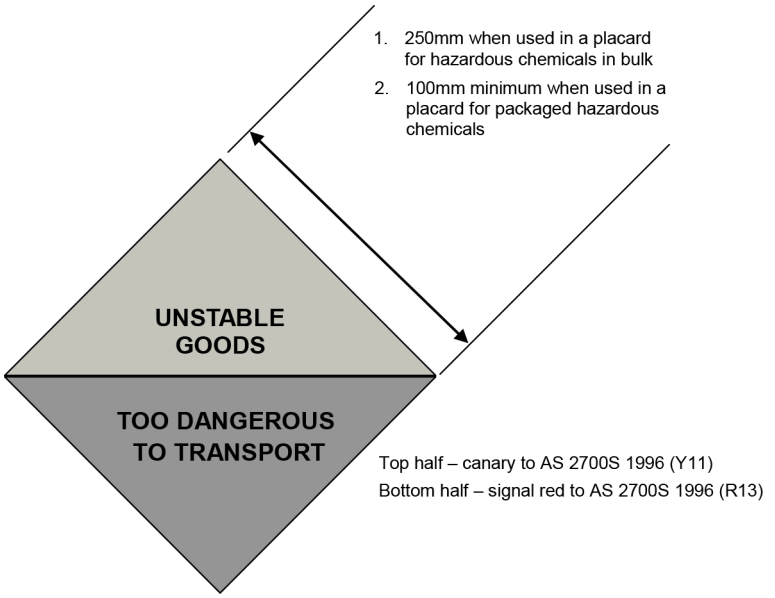

Figure 13.3 Label for unstable explosive, organic peroxide type A or self-reactive substance type A

(4) For subsection (3)(a), the letters used for showing the name must be—

(a) black on a white background; and

(b) if the name requires a single line only—at least 100mm high; and

(c) if the name requires 2 lines—at least 50mm high.

(5) For subsection (3)(d), the label must have sides of not less than 250mm.

6 Placards for packaged schedule 11 hazardous chemicals (other than flammable liquids category 4) and IBCs

(1) This section applies if a person conducting a business or undertaking at a workplace must display a placard at the workplace in relation to the storage of—

(a) packaged schedule 11 hazardous chemicals (other than flammable liquids category 4); or

(b) a schedule 11 hazardous chemical in an IBC.

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(2) The placard must—

(a) be in the form shown in figure 13.4; and

(b) be of sufficient size to accommodate the labels to be included on the placard; and

(c) have a white or silver background; and

(d) include each required class label—

(i) in the form and colouring stated in the ADG Code for the hazardous chemical; and

(ii) with sides not less than 100mm.

(3) The placard must include the following—

(a) for a schedule 11 hazardous chemical (other than unstable explosive, organic peroxide type A, self-reactive substance type A) present in a storage area at the workplace—the class label as stated in the ADG Code for each category of hazardous chemicals present in at least the placard quantity; or

(b) for a flammable liquid category 4 stored with flammable liquids in a storage area at the workplace—a class 3 class label as stated in the ADG Code; or

(c) for an unstable explosive, organic peroxide type A or self-reactive substance type A—the label in figure 13.3.

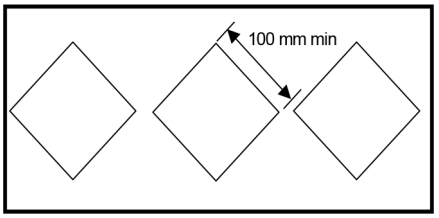

Figure 13.4 General form of placard for packaged schedule 11 hazardous chemicals

(4) If hazardous chemicals in an IBC at the workplace are schedule 11 hazardous chemicals intended for transport, and not intended for use at the workplace—

(a) the IBC must display a placard in accordance with the ADG Code; and

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(b) the storage area at the workplace must display a placard in accordance with this section.

7 Placards for flammable liquids category 4 packaged or in bulk

(1) This section applies if a person conducting a business or undertaking at a workplace must display a placard at the workplace in relation to the storage of—

(a) a packaged flammable liquid category 4; or

(b) a flammable liquid category 4 in bulk.

(2) The placard must—

(a) be in the form shown in figure 13.5; and

(b) have dimensions not less than those shown in figure 13.5; and

(c) have black letters on a white or silver background.

Figure 13.5 Placard for flammable liquid category 4

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Schedule 14 Requirements for health monitoring

sections 368, 370 and 406

Table 14.1 Hazardous chemicals (other than lead) requiring health monitoring

Column 1 Item	Column 2 Hazardous chemical	Column 3 Type of health monitoring
1	Acrylonitrile	Demographic, medical and occupational history
		Records of personal exposure
		Physical examination
2	Arsenic (inorganic)	Demographic, medical and occupational history
		Records of personal exposure
		Physical examination with emphasis on the peripheral nervous system and skin
		Urinary inorganic arsenic
3	Benzene	Demographic, medical and occupational history
		Records of personal exposure
		Physical examination
		Baseline blood sample for haematological profile
4	Cadmium	Demographic, medical and occupational history

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Column 1 Item	Column 2 Hazardous chemical	Column 3 Type of health monitoring
		Records of personal exposure
		Physical examination with emphasis on the respiratory system
		Standard respiratory questionnaire to be completed
		Standardised respiratory function tests including for example, FEV_1, FVC and FEV_1/FVC
		Urinary cadmium and β2-microglobulin
		Health advice, including counselling on the effect of smoking on cadmium exposure
5	Chromium (inorganic)	Demographic, medical and occupational history
		Physical examination with emphasis on the respiratory system and skin
		Weekly skin inspection of hands and forearms by a competent person
6	Creosote	Demographic, medical and occupational history
		Health advice, including recognition of photosensitivity and skin changes
		Physical examination with emphasis on the neurological system and skin, noting any abnormal lesions and evidence of skin sensitisation

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Column 1 Item	Column 2 Hazardous chemical	Column 3 Type of health monitoring
		Records of personal exposure, including photosensitivity
7	Crystalline silica	Demographic, medical and occupational history
		Records of personal exposure
		Standardised respiratory questionnaire to be completed
		Standardised respiratory function test, for example, FEV_1, FVC and FEV_1/FVC
		Chest X-ray full size PA view
8	Isocyanates	Demographic, medical and occupational history
		Completion of a standardised respiratory questionnaire
		Physical examination of the respiratory system and skin
		Standardised respiratory function tests, for example, FEV_1, FVC and FEV_1/FVC
9	Mercury (inorganic)	Demographic, medical and occupational history
		Physical examination with emphasis on dermatological, gastrointestinal, neurological and renal systems
		Urinary inorganic mercury
10	4,4' methylene bis (2-chloroaniline) (MOCA)	Demographic, medical and occupational history

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Column 1 Item	Column 2 Hazardous chemical	Column 3 Type of health monitoring
		Physical examination
		Urinary total MOCA
		Dipstick analysis of urine for haematuria
		Urine cytology
11	Organophosphate pesticides	Demographic, medical and occupational history including pattern of use
		Physical examination
		Baseline estimation of red cell and plasma cholinesterase activity levels by the Ellman or equivalent method
		Estimation of red cell and plasma cholinesterase activity towards the end of the working day on which organophosphate pesticides have been used
12	Pentachlorophenol (PCP)	Demographic, medical and occupational history
		Records of personal exposure
		Physical examination with emphasis on the skin, noting any abnormal lesions or effects of irritancy
		Urinary total pentachlorophenol
		Dipstick urinalysis for haematuria and proteinuria
13	Polycyclic aromatic hydrocarbons (PAH)	Demographic, medical and occupational history
		Physical examination

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Column 1 Item	Column 2 Hazardous chemical	Column 3 Type of health monitoring
		Records of personal exposure, including photosensitivity
		Health advice, including recognition of photosensitivity and skin changes
14	Thallium	Demographic, medical and occupational history
		Physical examination
		Urinary thallium
15	Vinyl chloride	Demographic, medical and occupational history
		Physical examination
		Records of personal exposure

Table 14.2 Lead requiring health monitoring

Column 1 Item	Column 2 Hazardous chemical	Column 3 Type of health monitoring
1	Lead (inorganic)	Demographic, medical and occupational history
		Physical examination
		Biological monitoring

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Schedule 15 Hazardous chemicals at major hazard facilities (and their threshold quantity)

chapter 9

1 Definitions

In this schedule—

Class has the same meaning as in the ADG Code.

Division has the same meaning as in the ADG Code.

LC_{50} for acute toxicity on inhalation is that concentration of vapour, mist or dust which, administered by continuous inhalation to both male and female young adult albino rats for one hour, is most likely to cause death within 14 days in one half of the animals tested. A solid substance must be tested if at least 10% (by mass) of its total mass is likely to be dust in a respirable range, e.g. the aerodynamic diameter of that particle fraction is 10 microns or less. A liquid substance must be tested if a mist is likely to be generated in a leakage of the transport containment. Both for solid and liquid substances exceeding 90% (by mass) of a specimen prepared for inhalation toxicity must be in the respirable range as defined above. The result is expressed in milligrams per litre of air for dusts and mists or in millilitres per cubic metre of air (parts per million) for vapours.

LD_{50} (median lethal dose) for acute oral toxicity is the statistically derived single dose of a substance that can be expected to cause death within 14 days in 50% of young adult albino rats when administered by the oral route. The LD_{50} value is expressed in terms of mass of test substance per mass of test animal (mg/kg).

LD_{50} for acute dermal toxicity is that dose of the substance which, administered by continuous contact for 24 hours with the bare skin of albino rabbits, is most likely to cause death within 14 days in one half of the animals tested. The number

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of animals tested must be sufficient to give a statistically significant result and be in conformity with good pharmacological practice. The result is expressed in milligrams per kg body mass.

Packing Group has the same meaning as in the ADG Code.

subsidiary risk has the same meaning as in the ADG Code.

2 Relevant hazardous chemicals

The hazardous chemicals that characterise a workplace as a facility for the purposes of this regulation are the chemicals specifically mentioned in table 15.1 and chemicals that belong to the types, classes and categories mentioned in table 15.2.

3 Threshold quantity of one hazardous chemical

(1) In relation to each hazardous chemical mentioned in section 2, column 3 of tables 15.1 and 15.2 provides a quantity that is described as the ***threshold quantity*** of that chemical.

(2) If a hazardous chemical is mentioned in table 15.1, the ***threshold quantity*** of the chemical is that described in table 15.1, whether or not the chemical also belongs to a type, class or category mentioned in table 15.2.

(3) If a hazardous chemical is not mentioned in table 15.1, and the chemical belongs to a type, class or category mentioned in table 15.2, the ***threshold quantity*** of that chemical is that of the type, class or category to which it belongs.

(4) If a hazardous chemical is not referred to in table 15.1, and the chemical appears to belong to more than one of the types, classes or categories mentioned in table 15.2, the ***threshold quantity*** of that chemical is that of the relevant type, class or category which has the lower or lowest threshold quantity.

4 Threshold quantity of more than one hazardous chemical

If there is more than 1 hazardous chemical, a threshold quantity of chemicals exists where, if a number of chemicals

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are present, the result of the following aggregation formula exceeds 1—

$$\frac{q^{x}}{Q_x} + \frac{q^{y}}{Q_y} + [....] + \frac{q^{n}}{Q_n}$$

Where—

(a) x, y, [....] and n are the hazardous chemicals present or likely to be present;

(b) q_x, q_y, [....] and q_n is the total quantity of hazardous chemicals x, y, [....] and n present or likely to be present, other than—

(i) a hazardous chemical that is present or likely to be present in an isolated quantity less than 2% of its threshold quantity;

(ii) hazardous chemicals that are solely the subject of intermediate temporary storage, while in transit by road or rail (unless it is reasonably foreseeable that, despite the transitory nature of the storage, hazardous chemicals are or are likely to be present frequently or in significant quantities);

(c) Q_x, Q_y, [....] and Q_n is the individual threshold quantity for each hazardous chemical x, y, [....] and n;

(d) a hazardous chemical is present or likely to be present in an ***isolated quantity***, for paragraph (b)(i), if its location at the facility is such that it cannot, on its own, act as an initiator of a major incident.

5 How table 15.1 must be used

(1) The UN number listed against the named hazardous chemical does not restrict the meaning of the name, which also applies to hazardous chemicals that fall outside the UN number.

Examples—

1 The hazardous chemicals are too dangerous to be transported.

2 The hazardous chemicals are part of mixtures covered by a different UN number.

(2) Any hazardous chemicals that are covered by the listed UN numbers must be included in the quantity of the chemical named.

6 How table 15.2 must be used

(1) The quantities stated for explosives in table 15.2 relate to the weight of explosive exclusive of packagings, casings and other non-explosive components.

(2) If explosives of different hazard divisions are present in the same area or storage, all of the explosives must, before table 15.2 is applied, be classified under the following table—

Div.	1.1	1.2	1.3	1.4	1.5	1.6
1.1	1.1	1.1	1.1	1.1	1.1	1.1
1.2	1.1	1.2	1.1	1.2	1.1	1.2
1.3	1.1	1.1	1.3	1.3	1.1	1.3
1.4	1.1	1.2	1.3	1.4	1.5	1.6
1.5	1.1	1.1	1.1	1.5	1.5	1.5
1.6	1.1	1.2	1.3	1.6	1.5	1.6

Table 15.1

Item	Column 1 Hazardous chemicals	Column 2 UN Nos included under name	Column 3 Threshold quantity (tonnes)
1	Acetone cyanohydrin	1541	20
2	Acetylene	1001	50
3	Acrolein	1092	200
4	Acrylonitrile	1093	200
5	Allyl alcohol	1098	20

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Item	Column 1 Hazardous chemicals	Column 2 UN Nos included under name	Column 3 Threshold quantity (tonnes)
6	Allylamine	2334	200
7	Ammonia, anhydrous, liquefied or ammonia solutions, relative density less than 0.880 at 15 degrees C in water, with more than 50% ammonia	1005	200
8	Ammonium nitrate fertilisers	2067 2068 2069 2070	5,000
9	Ammonium nitrate, with not more than 0.2% combustible substances, including any organic substance calculated as carbon, to the exclusion of any other added substance	1942	2,500
10	Arsenic pentoxide, arsenic (V) acid and other salts	1559	10
11	Arsenic trioxide, arsenious (III) acid and other salts	1561	0.1
12	Arsine	2188	1.0
13	Bromine or bromine solutions	1744	100
14	Carbon disulfide	1131	200
15	Chlorine	1017	25
16	Dioxins	—	0.1
17	Ethyl nitrate	—	50
18	Ethylene dibromide	1605	50

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Item	Column 1 Hazardous chemicals	Column 2 UN Nos included under name	Column 3 Threshold quantity (tonnes)
19	Ethylene oxide	1040	50
20	Ethyleneimine	1185	50
21	Fluorine	1045	25
22	Formaldehyde (greater than 90%)	—	50
23	Hydrofluoric acid solution (greater than 50%)	1790	50
24	Hydrogen	1049	50
25	Hydrogen chloride		
	— anhydrous	1050	250
	— refrigerated liquid	2186	250
26	Hydrogen cyanide	1051	20
		1614	
27	Hydrogen fluoride	1052	50
28	Hydrogen sulfide	1053	50
29	LP gases	1011	200
		1012	
		1075	
		1077	
		1078	
30	Methane or natural gas	1971	200
		1972	
31	Methyl bromide	1062	200
32	Methyl isocyanate	2480	0.15

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Item	Column 1 Hazardous chemicals	Column 2 UN Nos included under name	Column 3 Threshold quantity (tonnes)
33	Oxides of nitrogen, including nitrous oxide, nitrogen dioxide and nitrogen trioxide	1067 1070 1660 1975 2201 2421	50
34	Oxygen	1072 1073	2,000
35	Phosgene	1076	0.75
36	Propylene oxide	1280	50
37	Propyleneimine	1921	200
38	Sodium chlorate, solid	1495	200
39	Sulfur dichloride	1828	1
40	Sulfur dioxide, liquefied	1079	200
41	Sulfuric anhydride (alt. sulfur trioxide)	1829	75
42	Titanium tetrachloride	1838	500
43	Toluene diisocyanate	2078	200

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Table 15.2

Item	Column 1 Hazardous material	Column 2 Description	Column 3 Threshold quantity (tonnes)
1	Explosive materials	Explosive of division 1.1A	10
		All other explosives of division 1.1	50
		Explosive of division 1.2	200
		Explosive of division 1.3	200
2	Compressed and liquefied gases	Compressed or liquefied gases of division 2.1 or subsidiary risk 2.1	200
		Liquefied gases of subsidiary risk 5	200
		Compressed or liquefied gases that meet the criteria for very toxic in table 15.3	20
		Compressed or liquefied gases that meet the criteria for toxic in table 15.3	200
3	Flammable materials	Liquids that meet the criteria for class 3 packing group I materials (except for crude oil in remote locations)	200
		Crude oil in remote locations that meet the criteria for class 3 packing group i	2,000

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Item	Column 1 Hazardous material	Column 2 Description	Column 3 Threshold quantity (tonnes)
		Liquids that meet the criteria for class 3 packing group II or III	50,000
		Liquids with flash points <61°C kept above their boiling points at ambient conditions	200
		Materials that meet the criteria for division 4.1 packing group I	200
		Spontaneously combustible materials that meet the criteria for division 4.2 packing group I or II	200
		Materials that liberate flammable gases or react violently on contact with water which meet the criteria for division 4.3 packing group I or II	200
		Materials that belong to classes 3 or 8 packing group I or II which have hazchem codes of 4WE (materials that react violently with water)	500
4	Oxidising materials	Oxidising material listed in appendix A to the ADG code	50

Item	Column 1 Hazardous material	Column 2 Description	Column 3 Threshold quantity (tonnes)
		Oxidising materials that meet the criteria for division 5.1 packing group I or II	200
5	Peroxides	Peroxides that are listed in appendix A to the ADG code	50
		Organic peroxides that meet the criteria for division 5.2	200
6	Toxic solids and liquids	Materials that meet the criteria for very toxic in table 15.3 except materials that are classified as infectious substances (division 6.2) or as radioactive (class 7)	20
		Materials that meet the criteria for toxic in table 15.3	200

Table 15.3 Criteria for toxicity

Description	Oral Toxicity[1] LD_{50} (mg/kg)	Dermal Toxicity[2] LD_{50} (mg/kg)	Inhalation Toxicity[3] LC_{50} (mg/L)
Very Toxic	$LD_{50} \leq 5$	$LD_{50} \leq 40$	$LC_{50} \leq 0.5$
Toxic	$5 < LD_{50} \leq 50$	$40 < LD_{50} \leq 200$	$0.5 < LC_{50} \leq 2$

Key

1 in rats

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2 in rats or rabbits

3 four hours in rats

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Schedule 16 Matters to be included in emergency plan for major hazard facility

section 557

1 Site and hazard detail

1.1 The location of the facility, including its street address and the nearest intersection (if any).

Note—

Sufficient detail must be provided to enable a person not familiar with the site to find it.

1.2 A detailed map—

(a) showing the site of the major hazard facility; and

(b) showing land use and occupancy surrounding the facility, and any other closely located major hazard facilities and hazardous chemical storage sites; and

(c) identifying all potentially hazardous inventories in the area that are known to the operator and the location of all staging points for emergency service organisations.

1.3 An inventory of all hazardous chemicals on site, or likely to be on-site, and their location.

1.4 A brief description of the nature of the facility and its operation.

1.5 The maximum number of persons, including workers, likely to be present at the facility on a normal working day.

1.6 The emergency planning assumptions, including emergency measures planned for identified incidents and likely areas affected.

1.7 The protective resources available to control an incident.

1.8 The emergency response procedures.

1.9 The infrastructure likely to be affected by a major incident.

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2 Command structure and site personnel

2.1 The command philosophy and structure to be activated in an emergency, so that it is clear what actions will be taken, who will take these actions and how, when and where they will be taken.

2.2 Details of the person who can clarify the content of the emergency plan if necessary.

2.3 The contact details of, and the means of contacting, the persons at the facility responsible for liaising with emergency service organisations.

2.4 A list of 24 hour emergency contacts.

2.5 Arrangements for assisting emergency service organisations and nearby facilities with control actions taken in the surrounding area.

3 Notifications

3.1 In the event of the occurrence of a major incident or an event that could reasonably be expected to lead to a major incident, procedures for notifying the emergency service organisations with which the emergency plan was prepared under section 567.

3.2 After a major incident has occurred, procedures for providing the local community and the local authority for the local authority area in which the facility and the surrounding area are located with information about the major incident under section 573.

3.3 On-site and off-site warning systems.

3.4 Contact details for emergency service organisations and other support services that can assist in providing resources and implementing evacuation plans in the event of a major incident.

3.5 On-site communication systems.

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4 Resources and equipment

4.1 On-site emergency resources, including emergency equipment, personnel, gas detectors, wind velocity detectors, sand, lime, neutralising agents, absorbents, spill bins and decontamination equipment.

4.2 Off-site emergency resources, including arrangements for obtaining additional external resources (specific to the likely major incidents) to assist the control of major incidents and major incident hazards.

5 Procedures

5.1 Procedures for the safe evacuation of, and accounting for, all people on site.

5.2 Procedures and control points for utilities, including gas, water and electricity.

5.3 Procedures for the control of any incident involving schedule 15 chemicals.

5.4 Procedures for decontamination following an incident involving schedule 15 chemicals.

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Schedule 17 Additional matters to be included in safety management system of major hazard facility

section 558

1 Safety policy and safety objectives

1.1 A description of the means by which the operator's safety policy and specific safety objectives are to be communicated to all persons who are to participate in the implementation of the safety management system.

1.2 The safety policy must include an express commitment to ongoing improvement of all aspects of the safety management system.

2 Organisation and personnel

2.1 The identification (according to position description and location) of the persons who are to participate in the implementation of the safety management system, and a description of the command structure in which these persons work and of the specific tasks and responsibilities allocated to them.

2.2 A description of the means of ensuring that these persons have the knowledge and skills necessary to enable them to undertake their allocated tasks and discharge their allocated responsibilities, and that they retain such knowledge and skills.

3 Operational controls

3.1 A description of the procedures and instructions for—

(a) the safe operation of plant (including as to inspection and maintenance); and

(b) the mechanical integrity of plant; and

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(c) plant processes; and

(d) the control of abnormal operations and emergency shut down or decommissioning.

3.2 Provision of adequate means of achieving isolation of the major hazard facility or any part of the major hazard facility in the event of an emergency.

3.3 Provision of adequate means of gaining access for service and maintenance of the major hazard facility or any part of the major hazard facility.

3.4 A description of the roles of persons and of the interfaces between persons and plant.

3.5 Provision for alarm systems.

4 Duties of operators

4.1 A description of the means by which the operator proposes to comply with the Act and with part 9.3, division 2, part 9.4 and part 9.5 of this regulation.

4.2 In relation to each part of the documented safety management system that describes the means of compliance with a provision of chapter 9, an annotation or cross-reference identifying the specific provision being complied with.

5 Management of change

A description of the procedures for planning modifications to major hazard facilities.

6 Principles and standards

6.1 A statement of the principles, especially the design principles and engineering standards, being used to ensure the safe operation of the major hazard facility.

6.2 A description of any technical standards, whether published or proprietary, being relied on in relation to such principles and standards.

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7 Performance monitoring

7.1 Performance standards for measuring the effectiveness of the safety management system, that—

(a) relate to all aspects of the safety management system; and

(b) are sufficiently detailed to ensure that the ability of the operator to ensure the effectiveness of all aspects of the safety management system is apparent from the documentation; and

(c) include steps to be taken to continually improve all aspects of the safety management system.

7.2 A description of the way in which these performance standards are to be met.

7.3 Performance indicators for the effectiveness of control measures implemented, including—

(a) tests of the effectiveness of the control measures; and

(b) indicators of the failure of any control measure; and

(c) actions to be taken in reporting any such failure; and

(d) other corrective actions to be taken in the event of any such failure.

8 Audit

Provision for the auditing of performance against the performance standards, including the methods, frequency and results of the audit process.

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Schedule 18 Additional matters to be included in safety case for a major hazard facility

section 561(2)(g)

Part 1 Facility description

1 The facility

1.1 A brief description of the nature of the facility and its operation, including a description of on-site activities and processes that involve or will involve schedule 15 chemicals.

1.2 A description of the schedule 15 chemicals and any other hazardous chemicals present or likely to be present at the facility, including—

(a) their identification by name and by any other means necessary for a clear identification; and

(b) the quantity present or likely to be present at the major hazard facility; and

(c) their physical, chemical and toxicological characteristics, and any other hazardous characteristics, both immediate and delayed; and

(d) their physical and chemical behaviour under normal conditions of use or under foreseeable abnormal conditions.

1.3 A description of the chemical and physical processes associated with any schedule 15 chemicals, including—

(a) the main units of plant used in those processes; and

(b) a process flow drawing, or set of flow drawings, describing the processes.

1.4 A drawing of the major hazard facility's general layout, containing the location of—

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(a) the main process units; and

(b) the main storage areas; and

(c) major incident hazards and major incident initiators.

1.5 In relation to proposed changes at the major hazard facility for which no new control measures are implemented—

(a) a description of any proposed changes to the major hazard facility that would—

(i) alter the production capacity or profile of the major hazard facility; or

(ii) involve the deletion, addition or modification of any processes; and

(b) a statement as to how existing control measures and WHS management systems are capable of maintaining the safe operation of the major hazard facility.

2 The surrounding area

2.1 A scale plan of the facility and its surrounding area showing—

(a) the location of the facility within the surrounding area; and

(b) topographical information; and

(c) land uses and activities in the surrounding area; and

(d) the location of any identified external conditions (including other major hazard facilities or other facilities that could affect the safety of the major hazard facility).

2.2 Graphically presented demographic information for the local community, including surrounding land uses permitted by the local authority.

2.3 Meteorological data relevant to the estimation of the effects of any major incident.

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Part 2 Safety information

3 Control measures to limit the consequences of major incidents

3.1 A detailed description of—

(a) the instrumentation and other equipment installed in the facility and the processes and procedures in place that are the control measures to be implemented by the operator; and

(b) the critical operating parameters for those control measures; and

(c) key personnel and resources (internal and external) available to intervene in the event of any failure of a control measure, whether or not that failure results in a major incident; and

(d) a summary of the emergency plan, including specific information about how the plan can be expected to limit the consequences of a major incident; and

(e) the means of ensuring that there is at all times in place a command structure for the major hazard facility that applies in the event of an emergency, and that this command structure has been communicated to workers throughout the major hazard facility.

3.2 In item 3.1—

critical operating parameters means the upper or lower performance limits of any equipment, process or procedure, compliance with which is necessary to avoid a major incident.

failure of a control measure means—

(a) if the control measure is a positive action or event—the non-occurrence or the defective occurrence of that action or event; or

(b) if the control measure consists of a limitation on an operational activity, process or procedure—the breach of that limitation.

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4 Performance monitoring

A detailed description of the performance standards and performance indicators required by schedule 17, item 7 to be included in the safety management system.

5 Safety management system

5.1 At all points in the safety case where the matter addressed is covered by the safety management system, a clear reference to the relevant part of the documented safety management system.

5.2 A description of those parts of the documented safety management system that address the ongoing effective implementation and ongoing review and revision of the safety management system.

6 Safety and reliability of facility structures and plant

A description of the steps taken to ensure that safety and reliability are incorporated into the design and construction of all aspects of the major hazard facility itself, whether the operator is directly engaged in the design and construction or has engaged another person to carry out the design and construction.

7 Major incident history

A summary of the major incidents that have occurred at the major hazard facility over the previous 5 years.

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Schedule 18A Prescribed Acts—Act, section 271

section 701A

Anti-Discrimination Act 1991

Building Act 1975

Coal Mining Safety and Health Act 1999

Coroners Act 2003

Disaster Management Act 2003

Education (General Provisions) Act 2006

Electricity Act 1994

Environmental Protection Act 1994

Explosives Act 1999

Fair Trading Act 1989

Fire and Emergency Services Act 1990

Further Education and Training Act 2014

Heavy Vehicle National Law Act 2012

Hospital and Health Boards Act 2011

Local Government Act 2009

Mining and Quarrying Safety and Health Act 1999

Petroleum and Gas (Production and Safety) Act 2004

Police Powers and Responsibilities Act 2000

Private Health Facilities Act 1999

Public Health Act 2005

Queensland Building and Construction Commission Act 1991

Queensland Civil and Administrative Tribunal Act 2009

Sustainable Planning Act 2009

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Transport (Rail Safety) Act 2010

Transport Operations (Marine Safety) Act 1994

Transport Operations (Passenger Transport) Act 1994

Transport Operations (Road Use Management) Act 1995

Waste Reduction and Recycling Act 2011

Workers' Compensation and Rehabilitation Act 2003

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Schedule 19 Dictionary

section 5

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

accredited assessor means—

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

(b) the regulator.

ADG Code means the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, 7th edition, approved by the Australian Transport Council.

Note—

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

administrative control means a method of work, a process or a procedure designed to minimise risk, but does not include—

(a) an engineering control; or

(b) the use of personal protective equipment.

airborne contaminant means a contaminant in the form of a fume, mist, gas, vapour or dust, and includes microorganisms.

amusement device means plant operated for hire or reward that provides entertainment, sightseeing or amusement through movement of the equipment, or part of the equipment, or when passengers or other users travel or move on, around or along the equipment, but does not include—

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

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

(c) a boat or flotation device—

(i) that is solely propelled by a person who is in or on the boat or device; and

(ii) that is not attached to any mechanical elements or equipment outside the boat or device, and that does not rely on any artificial flow of water to move; or

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

(e) a coin-operated or token-operated device that—

(i) is intended to be ridden, at the one time, by not more than 4 children who must be below the age of 10 years; and

(ii) is usually located in a shopping centre or similar public location; and

(iii) does not necessarily have an operator.

anchorage point, for part 6.3, division 4, see section 306A.

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

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

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

asbestos means the asbestiform varieties of mineral silicates belonging to the serpentine or amphibole groups of rock forming minerals including the following—

(a) actinolite asbestos;

(b) grunerite (or amosite) asbestos (brown);

(c) anthophyllite asbestos;

(d) chrysotile asbestos (white);

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(e) crocidolite asbestos (blue);

(f) tremolite asbestos;

(g) a mixture that contains 1 or more of the minerals mentioned in paragraphs (a) to (f).

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

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

asbestos management code, for part 13.1, division 9, see section 744.

asbestos management plan—

(a) for part 8.3, see section 429(2); or

(b) for part 8.4, see section 432(2).

asbestos register see section 425.

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

asbestos removal licence means a class A asbestos removal licence or a class B asbestos removal licence.

asbestos removal work means—

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

(b) for part 8.10, class A asbestos removal work or class B asbestos removal work.

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

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

assessment means the process of collecting evidence and making judgments on whether competency has been achieved

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to decide whether a person can perform to the standard expected in the workplace.

assessment summary means a document that records the result of an assessment.

biological monitoring means—

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

(b) blood lead level monitoring.

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

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

boiler means—

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

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

but does not include—

(c) other than in schedule 3, a fully flooded or pressurised system where water or another liquid is heated to a temperature lower than the normal atmospheric boiling temperature of the liquid; or

(d) for parts 5.2 and 5.3 and schedule 3, a boiler designed or manufactured to the following codes—

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(i) AMBSC Part 1—*Australian Miniature Boiler Safety Committee Code for Copper Boilers*;

(ii) AMBSC Part 2—*Australian Miniature Boiler Safety Committee Code for Steel Boilers*;

(iii) AMBSC Part 3—*Australian Miniature Boiler Safety Committee Code for Sub-Miniature Boilers*;

(iv) AMBSC Part 4—*Australian Miniature Boiler Safety Committee Code for Duplex Steel Boilers*; or

(e) for schedule 3—

(i) a direct fired process heater; or

(ii) boilers with less than 5m^2 heating surface or 150 kilowatt output; or

(iii) unattended boilers certified in compliance with AS 2593:2004 (Boilers—Safety management and supervision systems).

bonded asbestos removal certificate, for part 13.1, division 9, see section 744.

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

bridge crane means a crane that—

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

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

(c) has one or more hoisting mechanisms arranged to traverse across the bridge.

building maintenance equipment means a suspended platform and associated equipment, including a building maintenance unit or a swing stage, that incorporates permanently installed overhead supports to provide access to the faces of a building for maintenance, but does not include a suspended scaffold.

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

bulk, in relation to a hazardous chemical, means any quantity of a hazardous chemical that is—

(a) in a container with a capacity exceeding 500L or net mass of more than 500kg; or

(b) if the hazardous chemical is a solid—an undivided quantity exceeding 500kg.

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

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

catch platform, for part 6.4, division 3, see section 315C.

certificate of medical fitness means a certificate of medical fitness that complies with section 169.

certification, for a specified VET course, means—

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

(b) for high risk work—a notice of satisfactory assessment stating that the person to whom it is issued has successfully completed the specified VET course; or

(c) an equivalent statement or notice issued by a corresponding RTO.

certified safety management system, in chapter 8, means a safety management system that complies with AS 4801:2001 (Occupational health and safety management systems), or an equivalent system determined by the regulator.

chemical identity means a name, in accordance with the nomenclature systems of the International Union of Pure and Applied Chemistry or the Chemical Abstracts Service, or a technical name, that gives a chemical a unique identity.

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civil construction work, for part 6.4, division 3, see section 315C.

class means—

(a) for high risk work—a class of work stated in schedule 3;

(b) for asbestos removal work—class A asbestos removal work or class B asbestos removal work.

Class, for schedule 15, see section 1 of the schedule.

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

class A asbestos removal work means work that is required to be licensed under section 485.

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

class B asbestos removal work means work that is required to be licensed under section 487, but does not include class A asbestos removal work.

class label means a pictogram described in the ADG Code for a class, or division of a class, of dangerous goods.

clearance certificate see section 474.

clearance inspection see section 473(3).

combustible dust means finely divided solid particles and includes dust, fibres or flyings that are—

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

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

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

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

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Examples—

wood, paper, oil, iron filings

***commencement*—**

(a) for part 13.1—means the commencement of the section in which the term is used; or

(b) for part 13.2—see section 768.

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

competent person means—

(a) *Note—*

Paragraph not used. See note to section 3.

(b) for general diving work—see sections 174 and 177; or

(c) for a major inspection of mobile cranes and tower cranes under section 235—see section 235; or

(d) for inspection of amusement devices under section 241—see section 241; or

(e) for design verification under section 252—a person who has the skills, qualifications, competence and experience to design the plant or verify the design; or

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

(i) a certification for the specified VET course of asbestos assessor work; or

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

(iii) a certification for the specified VET course for class A asbestos removal work or class B asbestos removal work; or

(fa) for part 13.1, division 9—see section 744; or

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

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

confined space means an enclosed or partially enclosed space that—

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

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

(c) is or is likely to be a risk to health and safety from—

(i) an atmosphere that does not have a safe oxygen level; or

(ii) contaminants, including airborne gases, vapours and dusts, that may cause injury from fire or explosion; or

(iii) harmful concentrations of any airborne contaminants; or

(iv) engulfment;

but does not include a mine shaft or the workings of a mine.

confined space entry permit means a confined space entry permit issued under section 67.

construction person, for schedule 5A, part 1, see section 1 of the schedule.

construction project, for chapter 6, see section 292.

construction work, for chapter 6, see section 289.

consumer product means a thing that—

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

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

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

container, in relation to a hazardous chemical, means anything in or by which a hazardous chemical is, or has been, wholly or partly covered, enclosed or packed, including anything necessary for the container to perform its function as a container.

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

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

conveyor means equipment or apparatus operated by power other than manual power and by which loads are raised, lowered or transported or capable of being raised, lowered, transported, or continuously driven, by—

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

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

(c) a rotating screw; or

(d) a vibration or walking beam; or

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

and includes the superstructure, gear and auxiliary equipment used in connection with that equipment or apparatus.

conviction, including in the term *relevant WHS conviction*—

(a) does not include a spent conviction; and

(b) includes a finding of guilt, other than a finding of guilt that, if a conviction were recorded, would be a spent conviction.

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

Note—

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

crane means an appliance intended for raising or lowering a load and moving it horizontally including the supporting structure of the crane and its foundations, but does not include any of the following—

(a) an industrial lift truck;

(b) earthmoving machinery;

(c) an amusement device;

(d) a tractor;

(e) an industrial robot;

(f) a conveyor;

(g) building maintenance equipment;

(h) a suspended scaffold;

(i) a lift.

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

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

(b) has not expired or been revoked.

dangerous goods, for chapter 12, see section 702.

demolition work means work to demolish or dismantle a structure, or part of a structure that is load-bearing or otherwise related to the physical integrity of the structure, but does not include—

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

(b) the removal of power, light or telecommunication poles.

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

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

(b) capable of luffing under load.

designer, in relation to plant, a substance or a structure, see section 22 of the Act.

determined major hazard facility means a facility that has been determined under section 541 or 542 to be a major hazard facility.

direct fired process heater means an arrangement of one or more coils, located in the radiant zone or convection zone, or both, of a combustion chamber, the primary purpose of which is to raise the temperature of a process fluid circulated through the coils, to allow distillation, fractionalism, reaction or other petrochemical processing of the process fluid, whether that fluid is liquid or gas, or a combination of liquid and gas.

Division, for schedule 15, see section 1 of the schedule.

dogging work means—

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

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

duty holder, for part 3.1, means a person mentioned in section 32.

EANx, for part 4.8, means a mixture of oxygen and nitrogen in which the volume of oxygen is at least 22%.

earthmoving machinery means operator controlled plant used to excavate, load, transport, compact or spread earth, overburden, rubble, spoil, aggregate or similar material, but does not include a tractor or industrial lift truck.

edge protection, for part 6.3, division 4, see section 306A.

eligible person, for part 11.1, division 1, see section 676.

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emergency service organisation means—

(a) the Queensland Ambulance Service under the *Ambulance Service Act 1991*; and

(b) the Queensland Fire and Emergency Service under the *Fire and Emergency Services Act 1990.*

emergency service worker means a person who under an Act is authorised to give directions to anyone else for the purposes of the emergency.

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

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

essential services means the supply of—

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

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

excavation means a trench, tunnel or shaft, but does not include—

(a) a mine; or

(b) a water bore to which the *Water Act 2000* applies; or

(c) a trench for use as a place of interment.

excavation work means work to—

(a) make an excavation; or

(b) fill or partly fill an excavation.

exposure standard, other than in part 4.1, means an exposure standard in the Workplace Exposure Standard for Airborne Contaminants.

exposure standard for noise see section 56.

external review means an external review under part 11.1.

facility, in chapter 9, means a workplace at which schedule 15 chemicals are present or likely to be present.

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fall arrest harness system, for part 6.3, division 4, see section 306A.

fall arresting platform, for part 6.3, division 4, see section 306A.

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

Example—

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

fall protection cover, for part 6.3, division 4, see section 306A.

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

female of reproductive capacity, for part 7.2, means a female other than a female who provides information stating that she is not of reproductive capacity.

fire risk hazardous chemical means a hazardous chemical that—

(a) is any of the following—

(i) a flammable gas;

(ii) a flammable liquid (hazard category 1 to 3);

(iii) a flammable solid;

(iv) a substance liable to spontaneous combustion;

(v) a substance which, in contact with water, emits flammable gases;

(vi) an oxidizing substance;

(vii) an organic peroxide; and

(b) burns readily or supports combustion.

fitness criteria, for diving work, means the fitness criteria stated in clause M4 of Appendix M to AS/NZS 2299.1:2007 (Occupational diving operations—Standard operational practice).

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

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flammable liquid means a flammable liquid within the meaning of the GHS that has a flash point of less than 93°C.

forklift truck, for schedule 3, means a powered industrial truck equipped with lifting media made up of a mast and an elevating load carriage to which is attached a pair of fork arms or other arms that can be raised 900mm or more above the ground, but does not include a pedestrian-operated truck or a pallet truck.

former NOHSC, for part 13.1, division 9, see section 744.

friable asbestos means material that—

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

(b) contains asbestos.

friable asbestos certificate, for part 13.1, division 9, see section 744.

gantry, for part 6.4, division 3, see section 315C.

gantry crane means a crane that—

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

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

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

gas cylinder means a rigid vessel—

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

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

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

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

general construction induction training card means—

(a) for part 6.5, division 2, a general construction induction training card issued under that division; or

(b) otherwise—a general construction induction training card issued—

(i) under a corresponding WHS law; or

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

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

general diving work means work carried out in or under water while breathing compressed gas, and includes—

(a) incidental diving work; and

(b) limited scientific diving work;

but does not include high risk diving work.

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

GHS means the Globally Harmonised System of Classification and Labelling of Chemicals, Third revised edition, published by the United Nations as modified under schedule 6.

Note—

The schedule 6 tables replace some tables in the GHS.

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

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

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

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

hazardous area means an area in which—

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

(b) a combustible dust is present, or could reasonably be expected to be present, in the atmosphere in a quantity that requires special precautions to be taken for the construction and use of plant.

hazardous chemical means a substance, mixture or article that satisfies the criteria for a hazard class in the GHS (including a classification mentioned in schedule 6), but does not include a substance, mixture or article that satisfies the criteria solely for one of the following hazard classes—

(a) acute toxicity—oral—category 5;

(b) acute toxicity—dermal—category 5;

(c) acute toxicity—inhalation—category 5;

(d) skin corrosion/irritation—category 3;

(e) serious eye damage/eye irritation—category 2B;

(f) aspiration hazard—category 2;

(g) flammable gas—category 2;

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

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

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(j) hazardous to the ozone layer.

Note—

The schedule 6 tables replace some tables in the GHS.

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

(a) repetitive or sustained force;

(b) high or sudden force;

(c) repetitive movement;

(d) sustained or awkward posture;

(e) exposure to vibration.

Examples—

1 A task requiring a person to restrain live animals.

2 A task requiring a person to lift or move loads that are unstable or unbalanced or are difficult to grasp or hold.

3 A task requiring a person to sort objects on a conveyor belt.

Hazchem Code means a Hazchem Code under the ADG Code, also known as an Emergency Action Code.

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

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

heritage boiler means a boiler that—

(a) was manufactured before 1952; and

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

Example of a historical activity—

a historical display, parade, demonstration or re-enactment

Example of an activity ancillary to a historical activity—

restoring, maintaining, modifying, servicing, repairing or housing a boiler used, or to be used, for a historical activity

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high risk construction work, for chapter 6, see section 291.

high risk diving work means work—

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

(b) involving one or more of the following—

(i) construction work;

Notes—

1 Subparagraph (ii) includes some additional construction-related activities.

2 For construction work generally, see chapter 6. For the meaning of *construction work*, see section 289.

(ii) work of the kind described in section 289(3)(d);

(iii) inspection work carried out in order to determine whether or not work described in subparagraph (i) or (ii) is necessary;

(iv) the recovery or salvage of a large structure or large item of plant for commercial purposes;

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

high risk plant, for chapter 12, see section 702.

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

high risk work licence means any of the licences listed in schedule 3.

hoarding, for part 6.4, division 3, see section 315C.

hoist means an appliance intended for raising or lowering a load or people, and includes an elevating work platform, a mast climbing work platform, personnel and materials hoist, scaffolding hoist and serial hoist, but does not include a lift or building maintenance equipment.

housing construction work, for part 6.3, division 4, see section 306A.

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

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

incidental diving work means general diving work that—

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

Example—

acting underwater is incidental to the business or undertaking of filming

(b) involves limited diving; and

(c) is carried out while being accompanied and supervised in the water by a person who has the qualifications or experience specified in section 171.

independent, for clearance inspections and air monitoring under chapter 8, means—

(a) for a competent person for a clearance inspection under section 473—not involved in the removal of the asbestos in relation to which the inspection is to be conducted; or

(b) otherwise—not involved in the removal of the asbestos or a business or undertaking involved in the removal of the asbestos.

industrial lift truck means powered mobile plant, designed to move goods, materials or equipment that is equipped with an elevating load carriage and is in the normal course of use equipped with a load-holding attachment, but does not include a mobile crane or earthmoving machinery.

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

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

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Information paper AR1, for part 13.1, division 9, see section 744.

Information paper AR2, for part 13.1, division 9, see section 744.

in situ asbestos means asbestos or ACM fixed or installed in a structure, equipment or plant, but does not include naturally occurring asbestos.

intermediate bulk container (IBC) has the same meaning as IBC has in the ADG Code.

internal review means internal review under part 11.1.

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

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

(b) is not used at the workplace; and

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

ladder, for part 6.3, division 4, subdivision 2, see section 306B.

LC_{50} for acute toxicity on inhalation, for schedule 15, see section 1 of the schedule.

LD_{50} (median lethal dose) for acute oral toxicity, for schedule 15, see section 1 of the schedule.

LD_{50} for acute dermal toxicity, for schedule 15, see section 1 of the schedule.

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

lead process, for part 7.2, see section 392.

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

lead risk work, for part 7.2, see section 394.

licence holder means—

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

(aa) for a licence to carry out demolition work—the person who is licensed to carry out the work; or

(b) for an asbestos assessor licence—the person who is licensed—

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

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

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

(c) for an asbestos removal licence—the person conducting the business or undertaking to whom the licence is issued; or

(d) for a major hazard facility licence—the operator of the major hazard facility to whom the licence is issued or transferred.

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

licensed asbestos removalist means a person conducting a business or undertaking who is licensed under this regulation to carry out class A asbestos removal work or class B asbestos removal work.

licensed asbestos removal work means asbestos removal work for which a class A asbestos removal licence or class B asbestos removal licence is required.

licensed major hazard facility means a major hazard facility that is licensed under part 9.7.

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

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(a) a chairlift, escalator, moving walkway and stairway lift; and

(b) any supporting structure, machinery, equipment, gear, lift well, enclosures and entrances.

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

(a) diving to a depth below 30m;

(b) the need for a decompression stop;

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

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

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

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

limited scientific diving work means general diving work that—

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

(b) involves only limited diving.

local authority, for a facility, means the local authority for the local authority area in which the facility and the surrounding area are located.

local community, for a major hazard facility, means the community in the surrounding area.

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

maintain, for chapter 5, see section 184A.

major hazard facility means a facility—

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(a) at which schedule 15 chemicals are present or likely to be present in a quantity that exceeds their threshold quantity; or

(b) that is determined by the regulator under part 9.2 to be a major hazard facility.

major hazard facility licence means a licence granted under part 9.7 in relation to a major hazard facility.

major incident, for part 9.1, see section 531.

major incident hazard means a hazard that could cause, or contribute to causing, a major incident.

manifest means a written summary of the hazardous chemicals used, handled or stored at a workplace.

Note—

See schedule 12 (Manifest requirements) for what a manifest must contain.

manifest quantity, for a schedule 11 hazardous chemical, means the manifest quantity mentioned in schedule 11, table 11.1, column 5 for that hazardous chemical.

manufacturer, in relation to plant, a substance or a structure, has the same meaning as it has in section 23 of the Act.

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

materials hoist means a hoist that—

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

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

membrane filter method means the membrane filter method described in the Guidance Note on the Membrane Filter Method for Estimating Airborne Asbestos Fibres [NOHSC:3003 (2005)].

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mesh, for part 6.4, division 3, see section 315D.

mixture, for part 7.1, means a combination of, or a solution composed of, 2 or more substances that do not react with each other.

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

modification, of a major hazard facility, see section 534.

musculoskeletal disorder means an injury to, or disease of, the musculoskeletal system, whether occurring suddenly or over time, but does not include an injury caused by crushing, entrapment or cutting resulting principally from the mechanical operation of plant.

NATA means the National Association of Testing Authorities, Australia.

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

national labelling code means the document titled 'National Code of Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)]', declared by the National Occupational Health and Safety Commission in March 1994.

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

non-friable asbestos means material containing asbestos that is not friable asbestos, including material containing asbestos fibres reinforced with a bonding compound.

Note—

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

non-slewing mobile crane means a mobile crane incorporating a boom or jib that cannot be slewed, and includes—

(a) an articulated mobile crane; or

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(b) a locomotive crane;

but does not include vehicle tow trucks.

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

notifiable incident, for chapter 12, see section 702.

occupier, for chapter 12, see section 702.

operator, of a facility, in chapter 9, see section 533.

operator of a proposed facility, for chapter 9, see section 533.

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

order-picking forklift truck, for schedule 3, means a forklift truck where the operator's controls are incorporated with the lifting media and elevate with the lifting media.

overhead platform, for part 6.4, division 3, see section 315C.

owner, for chapter 12, see section 702.

packaged hazardous chemicals means schedule 11 hazardous chemicals in a container with—

(a) a capacity not exceeding 500L; or

(b) a net mass not exceeding 500kg.

Packing Group, for schedule 15, see section 1 of the schedule.

perimeter containment screening, for part 6.4, division 3, see section 315C.

permitted work, for part 6.3, division 4, see section 306A.

person with management or control of plant at a workplace has the same meaning as it has in section 21 of the Act.

person with management or control of a workplace has the same meaning as it has in section 20 of the Act.

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personal protective equipment means anything used or worn by a person to minimise risk to the person's health and safety, including air supplied respiratory equipment.

personnel and materials hoist means a hoist—

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

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

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

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

placard means a sign or notice—

(a) displayed or intended for display in a prominent place, or next to a container or storage area for hazardous chemicals at a workplace; and

(b) that contains information about the hazardous chemical stored in the container or storage area.

placard quantity, in relation to a schedule 11 hazardous chemical, means the placard quantity mentioned in schedule 11, table 11.1 column 4 for the schedule 11 hazardous chemical.

plant, of parts 5.2 and 5.3, includes a structure.

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

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

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

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

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

(b) improper handling of a hazardous chemical.

presence-sensing safeguarding system includes—

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

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

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

pressure equipment means boilers, pressure vessels and pressure piping.

pressure piping—

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

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

(c) does not include—

(i) a boiler or pressure vessel; or

(ii) any piping that is regulated under the *Petroleum and Gas (Production and Safety) Regulation 2004*.

pressure vessel—

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

(b) includes—

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

(ii) fired heaters; and

(iii) gas cylinders; but

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

primary emergency services organisation means—

(a) the Queensland Ambulance Service under the *Ambulance Service Act 1991*; and

(b) the Queensland Fire and Emergency Service under the *Fire and Emergency Services Act 1990.*

principal contractor, in relation to a construction project, see section 293.

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

prohibited carcinogen means a substance—

(a) listed in schedule 10, table 10.1, column 2; and

(b) present in a concentration of—

(i) for a solid or liquid—0·1% or more, determined as a weight/weight (w/w) concentration; and

(ii) for a gas—0·1% or more, determined as a volume/volume (v/v) concentration.

proposed facility means—

(a) an existing workplace that is to become a facility due to the introduction of schedule 15 chemicals; or

(b) a facility that is being designed or constructed.

proposed major hazard facility means—

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(a) an existing facility or other workplace that is to become a major hazard facility due to the introduction of schedule 15 chemicals or the addition of further schedule 15 chemicals; or

(b) a major hazard facility that is being designed or constructed.

public health and safety duty, for chapter 12, see section 702.

quantity, for chapter 7, means—

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

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

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

(d) for a hazardous chemical that is not a liquid and is in bulk and not in a container—the undivided mass in kilograms; and

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

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

reasonably available, for schedule 5A, part 1, see section 1 of the schedule.

reciprocating steam engine means equipment that is driven by steam acting on a piston causing the piston to move, and includes an expanding (steam) reciprocating engine.

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registered medical practitioner means a person registered under the Health Practitioner section National Law to practise in the medical profession (other than as a student).

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

relevant activity, for chapter 12, see section 702.

relevant fee, in relation to a matter, means the fee stated in schedule 2 for that matter.

relevant person, for chapter 12, see section 702.

relevant premises, for chapter 12, see section 702.

relevant WHS conviction means a conviction for an offence against a relevant WHS law.

relevant WHS law means any of the following—

(a) the Act;

(b) the repealed *Workplace Health and Safety Act 1995*;

(c) the repealed *Dangerous Goods Safety Management Act 2001*;

(d) a corresponding law or a law relating to work health and safety repealed by a corresponding law.

Note—

Under the *Acts Interpretation Act 1954*, section 7, a reference in paragraphs (a) to (d) to a law includes a reference to the statutory instruments made or in force under the law, including, for example, regulations.

repealed DGSM Act, for part 13.2, see section 768.

repealed WHS regulation means the repealed *Workplace Health and Safety Regulation 2008*.

research chemical means a substance or mixture that—

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

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

respirable asbestos fibre means an asbestos fibre that—

(a) is less than 3 micrometres wide; and

(b) more than 5 micrometres long; and

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

restricted carcinogen means a substance—

(a) listed in schedule 10, table 10.2, column 2 for a use listed in column 3; and

(b) present in a concentration of—

(i) for a solid or liquid—0·1% or more, determined as a weight/weight (w/w) concentration; and

(ii) for a gas—0·1% or more, determined as a volume/volume (v/v) concentration.

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

reviewable decisions, for part 11.1, division 1, see section 676.

rigging work means—

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

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

safe oxygen level means a minimum oxygen content in air of 19·5% by volume under normal atmospheric pressure and a maximum oxygen content of air of 23·5% by volume under normal atmospheric pressure.

Safe Work Australia means Safe Work Australia as established under section 5 of the *Safe Work Australia Act 2008* (Cwlth).

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safe work method statement means in relation to high risk construction work—a safe work method statement mentioned in section 299 (as revised under section 302).

safety data sheet means a safety data sheet prepared under section 330 or 331.

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

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

schedule 11 hazardous chemical means a hazardous chemical or combination of hazardous chemicals stated in schedule 11, table 11.1.

schedule 15 chemical means a hazardous chemical that—

(a) is stated in schedule 15, table 15.1; or

(b) belongs to a class, type or category of hazardous chemicals specified in schedule 15, table 15.2.

self-erecting tower crane means a crane—

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

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

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

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

slewing mobile crane means a mobile crane incorporating a boom or jib that can be slewed, but does not include—

(a) a front-end loader; or

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(b) a backhoe; or

(c) an excavator; or

(d) other earth moving equipment;

when configured for crane operation.

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

specified VET course means—

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

(b) for class A asbestos removal work—the VET course *Remove friable asbestos*; or

(c) for class B asbestos removal work—the VET course *Remove non-friable asbestos*; or

(d) for the supervision of class A asbestos removal work—the VET course *Supervise asbestos removal*; or

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

(f) for high risk work—the relevant VET course specified in schedule 4.

spent conviction means a conviction—

(a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and

(b) that is not revived as prescribed by section 11 of that Act.

statement of attainment means a VET statement of attainment under the *National Vocational Education and Training Regulator Act 2011* (Cwlth).

static line, for part 6.3, division 4, see section 306A.

structure, for chapter 6, see section 290.

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subsidiary risk, for schedule 15, see section 1 of the schedule.

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

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

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

supplier, in relation to plant, a substance or a structure, has the same meaning as it has in section 25 of the Act.

surrounding area, in relation to a facility, means the area surrounding the facility in which the health and safety of persons could potentially be adversely affected by a major incident occurring.

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

table, for part 13.1, division 4, see section 721.

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

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

(b) recognised by the scientific community.

temporary work platform means—

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

(b) an elevating work platform; or

(c) a mast climbing work platform; or

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

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

(f) a portable or mobile fabricated platform; or

(g) any other temporary platform that—

(i) provides a working area; and

(ii) is designed to prevent a fall.

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

threshold quantity, in relation to a schedule 15 chemical, means—

(a) the threshold quantity of a specific hazardous chemical as determined under schedule 15, section 3; or

(b) the aggregate threshold quantity of 2 or more hazardous chemicals as determined under schedule 15, section 4.

tier 1 major hazard facility means a major hazard facility that, in relation to schedule 15 chemicals that are stored or handled at the facility in a quantity that exceeds 10% of their threshold quantity, only conducts storage, repacking or distribution functions.

Examples of major hazard facilities that may be a tier 1 major hazard facility—

warehouse, liquid petroleum gas depot, bulk ammonia storage facility

tier 2 major hazard facility means a major hazard facility that, in relation to schedule 15 chemicals that are stored or handled at the facility in a quantity that exceeds 10% of their threshold quantity, processes the schedule 15 chemicals into other products if the processing is likely to involve the following—

(a) chemical reactions;

(b) changes in state of the schedule 15 chemicals;

(c) operations at high or low temperatures and pressures.

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Examples of major hazard facilities that may be a tier 2 major hazard facility—

pesticide formulators, acetylene producers, explosives manufacturers

tier 3 major hazard facility means a major hazard facility that, in relation to schedule 15 chemicals that are stored or handled at the facility in a quantity that exceeds 10% of their threshold quantity, processes the schedule 15 chemicals into other products using multiple or complex processes at high or low temperatures or pressure.

Examples of major hazard facilities that may be a tier 3 major hazard facility—

- oil refineries
- chemical manufacturers producing products such as ammonium nitrate, chlorine, sodium cyanide or nitric acid

tower crane means—

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

(b) in schedule 3—

(i) the crane, if a jib crane, may be a horizontal or luffing jib type; and

(ii) the tower structure may be demountable or permanent;

but, in schedule 3, does not include a self-erecting tower crane.

tractor means a motor vehicle, whether wheeled or track mounted, designed to provide power and movement to any attached machine or implement by a transmission shaft, belt or linkage system but does not include earthmoving machinery.

transitional class A asbestos removal licence, for part 13.1, division 9, see section 744.

transitional class B asbestos removal licence, for part 13.1, division 9, see section 744.

transitional demolition work licence see section 732(4).

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travel restraint system, for part 6.3, division 4, see section 306A.

trench means a horizontal or inclined way or opening—

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

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

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

tunnel means an underground passage or opening that—

(a) is approximately horizontal; and

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

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

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

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

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

VET course has the same meaning as it has in the *National Vocational Education and Training Regulator Act 2011* (Cwlth).

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

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

work positioning system means any plant or structure, other than a temporary work platform, that enables a person to be positioned and safely supported at a location for the duration of the relevant work being carried out.

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2 Key

Key to abbreviations in list of legislation and annotations

Key		Explanation	Key		Explanation
AIA	=	**Acts Interpretation Act 1954**	**(prev)**	=	**previously**
amd	=	**amended**	**proc**	=	**proclamation**
amdt	=	**amendment**	**prov**	=	**provision**
ch	=	**chapter**	**pt**	=	**part**
def	=	**definition**	**pubd**	=	**published**
div	=	**division**	**R[X]**	=	**Reprint No. [X]**
exp	=	**expires/expired**	**RA**	=	**Reprints Act 1992**
gaz	=	**gazette**	**reloc**	=	**relocated**
hdg	=	**heading**	**renum**	=	**renumbered**
ins	=	**inserted**	**rep**	=	**repealed**
lap	=	**lapsed**	**(retro)**	=	**retrospectively**
notfd	=	**notified**	**rv**	=	**revised version**
num	=	**numbered**	**s**	=	**section**

Key		Explanation	Key		Explanation
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
orig	=	original	SIA	=	Statutory Instruments Act 1992
p	=	page	SIR	=	Statutory Instruments Regulation 2012
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Reprint No.	Amendments included	Effective	Notes
0A	none	1 December 2011	ss 492(2)(i)(ii), 500(b)(ii) commenced
1	—	1 January 2012	
1A	—	1 July 2012	s 142 commenced
1B	2012 SL No. 102	13 July 2012	
1C	2012 SL No. 203	16 November 2012	
1D	—	1 January 2013	s 343 commenced

Current as at	Amendments included	Notes
8 June 2013	—	prov exp 7 June 2013
28 June 2013	2013 SL No. 116	
1 July 2013	2013 SL No. 122	
15 November 2013	2013 SL No. 222	
1 December 2013	2013 SL No. 222	
1 January 2014	—	ss 48, 432–433 commenced
1 March 2014	2013 SL No. 222	
16 May 2014	2014 SL No. 60	RA s 44
21 May 2014	2014 Act No. 17	
1 July 2014	2014 SL No. 103	
	2014 SL No. 128	
24 October 2014	2014 SL No. 238	
1 July 2015	2015 SL No. 46	
4 December 2015	2015 SL No. 169	

Current as at	Amendments included	Notes
1 January 2016	—	pt 8.5 div 1, ch 14 commenced RA ss 7(1)(k), 40
1 July 2016	2016 SL No. 80	
9 December 2016	2016 SL No. 229	
30 June 2017	2017 SL No. 75	RA s 35
1 July 2017	2017 SL No. 115	RA s 35

4 List of legislation

Regulatory impact statements

For subordinate legislation that has a regulatory impact statement, specific reference to the statement is included in this list.

Explanatory notes

All subordinate legislation made on or after 1 January 2011 has an explanatory note. For subordinate legislation made before 1 January 2011 that has an explanatory note, specific reference to the note is included in this list.

Work Health and Safety Regulation 2011 SL No. 240

made by the Governor in Council on 24 November 2011
notfd gaz 25 November 2011 pp 603–6
ss 1–2 commenced on date of notification
ss 48, 432–433 commenced 1 January 2014 (see s 2(2A))
s 217 never commenced and om 2014 SL No. 60
pt 8.5 div 1, ch 14 commenced 1 January 2016 (see s 2(2B))
ss 272, 279(2)(d) commence 1 January 2019 (see s 2(2C))
s 142 commenced 1 July 2012 (see s 2(1))
s 343 commenced 1 January 2013 (see s 2(2))
ss 492(2)(i)(ii), 500(b)(ii) commenced 1 December 2011 on the commencement of the Waste Reduction and Recycling Act 2011 s 103 (see s 2(3))
remaining provisions commenced 1 January 2012 on the commencement of s 277 of the Act (see s 2(4) and 2011 SL No. 238)
exp 1 September 2022 (see SIA s 54)
Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.
amending legislation—

Justice Legislation (Fees) Amendment Regulation (No. 1) 2012 SL No. 102

notfd gaz 13 July 2012 pp 820–5

ss 1–2 commenced on date of notification
remaining provisions commenced 13 July 2012 (see s 2)

Work Health and Safety Amendment Regulation (No. 1) 2012 SL No. 203
notfd gaz 16 November 2012 pp 345–6
commenced on date of notification

Work Health and Safety Amendment Regulation (No. 1) 2013 SL No. 116
notfd gaz 28 June 2013 pp 739–47
commenced on date of notification

Justice Legislation (Fees) Amendment Regulation (No. 1) 2013 SL No. 122
notfd gaz 28 June 2013 pp 739–47
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2013 immediately after the Uniform Civil Procedure and Another Rule Amendment Rule (No. 1) 2013 (see s 2)

Work Health and Safety and Another Regulation Amendment Regulation (No. 1) 2013 SL No. 222 ss 1–2(1)–(2), pt 2, s 67 sch 1
notfd <www.legislation.qld.gov.au> 15 November 2013
ss 1–2 commenced on date of notification
ss 29, 35, 47 and 64(2) and (8) commenced 1 December 2013 (see s 2(1))
s 63(3) (to the extent it ins sch 11, table 1.1, item 43) commenced 1 March 2014 (see s 2(2))
remaining provisions commenced on notification

Work Health and Safety and Another Regulation Amendment Regulation (No. 1) 2014 SL No. 60 pts 1, 3
notfd <www.legislation.qld.gov.au> 16 May 2014
ss 1–2 commenced on date of notification
remaining provisions commenced 16 May 2014 immediately after the commencement of the Work Health and Safety and Other Legislation Amendment Act 2014 (see s 2)

Public Safety Business Agency Act 2014 No. 17 ss 1, 184 sch 1 pt 4
date of assent 21 May 2014
commenced on date of assent

Further Education and Training Regulation 2014 SL No. 103 pt 1, s 43 sch 2
notfd <www.legislation.qld.gov.au> 20 June 2014
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2014 (see s 2)

Justice Legislation (Fees) Amendment and Repeal Regulation (No. 1) 2014 SL No. 128 ss 1–2(1), 3 sch
notfd <www.legislation.qld.gov.au> 27 June 2014
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2014 (see s 2(1))

Work Health and Safety Amendment Regulation (No. 1) 2014 SL No. 238
notfd <www.legislation.qld.gov.au> 24 October 2014
commenced on date of notification

Electrical Safety and Another Regulation Amendment Regulation (No. 1) 2015 SL No. 46 pts 1, 3

notfd <www.legislation.qld.gov.au> 26 June 2015
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2015 (see s 2)

Work Health and Safety Amendment Regulation (No. 1) 2015 SL No. 169

notfd <www.legislation.qld.gov.au> 4 December 2015
commenced on date of notification

Electrical Safety and Other Legislation Amendment Regulation (No. 1) 2016 SL No. 80 pts 1, 3

notfd <www.legislation.qld.gov.au> 17 June 2016
ss 1–2 commenced on date of notification
pt 3 commenced 1 July 2016 (see s 2)

Work Health and Safety and Other Legislation Amendment Regulation (No. 1) 2016 SL No. 229 pts 1, 5

notfd <www.legislation.qld.gov.au> 9 December 2016
commenced on date of notification

Rail Safety National Law (Queensland) Regulation 2017 SL No. 75

notfd <www.legislation.qld.gov.au> 2 June 2017
ss 1–2 commenced on date of notification
s 25 sch 2 commenced at the end of 30 June 2017 (see s 2)

Electrical Safety and Other Legislation (Fees) Amendment Regulation 2017 SL No. 115

notfd <www.legislation.qld.gov.au> 30 June 2017
ss 1–2 commenced on date of notification
pt 3 commenced 1 July 2017 (see s 2)

5 List of annotations

Commencement

s 2 amd 2012 SL No. 203 s 3; 2013 SL No. 222 s 4; 2014 SL No. 60 s 17; 2014 SL No. 238 s 3; 2015 SL No. 169 s 3; 2016 SL No. 229 s 18

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s 7 amd 2013 SL No. 222 s 5

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s 20A ins 2014 SL No. 60 s 18
om 2015 SL No. 169 s 4

Training for health and safety representatives

s 21 amd 2013 SL No. 222 s 67 sch 1

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s 39 amd 2013 SL No. 222 s 6

Duty to prepare, maintain and implement emergency plan
s 43 amd 2013 SL No. 222 s 67 sch 1

Provision to workers and use of personal protective equipment
s 44 amd 2012 SL No. 203 s 4

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s 55 amd 2016 SL No. 229 s 19

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s 75 amd 2012 SL No. 203 s 7

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s 85 amd 2013 SL No. 222 s 9

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s 123 amd 2013 SL No. 222 s 17

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s 127 amd 2014 SL No. 60 s 22; 2015 SL No. 169 s 7

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s 144U amd 2014 SL No. 60 s 24

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s 748 amd 2012 SL No. 203 s 36

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amd 2012 SL No. 203 s 42
sub 2013 SL No. 122 s 3 sch
amd 2013 SL No. 222 s 67 sch 1
sub 2014 SL No. 128 s 3 sch; 2015 SL No. 46 s 6
amd 2015 SL No. 169 s 18
sub 2016 SL No. 80 s 6; 2017 SL No. 115 s 6

SCHEDULE 3—HIGH RISK WORK LICENCES AND CLASSES OF HIGH RISK WORK
sch 3 amd 2013 SL No. 222 s 60; 2016 SL No. 229 s 33

SCHEDULE 4—HIGH RISK WORK LICENCES—COMPETENCY REQUIREMENTS

sch 4 amd 2016 SL No. 229 s 34

SCHEDULE 5—REGISTRATION OF PLANT AND PLANT DESIGNS

Items of plant requiring registration of design

s 1 amd 2013 SL No. 222 s 61(1)–(2); 2016 SL No. 229 s 35(1)–(2)

Exceptions

s 2 amd 2013 SL No. 222 s 61(3)–(4)

Items of plant requiring registration

s 3 amd 2012 SL No. 203 s 43(1)–(2); 2013 SL No. 222 s 61(5); 2016 SL No. 229 s 35(3)–(4)

Exceptions

s 4 amd 2012 SL No. 203 s 43(3)–(4); 2013 SL No. 222 s 61(6)–(7)

SCHEDULE 9—CLASSIFICATION, PACKAGING AND LABELLING REQUIREMENTS

Correctly packing hazardous chemicals

s 2 amd 2013 SL No. 222 s 67 sch 1

Labelling hazardous chemicals—small container

s 4 amd 2013 SL No. 222 s 67 sch 1

SCHEDULE 10—PROHIBITED CARCINOGENS, RESTRICTED CARCINOGENS AND RESTRICTED HAZARDOUS CHEMICALS

sch 10 amd 2013 SL No. 222 s 62

SCHEDULE 11—PLACARD AND MANIFEST QUANTITIES

sch 11 amd 2013 SL No. 222 s 63

SCHEDULE 13—PLACARD REQUIREMENTS

Displaying placards

s 1 amd 2013 SL No. 222 s 67 sch 1

Outer warning placards—requirements

s 3 amd 2016 SL No. 229 s 36

Placards for particular hazardous chemicals stored in bulk

s 4 amd 2013 SL No. 222 s 67 sch 1

SCHEDULE 15—HAZARDOUS CHEMICALS AT MAJOR HAZARD FACILITIES (AND THEIR THRESHOLD QUANTITY)

Definitions

s 1 def *LC_{50} for acute toxicity on inhalation* (2nd occurring) om 2013 SL No. 222 s 67 sch 1

SCHEDULE 16—MATTERS TO BE INCLUDED IN EMERGENCY PLAN FOR MAJOR HAZARD FACILITY

Site and hazard detail
s 1 amd 2013 SL No. 222 s 67 sch 1

Command structure and site personnel
s 2 amd 2013 SL No. 222 s 67 sch 1

Notifications
s 3 amd 2013 SL No. 222 s 67 sch 1

SCHEDULE 18A—PRESCRIBED ACTS—ACT, SECTION 271
sch 18A ins 2016 SL No. 229 s 37

SCHEDULE 19—DICTIONARY
sch 19 amd 2012 SL No. 203 s 44(1)
def *amusement device* amd 2013 SL No. 222 s 64(4)
def *appropriate training in underwater medicine* om 2013 SL No. 222 s 64(1)
def *asbestos management code* amd 2012 SL No. 203 s 44(4)
def *asbestos removal work* amd 2012 SL No. 203 s 44(5)
def *boiler* amd 2013 SL No. 222 s 64(5)
def *bonded asbestos removal certificate* amd 2012 SL No. 203 s 44(4)
def *bridge crane* amd 2013 SL No. 222 s 64(6)
def *combustible dust* ins 2013 SL No. 222 s 64(3)
def *combustible liquid* om 2013 SL No. 222 s 64(1)
def *commencement* sub 2012 SL No. 203 s 44(2)–(3)
def *competent person* amd 2012 SL No. 203 s 44(4); 2013 SL No. 222 s 64(7); 2014 SL No. 60 s 46(1)
def *concrete placement unit with delivery boom* om 2013 SL No. 222 s 64(1)
def *concrete placing boom* amd 2016 SL No. 229 s 38(2)
def *dangerous goods* amd 2012 SL No. 203 s 44(6)
def *duty holder* sub 2012 SL No. 203 s 44(2)–(3)
def *emergency service organisation* amd 2014 Act No. 17 sch 1 pt 4
def *exposure standard* amd 2013 SL No. 222 s 64(8)
def *fall protection cover* ins 2012 SL No. 203 s 44(3)
def *former NOHSC* amd 2012 SL No. 203 s 44(4)
def *friable asbestos certificate* amd 2012 SL No. 203 s 44(4)
def *gantry crane* amd 2013 SL No. 222 s 64(9)
def *hazardous area* sub 2013 SL No. 222 s 64(1), (3)
def *high risk plant* amd 2012 SL No. 203 s 44(6)
def *housing construction work* and 2012 SL No. 203 s 44(7)
def *independent* sub 2014 SL No. 60 s 46(2)
def *inflatable device (continuously blown)* ins 2013 SL No. 222 s 64(3)
def *Information paper AR1* amd 2012 SL No. 203 s 44(4)
def *Information paper AR2* amd 2012 SL No. 203 s 44(4)
def *licence holder* amd 2015 SL No. 169 s 19(2)
def *maintain* ins 2013 SL No. 222 s 64(3)
def *national labelling code* ins 2016 SL No. 229 s 38(1)
def *notifiable incident* amd 2012 SL No. 203 s 44(6)
def *occupier* amd 2012 SL No. 203 s 44(6)
def *owner* amd 2012 SL No. 203 s 44(6)
def *permitted work* ins 2012 SL No. 203 s 44(3)

def *platform height* ins 2013 SL No. 222 s 64(3)
def *pressure piping* amd 2016 SL No. 229 s 38(3)
def *primary emergency services organisation* amd 2014 Act No. 17 sch 1 pt 4
def *public health and safety duty* amd 2012 SL No. 203 s 44(6)
def *registered training organisation (RTO)* sub 2015 SL No. 169 s 19(1)
def *relevant activity* amd 2012 SL No. 203 s 44(6)
def *relevant person* amd 2012 SL No. 203 s 44(6)
def *relevant premises* amd 2012 SL No. 203 s 44(6)
def *repealed DGSM Act* amd 2012 SL No. 203 s 44(8)
def *specified VET course* amd 2013 SL No. 222 s 64(10); 2014 SL No. 60 s 46(3)
def *spray painting booth* om 2013 SL No. 222 s 64(2)
def *statement of attainment* amd 2014 SL No. 103 s 43(3) sch 2 pt 3
def *table* amd 2012 SL No. 203 s 44(9)
def *tower crane* amd 2016 SL No. 229 s 38(4)
def *transitional class A asbestos removal licence* amd 2012 SL No. 203 s 44(4)
def *transitional class B asbestos removal licence* amd 2012 SL No. 203 s 44(4)
def *transitional demolition work licence* amd 2012 SL No. 203 s 44(10)

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