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## CHAPTER 1 PRELIMINARY

### Part 1.1 Introductory matters

#### 1.1.1 Citation

These Regulations may be cited as the *Work Health and Safety Regulations 2010*.

**Note**

See jurisdictional note in the Appendix.

#### 1.1.2 Commencement

These Regulations commence on 1 January 2012.

#### 1.1.3 Authorising provision

These Regulations are made under section 276 and Schedule 3 of the *Work Health and Safety Act 2010*.

#### 1.1.4 Revocation

**Note**

See jurisdictional note in the Appendix.

#### 1.1.5 Definitions

In these Regulations:

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

***accredited assessor*** means a person who is accredited under Part 4.5 to conduct assessments.

***ADG Code*** means the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, 7th edition, approved by the Australian

Transport Council as in force from time to time.

**Note**

The ADG Code is accessible at [www.ntc.gov.au](http://www.ntc.gov.au).

***airborne contaminant*** means a contaminant in the form of a fume, mist, gas, vapour or dust and includes bacteria.

***amusement device*** means equipment operated for hire or reward that provides entertainment, sightseeing or amusement through movement of the equipment, or part of the equipment, or when passengers travel 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
- (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 (including 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 device that:
- (i) is intended to be ridden, at the one time, by no more than 4 children 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.

***appropriate training in underwater medicine***

means training that results in knowledge of the matters specified in clause M3 of Appendix M to AS/NZS 2299.1:2007.

***AQTF Standards for RTOs***

means the AQTF Essential Conditions and Standards for Initial Registration endorsed under the Australian Quality Training Framework in June 2010.

***article***, in Chapter 7, 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);
- (e) crocidolite asbestos (blue);
- (f) tremolite asbestos.

***asbestos containing material (ACM)*** means any material or thing that contains asbestos.

***asbestos management plan***—see regulation 7.3.11.

***asbestos register***—see regulation 7.3.7.

***asbestos removal licence*** means a Class A asbestos removal licence or a Class B asbestos removal licence.

***asbestos removal work*** means:

- (a) work involving the removal of asbestos or ACM; or
- (b) in Division 8 of Part 7.3, Class A asbestos removal work or Class B asbestos removal work.

***asbestos waste disposal site*** means a site licensed under [jurisdictional legislation] to receive and process asbestos, ACM or asbestos-contaminated waste.

**Note**

See the jurisdictional note in the Appendix.

***assessment***, in Part 4.5, means an assessment in relation to the completion of a specified unit of competency to carry out a class of high risk work.

***Australian Quality Training Framework (or AQTF)*** has the same meaning as it has in the *Skilling Australia's Workforce Act 2005* of the Commonwealth.



**biological monitoring** means 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.

**blasting cabinet** means a structure used for abrasive blasting, designed not to require a person inside the cabinet when it is operating.

**blasting chamber** means a structure used for abrasive blasting, designed to require a person inside the chamber when it is operating.

**blood lead level** means the concentration of lead in whole blood expressed in micromoles per litre ( $\mu\text{mol/L}$ ) or micrograms per decilitre ( $\mu\text{g/dL}$ ).

**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 of the blood.

**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** in Schedule 4, 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.

***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*** means any quantity of a hazardous chemical that is:

- (a) in a container with a capacity of more than 500 litres or net mass of more than 500 kilograms; or
- (b) if the chemical is a solid—an undivided quantity of more than 500 kilograms.

***C1 combustible liquid*** means a combustible liquid that has a flash point of 150°C or less.

***capacity***, of a container, 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 induction training card is issued.

***catch platform*** means a temporary platform located below a work area that is designed to:

- (a) catch a worker in the event of a fall;  
and
- (b) sustain the maximum potential impact load of a falling person.

***certificate of medical fitness*** means a certificate of medical fitness that complies with regulation 4.8.2.

***certification***, in relation to a specified unit of competency, means:

- (a) a statement of attainment issued by an RTO stating that the person to whom it is issued has successfully completed the specified unit of competency; or
- (b) a notice of satisfactory assessment stating that the person to whom it is issued has successfully completed the specified unit of competency; or
- (c) an equivalent statement or notice issued by a corresponding RTO,

but does not include a statement or notice issued by an excluded RTO.

***certified safety management system*** means a safety management system that complies with AS 4801:2001 (Occupational health and safety management systems), or an equivalent system determined by Safe Work Australia.

***chemical identity*** means a name, in accordance with the nomenclature systems of the International Union of Pure and Applied Chemistry or the Chemical Abstracts Service, or a technical name, that gives a chemical a unique identity.

***class*** means:

- (a) in relation to dangerous goods, a number in a class of dangerous goods assigned in the ADG Code;
- (b) in relation to high risk work, a class of work specified in Schedule 4;
- (c) in relation to asbestos removal work, Class A asbestos removal work or Class B asbestos removal work.

***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 specified in regulation 7.3.51.

***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 specified in regulation 7.3.53, 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*** means a written report completed by a licensed assessor or competent person following a clearance inspection, containing a statement by the assessor or competent person 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.

***clearance inspection*** means an inspection of an asbestos removal work area after asbestos removal work has ended to verify that the area is safe for normal use, that:

- (a) must include a visual inspection; and
- (b) may include air monitoring.

***combustible liquid*** means a liquid, other than a flammable liquid, that has a flash point, and a fire point less than its boiling point.

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

**Examples**

Wood, paper, oil, iron filings.

***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.

***competent person*** means:

- (a) for electrical work on energised electrical equipment or energised electrical installations (other than testing referred to in regulations 4.7.9 and 4.7.22);

**Note**

See the jurisdictional note in the Appendix.

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

***concrete placement unit with delivery boom***, in Chapter 5, means plant used to place concrete by pumping the concrete through a pipeline attached to or forming part of the boom, that:

- (a) is capable of travelling over a supporting surface without the need for fixed runways, including railway tracks; and
- (b) relies on gravity for stability, without the need for a vertical restraining connection with the supporting surface or a horizontal restraining connection (other than frictional forces at supporting surface level) to aid stability.

***confined space***—see regulation 4.3.2.

***confined space entry permit*** means a confined space entry permit issued under regulation 4.3.9.

***construction diving work*** means diving work that is construction work.

**Note**

For construction work generally, see Chapter 6.

***construction project***—see regulation 6.1.3.

***construction work***—see regulation 6.1.1.

***consumer product*** means a thing that:

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

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

**container** in Chapter 7, 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 risk to health and safety, means a measure implemented 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 super structure, gear and auxiliary equipment used in connection with that equipment or apparatus.

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

***corresponding RTO*** means a registered training organisation that is registered by the relevant training recognition authority under the relevant law of another jurisdiction as an organisation that is qualified:

- (a) to deliver training and conduct assessments; and
- (b) to issue nationally recognised qualifications in accordance with the AQTF.

***crane*** means an appliance intended for raising or lowering a load and moving it horizontally and includes the supporting structure of the crane and its foundations, but does not include an industrial lift truck, earthmoving machinery, an amusement device, a tractor, an industrial robot, a conveyor, building maintenance equipment, a suspended scaffold or 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.
-



***dangerous goods*** means:

- (a) dangerous goods under the ADG Code;  
or
- (b) a C1 combustible liquid.

**Note**

Dangerous goods under the ADG Code include goods too dangerous to be transported.

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

***diving work*** means work carried out in or under water or any other liquid while breathing compressed gas.

***division***, of dangerous goods, means a number, in a class of dangerous goods, to which the dangerous goods are assigned in the ADG Code.

***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.

***electrical equipment***—see regulation 4.7.2.

***electrical installation***—see regulation 4.7.3.

***electrical work***—see regulation 4.7.4.

***electricity supply authority*** means [.....].

**Note**

See the jurisdictional note in the Appendix.

***emergency service organisation*** means [.....].

**Note**

See the jurisdictional note in the Appendix.

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***emergency service worker*** means [.....].

**Note**

See the jurisdictional note in the Appendix.

***entry***, in relation to a confined space—see regulation 4.3.3.

***equivalent licence***, in Part 4.5, in relation to a class of high risk work licence, means an equivalent licence to that class of licence.

***essential services*** means the supply of:

- (a) gas, water, sewerage, telecommunications, electricity and similar services;
- (b) chemicals, fuel and refrigerant in pipes or lines.

***excavation work*** means work to:

- (a) make an excavation; or
- (b) fill or partly fill an excavation.

***excluded RTO*** means a registered training organisation that has been, or is in a class of registered training organisations that has been, determined by the regulator under regulation 1.1.6(b) to be an excluded RTO.

***exposure standard*** means an exposure standard published by Safe Work Australia in the Atmospheric Contaminant Workplace Exposure Standards.

**Note**

The Atmospheric Contaminant Workplace Exposure Standards will replace the Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational Environment [NOSHC:1003(1995)].

***exposure standard for noise***—see regulation 4.1.1.

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***external review*** means an external review under Part 10.1.

***extra-low voltage*** means voltage that does not exceed 50 volts alternating current (50V AC) or 120 volts ripple-free direct current (120V ripple-free DC).

***facility***, in Chapter 8, means a workplace at which Schedule 15 chemicals are present or likely to be present.

***fall*** means a fall by a person from one level to another.

***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 travel restraint system).

***fall hazard***—see regulation 4.4.1.

***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*** means a female other than a female who provides information stating that she is not of reproductive capacity.

***fire risk dangerous goods*** means dangerous goods that:

- (a) are in any of the following classifications of the ADG Code (including subsidiary risk):
  - (i) class 2, division 2.1 (flammable gases);
  - (ii) class 3 (flammable liquids);

- (iii) class 4 (flammable solids; substances liable to spontaneous combustion; substances which, in contact with water, emit flammable gases);
  - (iv) class 5 (oxidizing substances and organic peroxides); and
- (b) burn readily or support combustion.

***fitness criteria***, in relation to diving work, means the fitness criteria specified in clause M4 of Appendix M to AS/NZS 2299.1:2007.

***flammable liquid*** means a liquid, a mixture of liquids, or a liquid containing solids in a solution or suspension, that gives off a flammable vapour at a temperature of not more than 60°C (closed-cup test) or 65·6°C (open-cup test).

***free diving work*** means work carried out in or under water or any other liquid while using a breath hold technique.

***friable asbestos*** means material that can be crumbled, pulverised or reduced to a powder by hand pressure when dry that contains asbestos.

***gantry crane*** means a crane that:

- (a) consists of a bridge beam supported at each end by legs mounted on 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) not exceeding 3000 litres water capacity and without openings or integral attachments on the shell other than at the ends; and
- (b) designed for the storage and transport of gas under pressure; and
- (c) which is covered by AS 2030.

***general diving work*** means diving work other than construction diving work.

***general induction training*** means training delivered in Australia by an RTO for the specified unit of competency for general induction training.

***general induction training card*** means:

- (a) in Division 2 of Part 6.5, a general induction training card issued under that Division;
- (b) in any other case, a general induction training card issued under:
  - (i) Division 2 of Part 6.5 or under a corresponding WHS law; or
  - (ii) an agreement between the regulator and an RTO.

**Note**

See the jurisdictional note in the Appendix.

***general induction training certification*** means a certification for the completion of the specified unit of competency for general induction training.

***generic name*** means a name applied to a group of chemicals having a similar structure and properties.

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***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 published by the United Nations.

**Note**

The Schedule 7 tables replace some tables in the GHS.

***goods too dangerous to be transported*** means goods that are:

- (a) named in the ADG Code, Appendix A; or
- (b) determined by [the *authority* appointed by the jurisdiction to give effect to the ADG Code] to be goods too dangerous to be transported.

**Note**

See the jurisdictional note in the Appendix.

***handle***, in Part 7.1, includes generate, by a reaction of hazardous chemicals or other means.

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

***hazard class*** means the nature of a physical, health or environmental hazard and includes a class of dangerous goods.

***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.

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**hazard statement** means a statement assigned 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**, in Part 7.1, means a hazardous area under:

- (a) AS/NZS 60079.10 (Electrical apparatus for explosive gas atmospheres—classification of hazardous areas); or
- (b) AS/NZS 61241.10 (Electrical apparatus for use in the presence of combustible dusts—classification of areas where combustible dusts may be present).

**hazardous chemical** means a substance, mixture or article that:

- (a) satisfies the criteria for a hazard class in the GHS (including a classification referred to in Schedule 7); or

**Note**

The Schedule 7 tables replace some tables in the GHS.

- (b) is dangerous goods under the ADG Code; or
- (c) is a C1 combustible liquid,

but does not include a substance, mixture or article in the following hazard classes:

- (d) acute toxicity—oral—category 5;
  - (e) acute toxicity—dermal—category 5;
  - (f) acute toxicity—inhalation—category 5;
  - (g) skin corrosion/irritation—category 3;
  - (h) serious eye damage/eye irritation—category 2B;
-

- (i) aspiration hazard—category 2;
- (j) flammable gas—category 2;
- (k) flammable liquids—category 4, except to the extent that the liquids are C1 combustible liquids;
- (l) acute hazard to the aquatic environment—categories 1, 2 and 3;
- (m) chronic hazard to the aquatic environment—categories 1, 2, 3 and 4;
- (n) hazardous to the ozone layer.

***hazardous manual task***—see regulation 4.2.1.

***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 surveillance***, of a person, means monitoring the person to identify changes in the person's health status because of exposure to a hazardous chemical.

***high risk construction work***—see regulation 6.1.2.

***high risk work*** means any work set out in Schedule 4 as being within the scope of a high risk work licence.

***high risk work licence*** means any of the licences listed in Schedule 4.

***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.

**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 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 and camera operation that occur underwater are 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 regulation 4.8.5(1).

**independent**, in Part 7.3, means:

- (a) not involved in the removal of asbestos; and
- (b) not involved in a business or undertaking involved in the removal of 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 *normally* 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.

***in-situ asbestos*** means asbestos or ACM fixed or installed in a place.

***intermediate bulk container (IBC)*** means rigid or flexible portable packaging for transporting dangerous goods that:

- (a) for Packing Group I solids in a composite, fibreboard, flexible, wooden or rigid plastic container—has a capacity of not more than 1 500 litres; and
- (b) for Packing Group I solids in a metal container—has a capacity of not more than 3 000 litres; and
- (c) for Packing Group II or III solids or liquids—has a capacity of not more than 3 000 litres; and
- (d) is designed for mechanical handling; and
- (e) is resistant to the stresses produced in usual handling and transport, determined by tests described in the ADG Code.

***internal review*** means internal review under Part 10.1.

***in transit*** means that a thing:

- (a) is supplied to, or stored at, a workplace in containers that are not opened at the workplace; and
- (b) is not used at the workplace; and
- (c) is kept at the workplace for not more than 5 consecutive days.

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

***lead process***—see regulation 7.2.1.

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

***lead risk work***—see regulation 7.2.4.

***licence holder*** means:

- (a) in the case of a high risk work licence, the person who is licensed to carry out the work; or
- (b) in the case of an asbestos assessor licence, the person who is licensed to carry out the asbestos assessments; or
- (c) in the case of an asbestos removal licence, the person conducting the business or undertaking to whom the licence is issued; or
- (d) in the case of a major hazard facility licence, the operator of the facility to whom the licence is issued.

***licensed assessor*** means a person who holds an asbestos assessor licence.

***licensed major hazard facility*** means a major hazard facility that is licensed under Part 8.8.

***lift*** means permanent plant or plant intended to be permanently installed in or attached to a building or 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 a chairlift, escalator, moving walk and stairway lift and any supporting structure, machinery, equipment, gear, lift well, enclosures and entrances.

***limited diving*** means diving that does not involve any of the following:

- (a) diving to a depth below 30 metres;
- (b) the need for a decompression stop;
- (c) the use of mechanical lifting equipment or a buoyancy lifting device;
- (d) diving beneath any thing 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 over a period of more than 28 days during a period of 6 months.

***limited scientific diving work*** means diving work that:

- (a) is associated with scientific research, education or management of natural resources; and
- (b) involves limited diving.

**local community**, in relation to a major hazard facility, means the community in the surrounding area.

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

**major hazard facility** means a facility:

- (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 8.2 to be a major hazard facility.

**major hazard facility licence** means a licence granted under Part 8.8 in relation to a major hazard facility.

**major incident** means a sudden occurrence resulting from an uncontrolled:

- (a) escape, spillage or leakage; or
- (b) implosion, explosion or fire,

in the course of the operation of a facility, including a major hazard facility, that exposes a worker or any other person to a serious risk to the person's health and safety emanating from an immediate or imminent exposure to the occurrence.

**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 hazardous chemical stated in Schedule 11, table 11.1, column 2, means the quantity stated in column 5.

***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 which may be tied to a building.

***membrane filter method*** means the membrane filter method described in the Guidance Note on the Membrane Filter Method for Estimating Airborne Asbestos Fibres [NOHSC:3003 (2005)].

***mixture*** in Part 8.1, 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***, in relation to a facility—see regulation 8.1.4.

***musculoskeletal disorder***—see regulation 4.2.2.

***NATA*** means the National Association of Testing Authorities, Australia.

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***NATA-accredited laboratory*** means an asbestos testing laboratory accredited by NATA, or recognised by NATA either solely or with someone else.

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

***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 definition of ***friable asbestos***).

***notice of satisfactory assessment*** means a notice stating that the person to whom it is issued has successfully completed a specified unit of competency.

***operator***, in relation to a facility—see regulation 8.1.3.

***operator protective device***, includes roll-over protective structure, falling object protective structure, operator restraining device and seat belt.

***packaged dangerous goods*** means dangerous goods in a container with:

- (a) a capacity of not more than 500 litres;  
or
- (b) a net mass of not more than 500 kilograms.

***packing group*** means the packing group to which dangerous goods (other than dangerous goods in classes 1, 2, 6.2 or 7) are assigned under the ADG Code.

***passive fall prevention device*** means plant or material that:

- (a) is designed to prevent a fall; and
- (b) after installation, does not require ongoing adjustment, alteration or operation by a person to the means by which it is designed to prevent a fall.

**Examples**

Temporary work platforms, safety mesh, guard railings.

***person with management or control of plant at a workplace***—see section 21 of the Act.

***person with management or control of a structure at a workplace*** means a person conducting a business or undertaking to the extent that the business or undertaking involves the management or control of a structure, but does not include the occupier of a residence, unless the residence is occupied for the purposes, or as part of, the conduct of a business or undertaking.

***person with management or control of a workplace***—see section 20 of the Act.

***personal hearing protectors*** means personal protective equipment designed to protect a person's hearing by being worn by a person or inserted into a person's ears.

***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.

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***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.

***plant***, in Part 5.2, includes a structure.

***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 liquid or to transmit liquid pressure;
- (b) includes distribution headers, bolting, gaskets, pipe supports and pressure containing accessories;
- (c) does not include:
  - (i) a boiler or pressure vessel; or
  - (ii) any piping that is regulated under [.....].

**Note**

See jurisdictional note in the Appendix.

***pressure vessel:***

- (a) means a vessel subject to internal or external pressure; and
- (b) includes:
  - (i) interconnected parts and components, valves, gauges and other fittings up to the first point of connection to connecting piping; and
  - (ii) fired heaters and gas cylinders;

- (c) does not include a boiler or pressure piping.

***primary emergency services authority*** means [.....].

**Note**

See the jurisdictional note in the Appendix.

***principal contractor***, in relation to a construction project—see regulation 6.1.4.

***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 per cent or more, determined as a weight/weight (w/w) concentration; and
  - (ii) for a gas—0.1 per cent or more, determined as a volume/volume (v/v) concentration.

***proper shipping name*** means a proper shipping name under the ADG Code.

***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:

- (a) an existing facility or other workplace that is to become a major hazard facility due to the introduction of Schedule 15 chemicals or additional Schedule 15 chemicals; or
- (b) a major hazard facility that is being designed or constructed.

***quantity*** means:

- (a) for a non-liquid hazardous chemical (other than class 2 dangerous goods) in a container or storage or handling system—the mass in kilograms of the chemical in the container or storage or handling system; and
  - (b) for a liquid hazardous chemical (other than class 2 dangerous goods) in a container or storage or handling system—the net capacity in litres of the container or storage or handling system; and
  - (c) for hazardous chemicals in a container or storage or handling system that are class 2 dangerous goods—the water capacity in litres of the container or storage or handling system; and
  - (d) for a non-liquid hazardous chemical in bulk and not in a container—the undivided mass in kilograms; and
  - (e) for a hazardous chemical that is a thing—the net capacity of the part of the thing that comprises a hazardous chemical.
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***registered major hazard facility*** means a major hazard facility that is registered under Part 8.7.

***registered medical practitioner*** means a person registered under the Health Practitioner Regulation National Law to practise in the medical profession (other than as a student).

***registered training organisation (or RTO)*** means an organisation:

- (a) that is registered by [the relevant training recognition authority under the relevant law of a jurisdiction] as an organisation that is qualified:
  - (i) to deliver training and conduct assessments; and
  - (ii) to issue nationally recognised qualifications in accordance with the AQTF; and
- (b) that is not an excluded RTO.

**Note**

In relation to paragraph (a), see the jurisdictional note in the Appendix.

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

***relevant prescribed time***, in relation to a matter, means the time specified in Schedule 3 for that matter.

***research chemical*** means a substance or mixture that:

- (a) is manufactured in a laboratory for genuine research; and
  - (b) is not for use or supply for a purpose other than analysis or genuine research.
-

***respirable asbestos*** means an asbestos fibre that:

- (a) is less than 3 microns wide; and
- (b) more than 5 microns 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.

***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* of the Commonwealth.

**Note**

See the jurisdictional note in the Appendix.

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***safe work method statement*** means:

- (a) in relation to electrical work on energised electrical equipment, a safe work method statement referred to under regulation 4.7.18;
- (b) in relation to high risk construction work, a safe work method statement referred to in regulation 6.3.3 (or revised under regulation 6.3.4).

***safety case outline*** means an outline of a safety case proposed to be prepared by the operator a registered major hazard facility.

***safety data sheet***—see regulation 7.1.12.

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

***Schedule 15 chemical*** means a hazardous chemical that:

- (a) is specified in table 1 of Schedule 15; or
- (b) belongs to a class, type or category of hazardous chemicals specified in table 2 of Schedule 15.

***self-erecting tower crane*** means a tower crane where:

- (a) the tower structure and boom or jib elements are not disassembled into component sections; and
- (b) the crane can be transported between sites as a complete unit; and
- (c) 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.

***solid construction***, in Part 4.4, 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.

***specified unit of competency means:***

- (a) in relation to a type or class of work, the course or unit of competency for the work published by Safe Work Australia on its website; or
- (b) in relation to general induction training, the unit of competency *Work Safely in the Construction Industry* (CPCCOHS1001A), or a corresponding subsequent unit of competency published by Safe Work Australia on its website.

***standard operational practices***, in relation to diving work, means the operational practices specified in:

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- (a) AS/NZS2299; or
- (b) any other standard relevant to the diving work, published by Safe Work Australia on its website.

**subsidiary risk** means a number assigned to dangerous goods to indicate the hazard of the goods, determined by criteria or listing for the subsidiary risk of the goods under the ADG Code.

**subsidiary risk label** means a subsidiary risk label under the ADG Code.

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

- (a) including any additive necessary to preserve the stability of the element or compound and any impurities deriving from the process; but
- (b) excluding any solvent that may be separated without affecting the stability of the element or compound, or changing its composition.

**supplier**, in relation to plant, a substance or a structure, has the 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.

***technical name***, in Part 7.1, means a name that is:

- (a) ordinarily used in commerce, regulations and codes to identify a substance or mixture, other than an International Union of Pure and Applied Chemistry or Chemical Abstracts Service name; and
- (b) recognised by the scientific community.

***temporary work platform*** means:

- (a) a fixed, mobile or suspended scaffold; or
- (b) an elevating work platform; or
- (c) a mast climbing work platform; or
- (d) a work box supported by a crane, hoist, forklift truck or other form of mechanical plant; or
- (e) building maintenance equipment, including a building maintenance unit; or
- (f) a portable or mobile fabricated platform; or
- (g) any other temporary platform that:
  - (i) provides a working area; and
  - (ii) is designed to prevent a fall.

***the Act*** means the *Work Health and Safety Act 2010*.

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

**threshold quantity**, in relation to Schedule 15 chemicals, means:

- (a) the threshold quantity of a specific chemical as determined under clause 3 of Schedule 15; or
- (b) the aggregate threshold quantity of two or more chemicals as determined under clause 4 of Schedule 15.

**tower crane** (except in Schedule 4) means a boom or jib crane mounted on a tower structure.

**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.

**travel restraint system** means plant that is:

- (a) worn by or attached to a person; and
- (b) designed to prevent the person from reaching an edge or elevated surface from which the person could fall.

**Example**

A harness or belt that is attached to one or more lanyards, each attached in turn to a static line or anchorage point.

**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; and
-

- (d) that is used or is to be used for the laying, removal or repair of a pipe or cable.

**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.

**underground essential services** means essential services that use pipes, cables other associated plant located underground.

**underground essential services information**, in relation to proposed excavation work, means the following information relating to 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.

**UN Number** means a number assigned to dangerous goods by the United Nations Subcommittee of Experts on the Transport of Dangerous Goods.

**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.

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***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.

**Example**

Elevated work platform, industrial rope access system, travel restraint system.

**1.1.6 Determinations by regulator**

The regulator may make the following determinations for the purpose of regulation 1.1.5:

- (a) a determination of a specified RTO or class of RTOs for the purposes of the definition of ***certification***;
- (b) a determination of a specified RTO or class of RTOs for the purposes of the definition of ***excluded RTO***.

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

- (1) For the purposes of 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.
- (2) Subregulation (1) does not apply if the strata title body corporate engages any worker as an employee.
- (3) In this regulation, ***strata title body corporate*** means [.....].

**Note**

See the jurisdictional note in the Appendix.

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### **1.1.8 Meaning of *supply***

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

#### **Examples**

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

## **Part 1.2 Application**

### **1.2.1 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) Divisions 2 to 8 of Part 5;
- (b) Part 6;
- (c) Part 7.

#### **Note**

See the jurisdictional note in the Appendix.

### **1.2.2 Application of these Regulations**

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

### **1.2.3 Assessment of risk in relation to a class of hazards, tasks, circumstances or things**

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

- (a) all hazards, tasks, things or circumstances in the class are the same; and
- (b) the assessment of risks for the class does not result in any worker or other person being exposed to a greater, additional or different risk to health and safety than if the risk assessment were carried out in relation to

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Part 1.2 Application

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each individual hazard, task, thing or  
circumstance.



## **Part 1.3 Incorporated documents**

### **1.3.1 Documents incorporated as in force when incorporated**

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

### **1.3.2 Inconsistencies between provisions**

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

### **1.3.3 References to standards**

- (1) In these Regulations, a reference consisting of the words "Australian Standard" or the letters "AS" followed in either case by a number or a number accompanied by a reference to a calendar year is a reference to the standard so numbered published by or on behalf of Standards Australia.
  - (2) In these Regulations, a reference consisting of the expression "Australian/New Zealand Standard" or "AS/NZS" followed in either case by a number or a number accompanied by a reference to a calendar year is a reference to the standard so numbered published jointly by or on behalf of Standards Australia and the Standards Council of New Zealand.
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## **CHAPTER 2 REPRESENTATION AND PARTICIPATION**

### **Part 2.1 Representation**

#### **Division 1 Work groups**

##### **2.1.1 Negotiations**

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 relating to work health and safety to be represented and safeguarded; and
- (b) takes account of the need for a health and safety representative for the work group to be accessible to each worker in the work group.

##### **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 (Subdivision 3 of Division 3 of Part 5).

##### **2.1.2 Matters to be taken into account in negotiations**

The following matters must be taken into account in negotiations for and determination of work groups and variation of work groups:

- (a) the number of workers;
  - (b) the nature of each type of work carried out by the workers;
  - (c) the number and grouping of workers who carry out the same or similar types of work;
-

- (d) the areas or places where each type of work is carried out;
- (e) the extent to which any worker must move from place to place while at work;
- (f) the diversity of workers and their work;
- (g) the nature of any hazards at the workplace or workplaces;
- (h) the nature of any risks to health and safety at the workplace or workplaces;
- (i) the nature of the engagement of each worker, for example as an employee or as a contractor;
- (j) the pattern of work carried out by workers, for example whether the work is full-time, part-time, casual or short-term;
- (k) the times at which work is carried out;
- (l) any arrangements at the workplace or workplaces relating to overtime or shift work;
- (m) any other relevant matter.

## **Division 2 Health and safety representatives**

### **2.1.3 Procedures for election of health and safety representatives**

For the purposes of section 61(2) of the Act, a person conducting the election of a health and safety representative must:

- (a) notify the person conducting the business or undertaking or the persons conducting the relevant businesses or undertakings of the date on which the election is to be held; and

- (b) advise the members of the work group and the person conducting each relevant business or undertaking of the results of the election.

#### **2.1.4 Person conducting election must display notice of election**

A person conducting the election of a health and safety representative must, after consulting with the person conducting each relevant business or undertaking, ensure that notice of the election:

- (a) is displayed in a prominent place:
  - (i) at the principal place of business of each relevant business or undertaking; and
  - (ii) at any other workplace that is appropriate taking into account the constitution of the relevant work group or work groups; and
- (b) is displayed at least 2 weeks before the date notified to the person conducting the business or undertaking under regulation 2.1.3(a); and
- (c) invites nomination of candidates; and
- (d) states the closing date for nominations (which must be reasonable in the circumstances); and
- (e) states the date or dates and the times for the conduct of the election and the place or places where the election is to be held.

#### **2.1.5 Person conducting business or undertaking must not delay election**

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

### **2.1.6 Removal of health and safety representatives**

- (1) For the purposes of section 64(2)(d) of the Act, the majority of the members of a work group may remove a health and safety representative for the work group if they make a written resolution that the health and safety representative should no longer represent the work group.
- (2) If the majority of the members of a work group make a resolution under subregulation (1), a member of the work group nominated by the members who made the resolution must inform the following persons of the removal of the health and safety representative:
  - (a) all members of the work group;
  - (b) the person conducting each relevant business or undertaking.

### **2.1.7 Training for health and safety representatives**

For the purposes of 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.

#### **Note**

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

## **Part 2.2 Issue Resolution**

### **2.2.1 Default procedure**

- (1) This regulation sets out the default procedure for issue resolution for the purposes of section 81(2) of the Act.
  - (2) The matters to be taken into account by the parties to the issue include the following:
    - (a) the number and location of workers affected by the issue;
    - (b) any relevant accepted industry practice, if that practice is consistent with the Act and these Regulations;
    - (c) the requirements for the management of risks under section 17 of the Act;
    - (d) what (if any) temporary measures are required;
    - (e) what (if any) further information is required;
    - (f) a method and timeline for resolution of the issue;
    - (g) whether any other persons may reasonably be required to assist the early resolution of the issue;
    - (h) who is to be responsible for implementing the resolution of the issue on behalf of the person conducting the business or undertaking.
  - (3) If the issue is resolved, the details of the issue and its resolution must be set out in writing to the satisfaction of all the parties.
  - (4) As soon as reasonably practicable after the resolution of an issue, the person conducting the business or undertaking must ensure that:
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- (a) details of the agreement between the parties are brought to the attention of the workers affected by the issue; and
  - (b) a copy of the agreement is forwarded to any relevant health and safety representative.
- (5) Any of the parties to the resolution of an issue may forward a copy of the agreement between the parties to any union or employer organisation that represents the party.

### **2.2.2 Terms of agreed procedure**

If an agreed procedure for issue resolution at a workplace does not include a step specified in the default procedure in regulation 2.2.1, that step is taken to be a term of the agreed procedure.

### **2.2.3 Person conducting business or undertaking must set out procedure in writing**

A person conducting a business or undertaking must ensure that the agreed procedure for issue resolution at the workplace is:

- (a) set out in writing; and
- (b) communicated to all workers engaged by the person.

## **Part 2.3 Cessation of Unsafe Work**

### **2.3.1 Continuity of engagement of worker**

For the purposes of section 88 of the Act, the following purposes are prescribed:

- (a) superannuation;
- (b) remuneration and promotion, as affected by seniority;
- (c) any entitlements under the National Employment Standards under the *Fair Work Act 2009* of the Commonwealth [or the relevant State or Territory industrial law].

**Note**

See the jurisdictional note in the Appendix.



## **Part 2.4 Workplace Entry by WHS Entry Permit Holders**

### **2.4.1 Training requirements for WHS entry permits**

- (1) The prescribed training for the purposes of sections 131 and 133 of the Act is training or refresher 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 these Regulations;
  - (c) the duties under, and the framework of, the Act and these Regulations;
  - (d) the requirements for the management of risks under section 17 of the Act;
  - (e) the relationship between the Act and these regulations and the *Fair Work Act 2009* of the Commonwealth or any relevant State or Territory industrial laws.
- (2) The training must include any guidance material published by the regulator in relation to the Act and these Regulations.

### **2.4.2 Form of WHS entry permit**

A WHS entry permit must include:

- (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;

- (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.

#### **2.4.3 Notice of entry—general**

A notice of entry under Part 7 of the Act must include the following:

- (a) the full name of the WHS entry permit holder;
- (b) the name of the union that the WHS entry permit holder represents;
- (c) the section of the Act under which the WHS entry permit holder is entering or proposing to enter the workplace;
- (d) the name and address of the workplace entered or proposed to be entered;
- (e) the date of entry or proposed entry.

#### **2.4.4 Additional requirements—entry under section 117**

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

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

- (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 who is a member of the relevant union to the person conducting the business or undertaking, and may do so only with the consent of the worker.

**2.4.5 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) as far as practicable, the particulars of the suspected contravention to which the notice relates;
- (b) a list of the records or documents 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
- (iv) that the records or documents proposed to be inspected relate to 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 who is a member of the relevant union to the person conducting the business or undertaking, and may do so only with the consent of the worker.

**2.4.6 Additional requirements—entry under section 121**

A notice of entry under section 122 of the Act in relation to an entry under section 121 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 who is a member of the relevant union to the person conducting the business or undertaking, and may do so only with the consent of the worker.

**2.4.7 Register of WHS entry permit holders**

For the purposes of section 151 of the Act, the authorising authority must publish on its website:

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

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Part 2.4 Workplace Entry by WHS Entry Permit Holders

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

**Note**

See the jurisdictional note in the Appendix.

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## **CHAPTER 3 GENERAL WORKPLACE MANAGEMENT**

### **Part 3.1 General Working Environment**

#### **3.1.1 Duty in relation to general workplace facilities**

A person conducting a business or undertaking must, so far as is reasonably practicable, ensure that:

- (a) the layout of the workplace allows, and the workplace is maintained so as to allow, for persons to enter and exit the workplace and to move about within the workplace without risk to health and safety, both under normal working conditions and in an emergency; and
  - (b) work areas in the workplace have space for work to be carried out without risk to health and safety; and
  - (c) floors and other surfaces in the workplace are designed, installed and maintained to allow work to be carried out without risk to health and safety; and
  - (d) lighting at the workplace 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 at the workplace enables workers to carry out work without risk to health and safety; and
  - (f) workers exposed to extremes of heat or cold at the workplace are able to carry out work without risk to health and safety; and
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- (g) work in relation to or near essential services at the workplace does not give rise to a risk to the health and safety of persons at the workplace.

### **3.1.2 Duty to provide and maintain adequate and accessible facilities**

- (1) A person conducting a business or undertaking must, so far as is reasonably practicable, ensure the provision of adequate facilities for workers, including toilets, drinking water, washing facilities and eating facilities.
- (2) A person conducting a business or undertaking must, so far as is reasonably practicable, ensure that the facilities provided under subregulation (1) are maintained so as to be:
  - (a) in good working order; and
  - (b) clean, safe and accessible.
- (3) For the purposes of this regulation, a person conducting a business or undertaking must consider 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.

### **3.1.3 Remote or isolated work**

- (1) This regulation applies if it is not reasonably practicable for a person conducting a business or undertaking to eliminate risks to health and safety associated with remote or isolated work.
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- (2) In minimising risks to health and safety associated with remote or isolated work, a person conducting a business or undertaking must implement measures that include effective communication with the worker.
- (3) In this regulation, ***remote or isolated work***, in relation to a worker, means work that is isolated from the assistance of other persons (other than workers carrying out work with the worker) because of location (including a distant location), time or the nature of the work.
- (4) For the purposes of subregulation (3), ***assistance*** includes rescue, medical assistance and the attendance of emergency services.



## **Part 3.2 Personal Protective Equipment**

### **3.2.1 Person conducting business or undertaking must provide personal protective equipment to workers**

- (1) This regulation applies if:
  - (a) it is not reasonably practicable for a person conducting a business or undertaking to:
    - (i) eliminate risks to the health and safety of workers; or
    - (ii) minimise risks to the health and safety of workers, so far as is reasonably practicable, by control measures other than the use of personal protective equipment; and
  - (b) the provision of personal protective equipment will minimise the risks.
- (2) In minimising risks to the health and safety of workers, a person conducting a business or undertaking must ensure that workers are provided with personal protective equipment:
  - (a) only to the extent that it is not reasonably practicable for other control measures to minimise the risk; and
  - (b) so far as is reasonably practicable, in conjunction with the implementation of other control measures.

### **3.2.2 Use of personal protective equipment**

- (1) This regulation applies in relation to:
    - (a) personal protective equipment used by a worker, whether or not the equipment is provided by the person conducting the business or undertaking; and
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- (b) personal protective equipment, if any, provided to a person other than a worker by a person conducting a business or undertaking.
- (2) A person conducting a business or undertaking must, in relation to personal protective equipment used by a worker or other person, ensure that:
- (a) the equipment is selected to minimise risk to health and safety in accordance with [any relevant technical standard] published by Safe Work Australia on its website; and
  - (b) the equipment is maintained, repaired or replaced so as to ensure that it continues to minimise the risk to the person who uses it, including by ensuring that the equipment is:
    - (i) in good working order; and
    - (ii) clean and hygienic; and
  - (c) the person who uses the equipment is provided with any information, training and instruction in relation to the use of the equipment (including information about any limit to the effectiveness of the equipment) to ensure that the equipment minimises the risk to the person; and
  - (d) the person uses the equipment in accordance with the information, training and instruction provided to the person.
- (3) Subregulation (2) does not apply if a person other than a worker provides his or her own personal protective equipment.
- (4) If a person other than a worker provides his or her own personal protective equipment, the person conducting the business or undertaking must ensure, so far as is reasonably practicable, that:
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- (a) the equipment will minimise risk to the person's health and safety; and
- (b) the person uses the equipment.

### **3.2.3 Air supplied respiratory equipment**

- (1) This regulation applies if a person conducting a business or undertaking provides workers with air supplied respiratory equipment for use in carrying out work (other than underwater diving work) in the business or undertaking.
- (2) The person conducting the business or undertaking must ensure that the air supplied respiratory equipment is maintained so that it supplies air:
  - (a) at a pressure of at least 170L/min; and
  - (b) with an oxygen level that is not less than 19.5% and not more than 22%.
- (3) The person conducting the business or undertaking must ensure that the air supplied respiratory equipment supplies air through:
  - (a) an efficient purifying device that ensures that:
    - (i) the air does not have an objectionable or nauseous odour; and
    - (ii) if measured at 15°C and 100kPa, the air would contain not more than 11mg/m<sup>3</sup> of carbon monoxide, not more than 900mg/m<sup>3</sup> of carbon dioxide and not more than 1mg/m<sup>3</sup> of oil; and
  - (b) an efficient air conditioner that ensures that the air is supplied:
    - (i) at a temperature not colder than 15°C and not warmer than 25°C; and

- (ii) at a humidity level not less than 20% and not more than 85%; and
  - (c) an efficient condensate trap that is fitted with a drain cock to remove any condensed liquid; and
  - (d) an efficient ring circuit or controlled leak-off system that eliminates stale air.
- (4) The person conducting the business or undertaking must ensure that the air supplied respiratory equipment:
  - (a) is kept in efficient working order; and
  - (b) is kept in a place where it cannot be contaminated; and
  - (c) is maintained in a way that ensures that the air supply does not overheat; and
  - (d) has fittings that cannot be connected to any other equipment at the workplace.
- (5) The person conducting the business or undertaking must ensure that air supplied respiratory equipment is not used in circumstances where inadequate air supply might represent a serious risk to the health or safety of the user of the equipment, unless:
  - (a) the air supplied respiratory equipment is fitted with an automatic warning device; and
  - (b) an auxiliary air supply is provided.

#### **3.2.4 Signage**

The person conducting a business or undertaking must, so far as is reasonably practicable, ensure that areas at the workplace where persons are required to use personal protective equipment are clearly identified by signs or other means.

### **3.2.5 Duties of worker**

- (1) This regulation applies if a person conducting a business or undertaking provides a worker with personal protective equipment.
- (2) The worker must use the equipment in accordance with any information, training or instruction in the use of the equipment provided to the worker.
- (3) The worker must not intentionally misuse or damage any of the equipment.
- (4) The worker must inform the person conducting the business or undertaking of any damage to, defect in or need to clean or sterilise any of the equipment of which the worker becomes aware.

### **3.2.6 Duty of person other than worker**

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

## **Part 3.3 First Aid**

### **3.3.1 Duty to provide first aid**

- (1) A person conducting a business or undertaking must ensure:
  - (a) the provision of first aid equipment for the workplace; and
  - (b) that each worker at the workplace has access to the equipment; and
  - (c) the provision of facilities for the administration of first aid.
- (2) A person conducting a business or undertaking 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 in the workplace.
- (3) In considering how to comply with subregulations (1) and (2), a person conducting a business or undertaking must consider 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.

## **Part 3.4 Emergency Plans**

### **3.4.1 Duty to prepare emergency plan**

- (1) A person conducting a business or undertaking must ensure that an emergency plan is prepared for the workplace, that provides for the following:
    - (a) emergency procedures, including:
      - (i) an effective response to an emergency; and
      - (ii) evacuation procedures; and
      - (iii) notification of emergency services 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) the provision of information, training and instruction to relevant workers in relation to implementing the emergency procedures.
  - (2) In preparing and maintaining an emergency plan, a person conducting a business or undertaking must consider 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.
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### **3.4.2 Duty to test emergency procedures**

A person conducting a business or undertaking must ensure that emergency procedures are tested in accordance with the emergency plan in which they are contained.

### **3.4.3 Information and training and instruction for workers**

A person conducting a business or undertaking must ensure that:

- (a) evacuation procedures are prominently displayed at the workplace; and
- (b) workers are provided with information, training and instruction in relation to the implementation of emergency procedures.



## **Part 3.5 Review of General Workplace Management Measures**

### **3.5.1 Duty to review general workplace management measures**

- (1) A person conducting a business or undertaking must review and as necessary revise the general workplace management measures implemented under Parts 3.1, 3.2, 3.3 and 3.4 if:
    - (a) a significant change to the workplace or work systems occurs; or
    - (b) a risk control measure does not control the risk; or
    - (c) a notifiable incident occurs; or
    - (d) a health and safety representative requests a review.
  - (2) A health and safety representative at a workplace may request a review of general workplace management measures if the health and safety representative believes on reasonable grounds that:
    - (a) a circumstance specified in subregulation (1)(a), (b) or (c) exists; and
    - (b) the person conducting the business or undertaking has not adequately reviewed the general workplace management measures in response to that circumstance.
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## CHAPTER 4 HAZARDOUS WORK

### Part 4.1 Noise

#### 4.1.1 Meaning of *exposure standard for noise*

(1) In these Regulations, *exposure standard for noise*, in relation to a person means:

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

(2) For the purposes of subregulation (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.

$L_{C,peak}$  means the C-weighted peak sound pressure level in decibels (dB(C)) referenced to 20 micropascals, determined in accordance with AS/NZS 1269.1.

#### 4.1.2 Control of noise

- (1) A person conducting a business or undertaking must ensure that the noise that a worker is exposed to at the workplace does not exceed the exposure standard for noise.
  - (2) In complying with subregulation (1), the person must implement control measures that eliminate the source of noise to which the worker is exposed, so far as is reasonably practicable.
  - (3) If it is not reasonably practicable to eliminate the source of noise to which a worker is exposed, the person must, so far as is reasonably practicable, minimise noise to which a worker is exposed, so it does not exceed the exposure standard, by:
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- (a) substituting quieter plant or processes; or
  - (b) implementing engineering control measures.
- (4) If complying with subregulations (2) and (3) does not minimise noise to which a worker is exposed so that it does not exceed the exposure standard for noise, the person must, so far as is reasonably practicable, minimise the worker's exposure to noise, so it does not exceed the exposure standard, by implementing administrative control measures.
- (5) If complying with subregulations (2), (3) and (4) does not minimise noise to which a worker is exposed so that it does not exceed the exposure standard for noise, the person must minimise the worker's exposure to noise, so it does not exceed the exposure standard, by providing the worker with personal hearing protectors.

**Note**

In relation to personal hearing protectors, see regulation 3.2.2(2)(a) in relation to personal protective equipment generally.

**4.1.3 Review of noise control measures**

- (1) A person conducting a business or undertaking must review and as necessary revise measures implemented to control noise to which a worker is exposed, in the following circumstances:
- (a) before any alteration is made to any structure, plant or process that is likely to result in a worker being exposed to noise that exceeds the exposure standard for noise;
  - (b) after a notifiable incident occurs that involves a worker being exposed to noise that exceeds the exposure standard for noise;

- (c) if a measure implemented to control noise does not ensure that a worker is not exposed to noise at the workplace that exceeds the exposure standard for noise;
  - (d) if a health and safety representative at the workplace requests a review.
- (2) A health and safety representative at a workplace may request a review of noise control measures if the health and safety representative believes on reasonable grounds that:
- (a) a circumstance specified in subregulation (1)(a), (b) or (c) exists; and
  - (b) the person conducting the business or undertaking has not adequately reviewed the noise control measures in response to that circumstance.

## **Part 4.2 Hazardous Manual Tasks**

### **4.2.1 Meaning of *hazardous manual task***

- (1) In this Part, ***hazardous manual task*** means a manual task that involves any 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.
- (2) For the purposes of subregulation (1), ***manual task*** means a task requiring a person to use force to lift, lower, push, pull, carry or otherwise move, hold or restrain any person, animal or thing.

### **4.2.2 Meaning of *musculoskeletal disorder***

- (1) In this Part, ***musculoskeletal disorder*** means an injury to, or disease of, the musculoskeletal system, whether occurring suddenly or over a prolonged period of time.
- (2) Despite subregulation (1), ***musculoskeletal disorder*** does not include an injury caused by crushing, entrapment or cutting resulting principally from the mechanical operation of plant.

### **4.2.3 Identification of hazardous manual tasks**

A person conducting a business or undertaking must, so far as is reasonably practicable, identify all manual tasks performed or to be performed by a worker that involve a hazardous manual task.

### **4.2.4 Control of risk of musculoskeletal disorder**

- (1) This regulation applies if it is not reasonably practicable for a person conducting a business or undertaking to eliminate the risk of a worker
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being affected by a musculoskeletal disorder arising wholly or partly from carrying out a hazardous manual task.

- (2) A person conducting a business or undertaking must minimise the risk of a worker being affected by a musculoskeletal disorder arising wholly or partly from carrying out a hazardous manual task, so far as is reasonably practicable, by:
  - (a) changing the design of the work area and the layout of the workplace where the hazardous manual task is performed; or
  - (b) changing the systems of work used to perform the hazardous manual task; or
  - (c) changing the nature, size, weight or number of the things involved in the performance of the hazardous manual task, including any thing to which the task relates and any plant or other thing used in performing the task; or
  - (d) providing mechanical aids to perform the hazardous manual task or assist its performance; or
  - (e) changing the environment in which the hazardous manual task is performed; or
  - (f) any combination of the measures specified in paragraphs (a) to (e).
- (3) If complying with subregulation (2) does not minimise the risk of a worker being affected by a musculoskeletal disorder, the person must minimise the remaining risk, so far as is reasonably practicable, by the provision of information, training and instruction.
- (4) In determining what risk control measures to implement under subregulation (2) or (3), the person conducting the business or undertaking

must have regard to all relevant considerations 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.

#### **4.2.5 Review of risk control measures**

- (1) A person conducting a business or undertaking must review and as necessary revise all measures implemented to control the risk of a worker being affected by a musculoskeletal disorder arising wholly or partly from carrying out a hazardous manual task, in the following circumstances:
  - (a) before any change is made to a thing or a system of work that involves the performance of a hazardous manual task, including a change in the place where the task is performed;
  - (b) before a thing is used for a purpose other than a purpose for which it was designed if the intended use may require a worker to perform a hazardous manual task;
  - (c) if new or additional information about a hazardous manual task becomes available to the person;
  - (d) if the occurrence of a musculoskeletal disorder is reported by or on behalf of the affected worker;
  - (e) if a notifiable incident occurs in relation to the performance of a hazardous manual task;

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Part 4.2 Hazardous Manual Tasks

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- (f) if the control measures do not control the risk;
  - (g) if a health and safety representative at the workplace requests a review.
- (2) A health and safety representative at a workplace may request a review of risk control measures if the health and safety representative believes on reasonable grounds that:
- (a) a circumstance specified in subregulation (1)(a), (b), (c), (d), (e) or (f) exists; and
  - (b) the person conducting the business or undertaking has not adequately reviewed the risk control measures in response to that circumstance.



## **Part 4.3 Confined Spaces**

### **Division 1 Preliminary**

#### **4.3.1 Confined spaces to which this Part applies**

- (1) This Part applies to confined spaces that are:
  - (a) entered by any person; or
  - (b) intended or likely to be entered 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 that person's management or control.

#### **4.3.2 Meaning of *confined space***

- (1) In this Part, a *confined space* is an enclosed or partially enclosed space that:
    - (a) is not designed or intended primarily to be occupied or entered by a person; and
    - (b) has a restricted means of entry and exit; and
    - (c) is, or is designed or intended to be, at normal atmospheric pressure while any person is in the space; and
    - (d) presents 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.
  - (2) A *confined space* does not include a mine or the workings of a mine.
-

### **4.3.3 Meaning of *entry* into a confined space**

In this Part, a person *enters* a confined space if:

- (a) the person's head or upper body is in the confined space or within the boundary of the confined space; or
- (b) the person is in close proximity to an opening into the confined space in such circumstances that there is a serious risk that the person's head or upper body will inadvertently enter the confined space.

### **4.3.4 Application to emergency services**

Regulations 4.3.9, 4.3.10 and 4.3.21 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 a confined space; or
- (b) providing first aid to a person in a confined space.

## **Division 2 Duties of designer, manufacturer and supplier of plant or structure**

### **4.3.5 Duty to eliminate or minimise risk**

- (1) This regulation applies in relation to plant or a structure that includes a space that is, or is intended to be, a confined space.
- (2) A designer, manufacturer or supplier of plant or a structure must ensure that:
  - (a) the need for any person to enter the space is eliminated, so far as is reasonably practicable; or

- (b) if it is not reasonably practicable to eliminate the need to enter the space:
  - (i) the need to enter is minimised so far as is reasonably practicable; and
  - (ii) the space is designed with a safe means of entry and exit; and
  - (iii) the risk to the health and safety of any person who enters the space is eliminated so far as is reasonably practicable or, if it is not reasonably practicable to eliminate the risk, the risk is minimised so far as is reasonably practicable.

**Note**

Sections 22, 23 and 25 of the Act apply to plant and a structure that is to be used, or could reasonably be expected to be used, as or at a workplace.

**Division 3      Duties of person conducting business or undertaking**

**4.3.6 Only confined spaces that comply with this Division are to be entered**

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

**4.3.7 Hazard identification and risk assessment**

- (1) A person conducting a business or undertaking must, so far as is reasonably practicable:
    - (a) identify all hazards associated with work in a confined space; and
    - (b) assess all risks to health and safety associated with hazards identified under paragraph (a).
-

- (2) A person conducting a business or undertaking must ensure that a risk assessment is reviewed and as necessary revised for the purpose of a review of risk control measures under regulation 4.3.20.

#### **4.3.8 Control of risk**

- (1) This regulation applies if it is not reasonably practicable for a person conducting a business or undertaking to eliminate risks to health and safety associated with work in a confined space.
- (2) In minimising risks to health and safety associated with work in a confined space, a person conducting a business or undertaking must have regard to all relevant matters, including:
  - (a) the nature of the confined space; and
  - (b) if a hazard is associated with the level of oxygen or the level of airborne contaminants in the confined space, any change that may occur in the level of oxygen or the contaminant; and
  - (c) 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
  - (d) the means of entry to and exit from the confined space; and
  - (e) the type of emergency procedures required.

#### **4.3.9 Confined space entry permit**

- (1) A person conducting a business or undertaking must ensure that a worker does not enter a confined space to carry out work unless a confined space entry permit has been issued for the work.
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- (2) A confined space entry permit must:
    - (a) be completed by a competent person; and
    - (b) be in writing; and
    - (c) specify the following:
      - (i) the confined space to which the permit relates;
      - (ii) the names of persons permitted to enter the confined space;
      - (iii) the period of time for which the work to which the permit relates will be carried out;
      - (iv) risk control measures to control risk associated with the proposed work in the confined 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 risk control measures specified in a confined space permit must:
    - (a) be based on a risk assessment conducted under regulation 4.3.7; and
    - (b) include:
      - (i) controls to be implemented for safe entry; and
      - (ii) details of the system of work provided under regulation 4.3.11.
  - (4) The person conducting the business or undertaking must ensure, so far as is reasonably practicable, that a worker who is to enter a confined space to carry out work understands the entry permit that has been issued for the work and is able to comply or ensure compliance with it.
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- (5) The person conducting the business or undertaking must ensure that, when the work for which the entry permit was issued is completed:
  - (a) all workers leave the confined space; and
  - (b) the acknowledgement referred to in subregulation (2)(d) is completed.
- (6) A person conducting a business or undertaking must comply with this regulation so far as is reasonably practicable in relation to a person who enters a confined space in order to conduct an initial hazard identification or risk assessment to determine the controls to be implemented for safe entry into the confined space.

#### **4.3.10 Signage**

- (1) A person conducting a business or undertaking must ensure that signs that comply with subregulation (2) are erected:
  - (a) immediately before work in a confined space commences and while the work is being carried out; and
  - (b) while work is being carried out in preparation for, and in the completion of, work in a confined space.
- (2) The signs must:
  - (a) identify the confined space; and
  - (b) inform workers that they must not enter the confined space unless they have a confined space entry permit; and
  - (c) be clear and prominently located next to each entry to the confined space.

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

#### **4.3.12 Specific control—connected plant and services**

- (1) A person conducting a business or undertaking must eliminate any risk associated with the following circumstances, so far as is reasonably practicable:
  - (a) the introduction of any substance or condition into a confined 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 a confined space.
- (2) If it is not practicable for a person conducting a business or undertaking to eliminate risk in accordance with subregulation (1), the person must minimise that risk so far as is reasonably practicable.

#### **4.3.13 Specific control—atmosphere**

- (1) A person conducting a business or undertaking must ensure, in relation to work in a confined space, that:
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- (a) purging or ventilation of any contaminant in the atmosphere of the confined space is carried out, so far as is reasonably practicable; and
  - (b) pure oxygen or gas mixtures with oxygen in a concentration greater than 21% by volume are not used for purging or ventilation of any airborne contaminant in the confined space.
- (2) A person conducting a business or undertaking must, while work is being carried out in a confined space, ensure that:
- (a) the atmosphere of the confined space has a safe oxygen level; or
  - (b) if it is not reasonably practicable to comply with paragraph (a), any worker carrying out work in the confined space is provided with air supplied respiratory equipment.
- (3) In this regulation, ***purging*** means the method used to displace any contaminant from a confined space.

**4.3.14 Specific control—atmosphere exposure standard**

- (1) A person conducting a business or undertaking must ensure that a worker carrying out work in a confined space is not exposed to an airborne contaminant in the space that exceeds the exposure standard (if any) for that contaminant.
- (2) If it is not reasonably practicable to comply with subregulation (1), the person must ensure that the worker is provided with air supplied respiratory equipment or other appropriate respiratory equipment.

**Note**

Part 3.2 applies to respiratory equipment.



**4.3.15 Specific control—flammable gases and vapours**

- (1) A person conducting a business or undertaking must, while work is being carried out in a confined space, ensure that the concentration of any flammable gas or vapour in the atmosphere of the confined space is below 5% of its LEL so far as is reasonably practicable.
- (2) If it is not practicable for a person conducting a business or undertaking to comply with subregulation (1) and the concentration of any flammable gas or vapour in the atmosphere of the confined space:
  - (a) is 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 confined space unless a suitably calibrated, continuous-monitoring flammable gas detector is used in the space; or
  - (b) is equal to or greater than 10% of its LEL, the person must ensure that any worker is immediately removed from the confined space.
- (3) In this regulation, the *LEL* (lower explosive limit) of a flammable gas or vapour means the concentration of the gas or vapour in air below which the propagation of a flame does not occur on contact with an ignition source.

**4.3.16 Specific control—fire and explosion**

A person conducting a business or undertaking must, if there is a possibility of fire or explosion in a confined space, ensure that no ignition source is introduced into the confined space from outside or within the space.

#### **4.3.17 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.
- (2) A person conducting a business or undertaking must ensure that first aid and rescue procedures are initiated from outside the confined space as soon as is reasonably practicable in the event of an emergency.
- (3) A person conducting a business or undertaking must, in relation to any confined space, ensure 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 confined space are not obstructed; and
  - (c) plant, equipment and personal protective equipment provided for first aid or emergency rescue is maintained so that it is fit for purpose.

**Note**

See Chapter 3 for general provisions relating to first aid, personal protective equipment and emergency plans.

#### **4.3.18 Personal protective equipment in emergencies**

- (1) This regulation applies in relation to a worker who is to enter a confined space in order to carry out first aid or rescue procedures in an emergency.
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- (2) A person conducting a business or undertaking must provide a worker with air supplied respiratory equipment 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 confined space has a harmful concentration of an airborne contaminant; or
  - (c) there is a serious risk of the atmosphere in the confined space becoming affected in the way specified in paragraph (a) or (b) while the worker is in the space.

**Note**

See regulation 3.2.3 for duties relating to air supplied respiratory equipment provided to a worker.

- (3) A person conducting a business or undertaking must provide a worker with appropriate personal protective equipment 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.

**4.3.19 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:
- (a) the nature of all hazards associated with a confined space; and
  - (b) the need for, and the appropriate use of, risk control measures to control risks to health and safety associated with those hazards; and

- (c) 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; and
  - (d) emergency procedures.
- (2) In subregulation (1), *relevant worker* means a worker who, in carrying out work in the business or undertaking, may:
- (a) enter or work in a confined space; or
  - (b) work in the vicinity of an entry to a confined space; or
  - (c) undertake hazard identification or risk assessment in relation to a confined space; or
  - (d) implement risk control measures in relation to a confined space; or
  - (e) issue a confined space entry permit; or
  - (f) exercise direct control over other workers carrying out work in a confined space; or
  - (g) act as a standby person or communicate with workers or monitor conditions in a confined space in which work is being carried out; or
  - (h) design or lay out a work area that includes a confined space.

#### **4.3.20 Review of control measures**

- (1) A person conducting a business or undertaking must review and as necessary revise control measures implemented to control risks to health and safety associated with work in a confined space in any of the following circumstances:
- (a) before any change is made to a thing or a system of work that may affect risks to health or safety of a worker carrying out work in the confined space;
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- (b) if a new hazard associated with the work in the confined space is identified or new or additional information about a known hazard becomes available;
- (c) if a notifiable incident occurs in relation to the confined space;
- (d) if a risk control measure does not control risk;
- (e) if a health and safety representative at the workplace requests a review.

**Note**

This regulation requires the review and revision of all control measures, not only control measures implemented under this Part.

- (2) A health and safety representative at a workplace may request a review of risk control measures if the health and safety representative believes on reasonable grounds that:
  - (a) a circumstance specified in subregulation (1)(a), (b), (c) or (d) exists; and
  - (b) the person conducting the business or undertaking has not adequately reviewed the risk control measures in response to that circumstance.

**4.3.21 Record keeping**

A person conducting a business or undertaking must keep:

- (a) a record of all training provided to a worker under regulation 4.3.19 for the longer of:
    - (i) 6 months; and
    - (ii) the duration of the worker's engagement by the person conducting a business or undertaking; and
-

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Part 4.3 Confined Spaces

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- (b) a record of any risk assessment for a confined space, for 2 years; and
- (c) a copy of any confined space entry permit issued by the person, for 2 years.

## **Part 4.4 Falls**

### **Division 1 Preliminary**

#### **4.4.1 Meaning of *fall hazard***

- (1) In this Part, *fall hazard* means a circumstance that exposes a worker while at work, or other person while at or in the vicinity of a workplace, to a risk of a fall that is reasonably likely to cause injury to the worker or other person.
- (2) Without limiting subregulation (1), a *fall hazard* includes a circumstance in which the worker or other person is:
  - (a) in or on plant or a structure that is at an elevated level; or
  - (b) in or on plant being used to gain access to an elevated level; or
  - (c) in the vicinity of:
    - (i) an opening through which a person could fall; or
    - (ii) an edge over which a person could fall; or
  - (d) on or in the vicinity of:
    - (i) a surface through which a person could fall; or
    - (ii) a slippery, sloping or unstable surface from which a person could fall.

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**Division 2      Duties of person conducting business or undertaking**

**4.4.2 Hazard identification**

A person conducting a business or undertaking must, so far as is reasonably practicable, identify all fall hazards associated with the business or undertaking.

**4.4.3 Control of risks**

- (1) A person conducting a business or undertaking must ensure, so far as is reasonably practicable, that any work that may involve a fall hazard is carried out:
    - (a) on the ground; or
    - (b) on a solid construction.
  - (2) If complying with subregulation (1) does not eliminate the risk of a fall, the person conducting the business or undertaking must minimise the risk of a fall, so far as is reasonably practicable, by ensuring that a passive fall prevention device is used.
  - (3) If complying with subregulations (1) and (2) does not minimise the risk of a fall, the person conducting the business or undertaking must minimise the remaining risk, so far as is reasonably practicable, by ensuring that a work positioning system is used.
  - (4) If complying with subregulations (1), (2) and (3) does not minimise the risk of a fall, the person conducting the business or undertaking must minimise the remaining risk, so far as is reasonably practicable, by ensuring that a fall arrest system is used.
  - (5) If complying with subregulations (1), (2), (3) and (4) does not minimise the risk of a fall, the person conducting the business or undertaking
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must minimise the remaining risk, so far as is reasonably practicable, by implementing the following risk control measures (in descending order of priority):

- (a) the use of a ladder;
- (b) an administrative control;
- (c) all other reasonably practicable risk control measures.

#### **4.4.4 Administrative controls to be recorded for fall hazards over 2 metres**

- (1) If risk control measures of the kind referred to in regulation 4.4.3(1), (2), (3) and (4) are not implemented to minimise the risk of a fall over 2 metres, the person conducting the business or undertaking must, before a worker carries out work that may expose the worker or another person to such a risk, make a record in relation to the work to be carried out specifying:
  - (a) the administrative controls to be implemented in relation to that work; and
  - (b) the reasons why risk control measures of the kind referred to in regulation 4.4.3(1), (2), (3) and (4) are not to be implemented.
- (2) A person conducting a business or undertaking must keep a record made under subregulation (1) until the relevant work is completed.
- (3) A record is taken to comply with this regulation if it contains the information required by subregulation (1) and is kept as required by subregulation (2) even if the record also meets the requirements of any other provision of these Regulations.

##### **Example**

A safe work method statement prepared and kept under Division 2 of Part 6.3.

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#### **4.4.5 Suitability and maintenance of risk control measures**

A person conducting a business or undertaking must, so far as is reasonably practicable, ensure that all measures implemented to control the risk of a fall are:

- (a) fit for purpose; and
- (b) suitable for the nature of the work; and
- (c) suitable for the duration of the work; and
- (d) installed and set up correctly; and
- (e) used correctly; and
- (f) maintained in good working order.

#### **4.4.6 Emergency procedures for falls**

- (1) Without limiting regulation 4.4.3, a person conducting a business or undertaking must establish emergency and rescue procedures to address fall hazards, including:
  - (a) emergency procedures relating to the use of risk control measures; and
  - (b) procedures for the rescue of any person who is exposed to a fall hazard and in need of emergency assistance.
- (2) Without limiting regulation 4.4.3, a person conducting a business or undertaking must ensure that procedures established under subregulation (1) are tested so that they are efficient and effective.
- (3) A person conducting a business or undertaking must provide relevant workers with suitable and adequate information, training and instruction in relation to emergency and rescue procedures established under subregulation (1).

- (4) The requirements imposed by this regulation are in addition to those imposed under Part 3.4.
- (5) The procedures established under this regulation may be incorporated into the emergency plan prepared under Part 3.4.
- (6) In subregulation (3), *relevant worker* means a worker who, in carrying out work in the business or undertaking, may:
  - (a) be exposed to a fall hazard; or
  - (b) be involved in the implementation of emergency and rescue procedures.

**Note**

See Chapter 3 for general provisions relating to emergency plans and first aid.

**4.4.7 Review of risk control measures**

- (1) A person conducting a business or undertaking must review and as necessary revise risk control measures implemented under this Part:
  - (a) before any alteration is made to the workplace or to any structure, plant or system that could result in a fall; or
  - (b) after a notifiable incident occurs that involves a fall or a fall hazard; or
  - (c) if a risk control measure does not control the risk of a fall; or
  - (d) after being requested by a health and safety representative.
- (2) A health and safety representative at a workplace may request a review of risk control measures if the health and safety representative believes on reasonable grounds that:

- (a) a circumstance specified in subregulation (1)(a), (b) or (c) exists; and
- (b) the person conducting the business or undertaking has not adequately reviewed the risk control measures in response to that circumstance.

**Division 3      Falling objects**

**4.4.8 Control of risks**

- (1) A person conducting a business or undertaking must ensure that risks associated with an object falling at the workplace are minimised, so far as is reasonably practicable, by implementing one or more of the following risk control measures (in descending order of priority):
  - (a) provision of a safe means of raising and lowering plant, materials and debris;
  - (b) provision of a secure physical barrier to prevent objects falling freely from one level to another;
  - (c) use of personal protective equipment;
  - (d) administrative controls;
  - (e) other reasonably practicable risk control measures.
- (2) A person conducting a business or undertaking must comply with regulations 4.4.4, 4.4.5, 4.4.6 and 4.4.7 as if:
  - (a) a reference in any of those regulations to a risk of a fall were a reference to a risk associated with an object falling at a workplace; and

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- (b) the reference in regulation 4.4.4(1)(b) to regulation 4.4.3(1), (2), (3) and (4) were a reference to subregulation (1)(a) and (b) of this regulation.

## **Part 4.5 High Risk Work**

### **Note**

See the jurisdictional notes in the Appendix.

### **Division 1 Licensing of high risk work**

#### **Subdivision 1 Requirement to be licensed**

##### **4.5.1 Licence required to carry out high risk work**

A person must not carry out a class of high risk work unless the person holds a high risk work licence for that class of high risk work except as provided in regulation 4.5.2.

### **Note**

See section 43 of the Act.

##### **4.5.2 Exceptions**

- (1) A person who carries out high risk work in the following circumstances is not required to be licensed:
  - (a) work carried out:
    - (i) in the course of training towards a certification in order to be licensed to carry out high risk work; and
    - (ii) under supervision;
  - (b) work carried out:
    - (i) by a person who, having applied for a licence to carry out high risk work on the basis of a certification, is awaiting a decision on that application; and
    - (ii) under supervision.

- (2) A person who carries out high risk work involving plant is not required to be licensed if:
- (a) the work does not involve operating or using the plant for the purpose for which the plant was designed; and
  - (b) the work is carried out solely for the purpose of the manufacture, testing, trialling, installation, commissioning, maintenance, servicing, repair, alteration, demolition or disposal of the plant or moving the plant from one workplace to another; and
  - (c) the plant is operated or used without a load.
- (3) 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 certification in relation to rigging, which qualifies the person to carry out the work.

**Note**

See Part 3 of Schedule 4 for the classes of crane operator licence.

- (4) A person who carries out high risk work under a temporary permit issued to the person under regulation 4.5.21 is not required to be licensed.
- (5) For the purposes of subregulation (2)(b), moving does not include loading plant onto, or unloading plant from, the vehicle or equipment used to move the plant.

### **4.5.3 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 regulation 4.5.2 provides direct supervision of the person except in the circumstances set out in subregulation (2).
- (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) supervision is reduced only to a reasonable level having regard to the supervised person's competence in performing the task; and
  - (c) 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 regulation *direct supervision* of a person means the oversight by the supervising person of the work of that person for the purposes of:
  - (a) directing, demonstrating, monitoring and checking the person's work in a way that is appropriate to the person's level of competency; and
  - (b) ensuring a capacity to respond in an emergency situation.

### **Subdivision 2 Licensing process**

#### **4.5.4 Who may apply for a licence**

Only a person who holds a qualification set out in Schedule 5 may apply for a high risk work licence.

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#### **4.5.5 Application for high risk work licence**

- (1) An application for a high risk work licence must be made in the manner and form required by the regulator.
- (2) The application must include the following information:
  - (a) the applicant's name and any evidence of identity required by the regulator;
  - (b) evidence of the applicant's age required by the regulator;
  - (c) a photograph of the applicant of the size, and in the form, specified by the regulator;
  - (d) the class of high risk work licence to which the application relates;
  - (e) a copy of a certification:
    - (i) that is held by the applicant in relation to the unit of competency set out in Schedule 5 in respect of the high risk licence applied for; and
    - (ii) that was issued not more than 60 days before the application is made;
  - (f) a declaration that the applicant does not hold an equivalent licence granted by a corresponding regulator under a corresponding WHS law;
  - (g) a declaration as to whether or not the applicant has ever been convicted or found guilty of any offence under the Act or these Regulations or under any corresponding WHS law;

**Note**

See the jurisdictional note in the Appendix.

- (h) details of any conviction or finding of guilt declared under paragraph (g);
  - (i) a declaration as to whether or not the applicant has entered into an enforceable undertaking under the Act or under any corresponding WHS law;
  - (j) details of any enforceable undertaking declared under paragraph (i);
  - (k) a declaration as to whether or not the applicant has ever previously had an equivalent licence under the Act or these Regulations or under any corresponding WHS law refused, suspended or cancelled;
  - (l) details of any suspension or cancellation declared under paragraph (k), including any disqualification from applying for any further licence;
  - (m) a declaration to the effect 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.

**Note**

See the jurisdictional note in the Appendix.

**4.5.6 Additional information**

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

- (2) A request for additional information must:
  - (a) specify the date 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 to be taken to have been withdrawn.
- (4) The regulator may make more than one request for additional information under this regulation.

#### **4.5.7 Decision on application**

- (1) The regulator must grant a high risk work licence if the regulator is satisfied in relation to the matters specified in subregulation (2).
- (2) The regulator must be satisfied that:
  - (a) the application has been made in accordance with these Regulations; and
  - (b) the applicant does not hold an equivalent licence under a corresponding WHS law unless that licence is due for renewal; and
  - (c) the applicant:
    - (i) resides in [this jurisdiction]; or
    - (ii) resides outside [this jurisdiction] and satisfies the regulator that circumstances exist that justify the grant of the licence; and
  - (d) the applicant is at least 18 years of age; and
  - (e) the applicant is able to carry out the work or other activities to which the licence relates safely and competently.

- (3) The regulator must refuse to grant a high risk work licence if it is satisfied that:
  - (a) the applicant is disqualified under a corresponding WHS law from holding an equivalent licence; or
  - (b) the applicant, in making the application, has:
    - (i) given information that is false or misleading in a material particular; or
    - (ii) failed to give any material information that should have been given.
- (4) If the regulator decides to grant the licence, it must notify the applicant within 30 days after making the decision.
- (5) If the regulator does not make a decision within 120 days after receiving the application, the regulator is taken to have refused to grant the licence applied for.

#### **4.5.8 Matters to be taken into account**

For the purposes of regulation 4.5.7(2)(e), the regulator may have regard to any relevant matter, including:

- (a) whether the applicant has been found guilty of any offence under the Act or these Regulations or under a corresponding WHS law; and

**Note**

See the jurisdictional note in the Appendix.

- (b) whether any equivalent licence held by the applicant under the Act or these Regulations or under a corresponding WHS law has been cancelled or suspended; and
  - (c) whether the applicant has entered into any enforceable undertaking under the Act or a corresponding WHS law; and
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- (d) the applicant's record with respect to any matters arising under the Act or these Regulations or under a corresponding WHS law.

#### **4.5.9 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
  - (b) advising the applicant that the applicant may, by a specified date, make a submission to the regulator in relation to the proposed refusal.
- (2) Within the relevant prescribed time after the date specified under subregulation (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) 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 regulation 10.1.1).

#### **4.5.10 Duration of licence**

A high risk work licence takes effect on the day it is granted and, unless cancelled earlier, expires 5 years after that day.

#### **4.5.11 Licence document**

- (1) If the regulator grants a high risk work licence, the regulator must issue to the applicant a licence document in the form determined by the regulator.
- (2) The licence document must include:
  - (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 the purposes of subregulation (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 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 respect of some or all those licences.

#### **Example**

A person who holds licences in relation to more than one class of high risk work could be issued with one high risk work licence document.

- (5) Despite regulation 4.5.10, if a licence document is issued under subregulation (4), the licences to which that licence document related expire on the date that the first of those licences expires.
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**4.5.12 Licence document to be available**

A licence holder must keep the licence document available for inspection by an inspector under the Act.

**Subdivision 3 Amendment of licence document**

**4.5.13 Notice of change of address**

The licence holder of a high risk work licence must give written notice to the regulator of a change of postal or residential address, within 14 days of the change occurring.

**4.5.14 Licence holder to return licence**

The holder of a high risk work licence that has been amended must return the licence document to the regulator for amendment at the written request of the regulator within the time specified in the request.

**4.5.15 Replacement licence document**

- (1) A licence holder must give written notice to the regulator as soon as is reasonably practicable if the licence document is lost, stolen or destroyed.
- (2) If a licence document is lost, stolen or destroyed, the licence holder may apply to the regulator for a replacement document.
- (3) An application for a replacement licence 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 licence 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 licence holder written notice of this decision, including the reasons for the decision.

**Note**

A decision to refuse to replace a licence is a reviewable decision (see regulation 10.1.1).

**4.5.16 Voluntary surrender of licence**

A licence holder may voluntarily surrender the licence document to the regulator.

**Subdivision 4 Renewal of high risk work licence**

**4.5.17 Regulator may renew licence**

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

**4.5.18 Application for renewal**

- (1) An application for renewal of a high risk work licence must be made in the manner and form required by the regulator.
- (2) The application must:
- (a) include the information specified in regulation 4.5.5(2); and
  - (b) be accompanied by the relevant fee.

**Note**

See the jurisdictional note in the Appendix.

**4.5.19 Decision on application**

- (1) For the purposes of this Subdivision:
- (a) regulation 4.5.6 applies as if a reference in that regulation to an application for a licence were a reference to an application to renew a licence; and



- (b) regulations 4.5.7 and 4.5.8 apply as if a reference in regulation 4.5.7 to the grant of a licence were a reference to the renewal of a licence; and
- (c) regulation 4.5.9 applies as if a reference in that regulation to a refusal to grant a licence were a reference to a refusal to renew a licence.

**Note**

A refusal to renew a licence is a reviewable decision (see regulation 10.1.1).

- (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.

**4.5.20 Status of licence during review**

- (1) If, before a high risk work licence expires, the regulator gives the licence holder written notice that it proposes to refuse to renew the licence, the licence continues to have effect in accordance with this regulation.
- (2) If the licence holder does not apply for internal 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 time for applying for an external review.
- (3) If the licence holder applies for an internal review, the licence continues to have effect until the first 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 first of the following events:
  - (a) the licence holder withdraws the application for review; or
  - (b) [the external review body] makes a decision on the review.
- (6) The licence continues to have effect under this regulation even if its expiry date passes.

**Note**

Regulations 4.5.21 and 4.5.22 allow an expired licence to be renewed in certain circumstances.

**4.5.21 Expiry of licence—temporary permit**

- (1) If a high risk work licence expires while the regulator is considering an application by the licence holder for renewal of the licence, the regulator may issue to the licence holder a temporary permit for the carrying out of the work authorised by the licence.
- (2) A temporary permit takes effect on the day the licence expires, even if the permit is issued after that day.

**Note**

A refusal to issue a temporary permit is a reviewable decision (see regulation 10.1.1).

**4.5.22 Renewal of expired licence**

If a person whose high risk work licence has expired requires a new licence, the person may apply for a renewal of the licence as if it had not expired if the person applies:

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- (a) within 12 months after the expiry of the licence; or
- (b) if the person satisfies the regulator that exceptional circumstances exist, within such longer period as the regulator determines.

**Subdivision 5 Suspension and cancellation of high risk work licence**

**4.5.23 Suspension or cancellation of licence**

- (1) The regulator may suspend or cancel a high risk work licence if it is satisfied that:
  - (a) the licence holder has failed to take all reasonable steps to carry out the work safely and competently; 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.
- (2) The regulator may require a person whose licence is suspended to undertake retraining and provide evidence of competency before the suspension ends.
- (3) 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 or other authorisation under these Regulations to carry out work which requires skills that are the same as or similar to those required for the work authorised by the licence that has been suspended or cancelled.

**Note**

A decision to suspend a licence, to cancel a licence or to disqualify the licence holder from applying for a further licence is a reviewable decision (see regulation 10.1.1).

**4.5.24 Matters taken into account**

- (1) In making a decision under regulation 4.5.23, the regulator must take into account:
  - (a) any representations made by the licence holder under regulation 4.5.25; and
  - (b) any advice received from a corresponding regulator.
- (2) For the purposes of regulation 4.5.23(1)(a) and (b), the regulator may take into account any relevant matter, including:
  - (a) any offence under the Act or these Regulations or under a corresponding WHS law, of which the licence holder has been convicted or found guilty; and

**Note**

See the jurisdictional note in the Appendix.

- (b) any suspension or cancellation of an equivalent licence held by the licence holder under the Act or these Regulations or under a corresponding WHS law; and
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- (c) any enforceable undertaking that has been entered into by the licence holder under this Act or a corresponding WHS law; and
- (d) the licence holder's record with respect to any matters arising under the Act or these Regulations or under a corresponding WHS law.

#### **4.5.25 Notice to and representations by licence holder**

Before suspending or cancelling a high risk work licence, the regulator must:

- (a) give the licence holder a written notice of the proposed suspension or cancellation or disqualification that outlines all relevant allegations, facts and circumstances known to the regulator; and
- (b) give the licence holder a reasonable opportunity to make representations to the regulator in relation to the proposed suspension or cancellation and any proposed disqualification.

#### **Note**

See the jurisdictional note in the Appendix.

#### **4.5.26 Notice of decision**

- (1) The regulator must give the licence holder written notice of a decision under regulation 4.5.23 to cancel or suspend a high risk work licence.
- (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) whether the licence holder is required to obtain retraining before the suspension ends; and
  - (iii) the reasons for the suspension; and
  - (iv) any class of high risk work licence or other licence or authorisation under these Regulations that the licence holder must not apply for 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 licence holder is disqualified from applying for a further licence; and
- (d) if the licence holder is disqualified from obtaining a further licence or authorisation, state:
- (i) when the disqualification ends; and
  - (ii) whether or not the disqualification ending is conditional upon the licence holder obtaining 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 or authorisation under these Regulations that the licence holder must not apply for during the period of suspension or disqualification; and
- (e) when the licence document must be returned to the regulator.
-

#### **4.5.27 Immediate suspension**

- (1) The regulator may suspend a high risk work licence on a ground referred to in regulation 4.5.23 without giving notice under regulation 4.5.25 if satisfied that, in circumstances which create an imminent risk to health and safety:
  - (a) it is necessary that work carried out under the high risk work licence cease; or
  - (b) a corresponding regulator has suspended an equivalent licence held by the licence holder under this regulation as applying in the corresponding jurisdiction.
- (2) If the regulator decides to suspend a licence under this regulation:
  - (a) the regulator must give the licence holder written notice of the suspension and the reasons for the suspension; and
  - (b) the suspension of the licence takes effect on the giving of the notice.
- (3) The regulator must then give notice under regulation 4.5.25 within 14 days after giving the notice under subregulation (2) and must make its decision under regulation 4.5.23 as soon as is reasonably practicable.

#### **Note**

See the jurisdictional note in the Appendix.

- (4) If the regulator does not give notice in accordance with subregulation (3), the suspension ends at the end of the 14 day period.
- (5) If the regulator gives the notice under regulation 4.5.25, the licence remains suspended until the decision is made under regulation 4.5.23.

**4.5.28 Licence holder to return licence document**

A licence holder, on receiving a notice under regulation 4.5.26(2)(e), must return the licence document to the regulator in accordance with the notice.

**4.5.29 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.

**Division 2 Accreditation of assessors**

**Subdivision 1 Requirement to be accredited**

**4.5.30 Accreditation required to assess competency for high risk work licence**

A person who is not an accredited assessor must not:

- (a) conduct an 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.

**4.5.31 Accredited assessor must act in accordance with accreditation**

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



- (3) An accredited assessor who conducts an assessment must do so in accordance with the conditions of accreditation imposed under regulations 4.5.38.
- (4) An accredited assessor who issues a notice of satisfactory assessment must do so in accordance with the conditions of accreditation imposed under regulations 4.5.38.

**Note**

See section 43 of the Act.

**Subdivision 2 Accreditation process**

**4.5.32 Regulator may accredit assessors**

The regulator may, in accordance with this Division, accredit persons to conduct assessments.

**4.5.33 Application for accreditation**

- (1) An application for accreditation must be made in the manner and form required by the regulator.
- (2) The application must include the following information:
  - (a) the applicant's name and any evidence of identity required by the regulator;
  - (b) details of the class of high risk work to which the application relates;
  - (c) evidence that the applicant is qualified to conduct the type of assessment in relation to the class of high risk work to which the application relates;
  - (d) details of any current equivalent accreditation under a corresponding WHS law or current equivalent authorisation under another law;

- (e) a declaration as to whether or not the applicant has ever been convicted or found guilty of any offence under the Act or these Regulations or under any corresponding WHS law;

**Note**

See the jurisdictional note in the Appendix.

- (f) details of any conviction or finding of guilt declared under paragraph (e);
- (g) a declaration as to whether or not the applicant has entered into an enforceable undertaking under the Act or under any corresponding WHS law;
- (h) details of any enforceable undertaking declared under paragraph (g);
- (i) a declaration as to whether or not the applicant has ever previously had:
  - (i) an equivalent accreditation under the Act or these Regulations or under any corresponding WHS law refused, suspended or cancelled; or
  - (ii) an equivalent authorisation under another law suspended or cancelled;
- (j) details of any suspension or cancellation declared under paragraph (i), including any disqualification from applying for a further accreditation or authorisation;
- (k) a declaration to the effect 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.

**Note**

See the jurisdictional note in the Appendix.

**4.5.34 Additional information**

- (1) If an application for accreditation does not contain sufficient information to enable the regulator to make a decision whether or not to grant the accreditation, the regulator may ask the applicant to provide additional information.
- (2) A request for additional information must:
  - (a) specify the date 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 regulation.

**4.5.35 Decision on application**

- (1) The regulator may grant an accreditation if satisfied that:
  - (a) the applicant:
    - (i) is qualified to conduct the assessment to which the application relates; and
    - (ii) is able to conduct the 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.
- (2) 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 authorisation; or
  - (b) in making the application, the applicant has:
    - (i) given information that is false or misleading in a material particular; or
    - (ii) failed to give any material information that should have been given.
- (3) If the regulator decides to grant the accreditation, it must notify the applicant within 30 days after making the decision.
- (4) If the regulator does not make a decision within 120 days after receiving the application, the regulator is taken to have refused to grant the accreditation applied for.
- (5) For the purposes of subregulation (1)(a)(i), an applicant is *qualified* to provide the assessment if:
  - (a) the applicant's competencies, skills and knowledge are in accordance with paragraphs (a) to (d) of Standard 1.4 of the AQTF Standards for RTOs; and
  - (b) the applicant holds a current high risk work licence for the class of high risk work to which the assessment relates.

#### **4.5.36 Matters to be taken into account**

For the purposes of regulation 4.5.35(1)(a)(ii) and (iii), the regulator may have regard to any relevant matter, including:

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- (a) whether the applicant has been found guilty of any offence under the Act or these Regulations or under a corresponding WHS law; and

**Note**

See the jurisdictional note in the Appendix.

- (b) whether any equivalent accreditation held by the applicant under the Act or these Regulations or under a corresponding WHS law has been suspended or cancelled; and
- (c) whether the applicant has entered into any enforceable undertaking under the Act or a corresponding WHS law; and
- (d) the applicant's record with respect to any matters arising under the Act or these Regulations or under a corresponding WHS law.

**4.5.37 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 specified date, make a submission to the regulator in relation to the proposed refusal.
- (2) Within the relevant prescribed time after the date specified in a notice under subregulation (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) 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 regulation 10.1.1).

**4.5.38 Conditions of accreditation**

- (1) In granting or renewing an accreditation, the regulator may impose conditions on the accreditation.
- (2) Without limiting subregulation (1), the regulator may impose conditions that:
  - (a) limit the assessments and assessment activities that may be carried out; and
  - (b) limit the circumstances in which assessments or specified activities may be carried out; and
  - (c) require the accredited assessor to keep specified information; and
  - (d) require the accredited assessor to give specified information to the regulator.

**Note**

A decision to impose a condition on an accreditation is a reviewable decision (see regulation 10.1.1).

**4.5.39 Duration of accreditation**

An accreditation:

- (a) takes effect on the day it is granted; and
  - (b) unless cancelled earlier, expires on the day specified in the accreditation document issued under regulation 4.5.40, being no
-

more than 3 years after the accreditation takes effect.

**4.5.40 Accreditation document**

- (1) If the regulator grants an accreditation, it must issue to the applicant an accreditation document in the form determined by the regulator.
- (2) An accreditation document must specify:
  - (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 regulation 4.5.38; and
  - (d) the date on which the accreditation expires.
- (3) If an assessor is accredited to conduct an assessment in relation to more than one class of high risk work, the regulator may issue to the accredited assessor one accreditation document in respect of some or all of those classes of high risk work.
- (4) If 2 or more of the classes of high risk work referred to in subregulation (3) represent levels of the same type of work, it is sufficient if the accreditation document contains a description of the class of work that represents the highest level.

**4.5.41 Accreditation document to be available**

- (1) An accredited assessor must keep the accreditation document available for inspection by an inspector under the Act.
  - (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, an assessment.
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**4.5.42 Changes to information**

- (1) An accredited assessor must advise the regulator in writing 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.
- (2) Subregulation (1) applies whether the information was given in the application for grant or renewal of the accreditation or in any other circumstance.

**4.5.43 Replacement accreditation document**

- (1) An accredited assessor must give written notice to the regulator as soon as reasonably practicable if the accreditation document is lost, stolen or destroyed.
- (2) If an accreditation document is lost, stolen or destroyed an accredited assessor may apply to the regulator for a replacement accreditation document.
- (3) An application for a replacement accreditation 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 accreditation document if satisfied that the original document was lost, stolen or destroyed.
- (5) 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.



**4.5.44 Voluntary surrender of accreditation**

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

**Subdivision 3 Renewal of accreditation**

**4.5.45 Regulator may renew accreditation**

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

**4.5.46 Application for renewal**

- (1) An application for renewal of accreditation must be made in the manner and form required by the regulator.
- (2) An application must:
  - (a) include the information specified in regulation 4.5.33(2);
  - (b) be accompanied by the relevant fee.

**Note**

See the jurisdictional note in the Appendix.

**4.5.47 Renewal of expired accreditation**

If a person whose accreditation has expired requires a new accreditation, the person may apply for a renewal of the accreditation previously held as if it had not expired if the person applies:

- (a) within 12 months after the expiry of the accreditation; or
- (b) if the applicant satisfies the regulator that exceptional circumstances exist, within such longer period as the regulator determines.

**4.5.48 Additional information**

For the purposes of this Division, regulation 4.5.34 applies as if a reference in that regulation to an application for accreditation were a reference to an application to renew an accreditation.

**4.5.49 Decision on application**

For the purposes of this Division:

- (a) regulations 4.5.35 and 4.5.36 apply as if a reference in regulation 4.5.35 to the grant of an accreditation were a reference to the renewal of an accreditation; and
- (b) regulation 4.5.37 applies as if a reference in that regulation to a refusal to grant an accreditation were a reference to a refusal to renew an accreditation.

**Note**

A refusal to renew an accreditation is a reviewable decision (see regulation 10.1.1).

**Subdivision 4 Suspension and cancellation**

**4.5.50 Regulator may suspend or cancel accreditation**

- (1) The regulator may, in accordance with this Division:
  - (a) suspend or cancel an accreditation; and
  - (b) if suspending an accreditation, vary the conditions of the accreditation of an accredited assessor, 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 regulation is a reviewable decision (see regulation 10.1.1).

**4.5.51 Suspension and cancellation of accreditation**

- (1) The regulator may suspend or cancel an accreditation if it is satisfied that:
- (a) the accredited assessor is no longer qualified to conduct the assessment specified in the assessor's accreditation document; or
  - (b) the accredited assessor is not able to conduct the assessment to which the accreditation relates competently; or
  - (c) the accredited assessor has failed to comply with a condition imposed on the accreditation under regulation 4.5.38; or
  - (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 subregulation (1)(a), *qualified* has the same meaning in relation to an accredited assessor as it has in regulation 4.5.35 in relation to an applicant for accreditation.

**4.5.52 Matters to be taken into account**

For the purposes of regulation 4.5.51(1)(b) and (c), the regulator may have regard to any relevant matter, including:

- (a) any offence under the Act or these Regulations or under a corresponding WHS law, of which the accredited assessor has been convicted or found guilty; and

**Note**

See the jurisdictional note in the Appendix.

- (b) any suspension or cancellation of an equivalent accreditation held by the accredited assessor under the Act or these Regulations or under a corresponding WHS law; and
- (c) any suspension of a high risk work licence held by the accredited assessor under the Act or these Regulations or under a corresponding WHS law; and
- (d) any enforceable undertaking that has been entered into by the accredited assessor under the Act or a corresponding WHS law; and
- (d) the accredited assessor's record with respect to any matters arising under the Act or these Regulations or under a corresponding WHS law.

**4.5.53 Notice to and representations 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 that outlines all relevant allegations, facts and circumstances known to the regulator; and
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- (b) give the accredited assessor a reasonable opportunity to make representations to the regulator in relation to the proposed suspension or cancellation and any proposed disqualification.

**4.5.54 Notice of decision**

- (1) The regulator must give the accredited assessor written notice of a decision under regulation 4.5.51 to cancel or suspend the accreditation.
- (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) whether or not the suspension ending is conditional upon the accredited assessor obtaining retraining or reassessment or taking any other action; and
    - (iii) the reasons for the suspension; and
  - (c) if the accreditation is to be cancelled, state:
    - (i) when the cancellation takes effect; and
    - (ii) the reasons for the cancellation; and
    - (iii) whether or not the accredited assessor is disqualified from applying for a further accreditation; and
  - (d) if the accredited assessor is disqualified from obtaining a further accreditation, state:
    - (i) when the disqualification ends; and

- (ii) whether or not the disqualification ending is conditional upon the accredited assessor obtaining retraining or reassessment or taking any other action; and
- (iii) the reasons for the disqualification; and
- (e) when the accreditation document must be returned to the regulator.

#### **4.5.55 Immediate suspension**

- (1) The regulator may suspend an accreditation on a ground referred to in regulation 4.5.51 without giving notice under regulation 4.5.53 if satisfied that, in the circumstances, if the accreditation is not suspended under this regulation, a person may be exposed to an imminent risk to his or her health or safety.
- (2) If the regulator decides to suspend an accreditation under this regulation:
  - (a) the regulator must give the accredited assessor written notice of the suspension and the reasons for the suspension; and
  - (b) the suspension takes effect on the giving of the notice.
- (3) The regulator must then give notice under regulation 4.5.54 within 14 days after giving the notice under subregulation (2) and must make its decision under regulation 4.5.51 as soon as it is reasonably practicable.

#### **Note**

See the jurisdictional note in the Appendix.

- (4) If the regulator does not give notice in accordance with subregulation (3), the suspension ends at the end of the 14 day period.

- (5) If the regulator gives the notice under regulation 4.5.53, the accreditation remains suspended until the decision is made under regulation 4.5.51.

**4.5.56 Accredited assessor to return accreditation document**

An accredited assessor, on receiving a notice under regulation 4.5.54(2)(e), must return the accreditation document to the regulator in accordance with that notice.

**4.5.57 Regulator to return accreditation document after suspension**

When the period of suspension of an accreditation ends, the regulator must return the accreditation document to the accredited assessor.

## **Part 4.6 Abrasive Blasting**

### **Note**

Further requirements that apply to abrasive blasting are located in Part 7.1.

### **4.6.1 Blasting cabinet or chamber to be used for abrasive blasting**

- (1) A person conducting a business or undertaking at a workplace must ensure so far as is reasonably practicable that abrasive blasting carried out at the workplace is carried out in a blasting cabinet or blasting chamber.
- (2) If it is not reasonably practicable for abrasive blasting to be carried out in a blasting cabinet or blasting chamber, the person must ensure that a worker carrying out the abrasive blasting, and other persons at the workplace, are so far as is reasonably practicable protected from the risks resulting from the abrasive blasting by using 1 or more of the following:
  - (a) engineering controls;
  - (b) administrative controls;
  - (c) personal protective equipment.
- (3) An emergency switch that will immediately stop the flow of abrasive material must be installed if appropriate.

### **4.6.2 Ventilation of abrasive blasting area**

- (1) A person conducting a business or undertaking at a workplace must ensure so far as is reasonably practicable that an area in which abrasive blasting is carried out at the workplace is ventilated to eliminate the risks to the health and safety of workers caused by exposure to inhalable particles.
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- (2) If it is not reasonably practicable to eliminate the risks referred to in subregulation (1), the person must ensure that the area is ventilated to minimise the risks.

#### **4.6.3 Ventilation of blasting chamber**

A blasting chamber at a workplace must be ventilated by a system that:

- (a) ensures extracted air passes through a filtering or cleaning device that removes airborne contaminants before the air is discharged; and
- (b) is equipped with ducts fitted with inspection ports and cleaning ports.

#### **4.6.4 Waste materials**

- (1) A person conducting a business or undertaking at a workplace must ensure that any airborne, liquid or solid residue, or waste material, resulting from abrasive blasting at the workplace does not risk the health and safety of workers or other persons at the workplace.
- (2) The person must ensure that any airborne, liquid or solid residue, or waste material, resulting from abrasive blasting at the workplace is captured and disposed of in accordance with [the relevant State or Territory law].

##### **Note**

See the jurisdictional note in the Appendix.

#### **4.6.5 Washing and decontamination facilities**

A person conducting a business or undertaking at a workplace must provide washing and decontamination facilities for workers at the workplace if the workers carry out abrasive blasting at the workplace.

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## **Part 4.7 Electrical Work**

### **Division 1 Preliminary**

#### **4.7.1 Application**

- (1) This Part does not apply to the works of an electricity supply authority used for the generation, transmission or distribution of electricity for the public.
- (2) Duties imposed by this Part on a person conducting a business or undertaking apply if it is not reasonably practicable for the person to eliminate risks to health and safety associated with electrical equipment and electrical work.

#### **4.7.2 Meaning of *electrical equipment***

- (1) In this Part, *electrical equipment* means any apparatus, appliance, cable, conductor, fitting, insulator, material, meter or wire that:
    - (a) is used for controlling, generating, supplying, transforming or transmitting electricity at a voltage greater than extra low voltage; or
    - (b) is operated by electricity at a voltage greater than extra-low voltage; or
    - (c) is part of an electrical installation located in an area in which the atmosphere presents a risk to health and safety from fire or explosion; or
    - (d) is, or is part of, a cathodic protection system.
  - (2) In this Part, *electrical equipment* does not include any apparatus, appliance, cable, conductor, fitting, insulator, material, meter or wire that is part of a vehicle if:
    - (a) the equipment is part of a unit of the vehicle that provides propulsion for the vehicle; or
-

- (b) the electricity source for the equipment is a unit of the vehicle that provides propulsion to the vehicle.

#### **4.7.3 Meaning of *electrical installation***

- (1) In this Part, an *electrical installation* is a group of items of electrical equipment that:
  - (a) are permanently electrically connected together; and
  - (b) can be supplied with electricity from the works of an electricity supply or authority or from a generating source.
- (2) An item of electrical equipment may be part of more than one electrical installation.
- (3) In subregulation (1)(a):
  - (a) an item of electrical equipment connected to electricity by a plug and socket outlet is not *permanently electrically connected*; and
  - (b) connection achieved through using works of an electricity supply authority is not a consideration in determining whether or not electrical equipment is *electrically connected*.

#### **4.7.4 Meaning of *electrical work***

- (1) In this Part, *electrical work* means:
    - (a) connecting electricity supply wiring to electrical equipment or disconnecting electricity supply wiring from electrical equipment; or
    - (b) installing, removing, adding, testing, replacing, repairing, altering or maintaining electrical equipment or an electrical installation.
-

(2) In this Part, *electrical work* does not include the following:

- (a) work that involves connecting electrical equipment to an electricity supply by means of a flexible cord plug and socket outlet;
- (b) work on a non-electrical component of electrical equipment, if the person carrying out the work is not exposed to an electrical hazard;

**Example**

Painting electrical equipment covers and repairing hydraulic components of an electrical motor.

- (c) replacing electrical equipment or a component of electrical equipment if that task can be safely performed by a person who does not have expertise in carrying out electrical work;

**Example**

A fuse or a light bulb.

- (d) assembling, making, modifying or repairing electrical equipment as part of a manufacturing process;
- (e) building or repairing ducts, conduits or troughs;
- (f) locating or mounting electrical equipment, or fixing electrical equipment in place, if this task is not performed in relation to the connection of electrical equipment to an electricity supply;
- (g) assisting a [licensed or registered] electrical worker to carry out electrical work, if the assistance does not involve physical contact with any energised electrical equipment;

- (h) carrying out electrical work, other than work on energised electrical equipment, in order to meet eligibility requirements in relation to becoming a [licensed or registered] electrical worker.

**Note**

See the jurisdictional note in the Appendix for paragraphs (g) and (h).

**Division 2 Electrical installations**

**4.7.5 Person conducting business or undertaking must ensure safety of electrical installations**

A person conducting a business or undertaking must ensure that electrical installations at the workplace are designed, constructed, installed, protected, maintained and tested so as to minimise, so far as is reasonably practicable, risks to health and safety associated with electrical hazards in connection with the installations.

**Division 3 Electrical equipment**

**4.7.6 Hazard identification**

A person conducting a business or undertaking must ensure, so far as is reasonably practicable, that all electrical hazards at the workplace are identified.

**4.7.7 Control of risk**

- (1) This regulation applies if it is not reasonably practicable for a person conducting a business or undertaking to eliminate risks to health and safety associated with electrical hazards.
  - (2) If it is not reasonably practicable to eliminate risks to health and safety associated with electrical hazards, the person conducting the business or undertaking must minimise those risks so far as is reasonably practicable.
-

#### **4.7.8 Review of risk controls**

- (1) A person conducting a business or undertaking must ensure that measures implemented to control risks to health or safety associated with electrical hazards are reviewed and as necessary revised if:
  - (a) a notifiable incident occurs in relation to an electrical hazard; or
  - (b) a control measure does not control risks to health or safety associated with an electrical hazard; or
  - (c) a health and safety representative at the workplace requests a review.
- (2) A health and safety representative at a workplace may request a review of risk control measures relating to electrical hazards if the health and safety representative believes on reasonable grounds that:
  - (a) a circumstance specified in subregulation (1)(a) or (b) exists; and
  - (b) the person conducting the business or undertaking has not ensured an adequate review of the risk control measures in response to that circumstance.

#### **4.7.9 Testing of electrical equipment used in a hostile operating environment**

- (1) A person conducting a business or undertaking must ensure that electrical equipment at a workplace is regularly tested by a competent person if the electrical equipment is:
    - (a) supplied with electricity through an electrical socket outlet; and
-

- (b) used either:
  - (i) in construction work; or
  - (ii) in an environment in which the normal use of electrical equipment exposes the equipment to operating conditions that are likely to result in a reduction in its expected life span, including exposure to moisture, heat, vibration, mechanical damage, corrosive chemicals or dust.
- (2) A person conducting a business or undertaking must ensure that a record of any testing carried out under subregulation (1) is kept until the electrical equipment is:
  - (a) next tested; or
  - (b) permanently removed from use or disposed of.
- (3) A record of testing:
  - (a) must specify:
    - (i) the name of the person who carried out the testing; and
    - (ii) the date of the testing; and
    - (iii) the nature of the testing; and
    - (iv) the outcome of the testing; and
    - (v) the date on which the next testing must be carried out; and
  - (b) may be in the form of a tag attached to the electrical equipment tested.

#### **4.7.10 Untested electrical equipment not to be used**

A person conducting a business or undertaking must ensure, so far as is reasonably practicable, that electrical equipment is not used if the equipment:

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- (a) is required to be tested under regulation 4.7.9; and
- (b) has not been tested.

#### **4.7.11 Unsafe electrical equipment**

- (1) A person conducting a business or undertaking must ensure that any unsafe electrical equipment at a workplace:
  - (a) is disconnected (or isolated) from its electricity supply; and
  - (b) once disconnected (or isolated):
    - (i) cannot be reconnected until it is repaired or tested and found to be safe; or:
    - (iii) is replaced or permanently removed from use.
- (2) For the purposes of this regulation, electrical equipment or a component of electrical equipment is *unsafe* if there are reasonable grounds for believing it to be unsafe.

### **Division 4 Electrical work on energised electrical equipment**

#### **4.7.12 Duty to determine whether equipment is energised**

- (1) A person conducting a business or undertaking must ensure that, before electrical work is carried out on electrical equipment, the equipment is tested to determine whether or not it is energised.
- (2) A person conducting a business or undertaking must ensure that electrical equipment that has been de-energised to allow electrical work to be carried out on it cannot be inadvertently re-energised while the work is being carried out.



**4.7.13 Electrical work on energised electrical equipment—  
prohibited**

Subject to this Division, a person conducting a business or undertaking must ensure that electrical work is not carried out on electrical equipment while the equipment is energised.

**4.7.14 Electrical work on energised electrical equipment—  
when permitted**

A person conducting a business or undertaking must ensure that electrical work on energised electrical equipment is not carried out unless:

- (a) it is necessary in the interests of health and safety that the electrical work is carried out on the equipment while the equipment is energised; or

**Note**

Health and safety is not limited to electrical safety.

- (b) it is necessary that the electrical equipment to be worked on is energised in order for the work to be carried out properly; or
- (c) there is no reasonable alternative means of carrying out the work.

**4.7.15 Preliminary steps**

- (1) A person conducting a business or undertaking must ensure that, before electrical work on energised electrical equipment commences:
    - (a) a risk assessment is conducted in relation to the proposed electrical work; and
    - (b) the area where the electrical work is to be carried out is clear of obstructions so as to allow for easy access; and
    - (c) the point at which the electrical equipment can be disconnected from its electricity supply is:
-

- (i) clearly marked or labelled; and
  - (ii) is clear of obstructions so as to allow for easy access by the worker who is to carry out the electrical work or any other competent person; and
  - (iii) is capable of being operated quickly by those persons; and
  - (d) the person with management or control of the workplace is consulted about the proposed electrical work.
- (2) For the purposes of subregulation (1)(a):
- (a) the risk assessment must be conducted by a competent person; and
  - (b) the competent person must consult with the worker who is to carry out the electrical work; and
  - (c) the risk assessment must be recorded in writing.
- (3) Subregulation (1)(c) does not apply to electrical work on electrical equipment if:
- (a) the work is to be carried out on the supply side of the main switch on the main switchboard for the equipment; and
  - (b) the point at which the equipment can be disconnected from its electricity supply is not reasonably accessible from the work location.

#### **4.7.16 Unauthorised access to equipment being worked on**

A person conducting a business or undertaking must ensure, so far as is reasonably practicable, that only persons authorised by the person conducting the business or undertaking may enter the immediate area in which electrical work on

energised electrical equipment is being carried out.

**4.7.17 Contact with equipment being worked on**

A person conducting a business or undertaking must ensure that, while electrical work is being carried out on electrical equipment that is energised, all persons are prevented from making any contact with the equipment that would create a risk of electric shock.

**4.7.18 How the work is to be carried out**

- (1) A person conducting a business or undertaking must ensure that electrical work on energised electrical equipment is carried out:
    - (a) by a competent person who has tools, testing equipment and personal protective equipment that:
      - (i) are appropriate to the work; and
      - (ii) have been properly maintained; and
    - (b) in accordance with a safe work method statement prepared for the work; and
    - (c) subject to subregulation (5), with a safety observer present who has the competence and qualifications specified in subregulation (4).
  - (2) The person conducting the business or undertaking must ensure, so far as is reasonably practicable, that the person who carries out the electrical work uses the tools, testing equipment and personal protective equipment properly.
  - (3) For the purposes of subregulation (1)(b), the safe work method statement must:
    - (a) describe in writing how the proposed electrical work is to be carried out and include details of:
-

- (i) electrical hazards associated with the proposed work and risks to health or safety associated with those hazards; and
  - (ii) measures to be implemented to control the risks; and
  - (iii) how the risk control measures will be implemented; and
- (b) be set out and expressed in a way that is readily accessible and comprehensible to persons who use it; and
- (c) be reviewed and as necessary revised if relevant risk control measures are revised under regulation 4.7.8.
- (4) For the purposes of subregulation (1)(c):
- (a) the safety observer must be competent:
    - (i) to implement risk control measures in an emergency; and
    - (ii) to rescue the worker who is carrying out the work, if necessary; and
  - (b) the safety observer must have been assessed in the previous 12 months as competent to resuscitate a person.
- (5) A safety observer is not required if:
- (a) the work consists only of testing; and
  - (b) the person conducting the business or undertaking has conducted a risk assessment under regulation 4.7.15(1)(a) that shows that there is no serious risk associated with the proposed work.

#### **4.7.19 Record keeping**

A person conducting a business or undertaking must keep a safe work method statement prepared under regulation 4.7.18:

- (a) if a notifiable incident occurs in connection with the electrical work for which the statement was prepared—for at least 2 years after the incident occurs; and
- (b) in every other case—until the electrical work is completed.

### **Division 5 Electrical equipment at constructions sites—additional duties**

#### **4.7.20 Electrical installations at construction sites**

A person conducting a business or undertaking that includes the carrying out of construction work must comply with AS/NZS 3012:2010 in relation to electrical installations at the workplace.

### **Division 6 Residual current devices**

#### **4.7.21 Residual current devices—general requirement**

- (1) A person conducting a business or undertaking must ensure that, in relation to each socket outlet at the workplace, the circuit is protected by a residual current device.
- (2) In complying with subregulation (1), the person must ensure, so far as is reasonably practicable, that the residual current device is incorporated before or as part of the socket.
- (3) A person conducting a business or undertaking must ensure that the following electrical equipment at the workplace is protected by a residual current device with a tripping current that does not exceed 30 milliamps if electricity is

supplied to the equipment through a socket outlet not exceeding 20 amps:

- (a) hand-held electrical equipment;
  - (b) electrical equipment that is moved while in operation;
  - (c) electrical equipment that is moved between operations in circumstances that could result in damage to the equipment;
  - (d) electrical equipment that is used for construction work.
- (4) Subregulation (3) does not apply if the supply of electricity to the electrical equipment:
- (a) does not exceed 50 volts alternating current; or
  - (b) is direct current; or
  - (c) is provided through an isolating transformer that provides at least an equivalent level of protection; or
  - (d) is provided from a non-earthed socket outlet supplied by a non-earthed portable generator that provides at least an equivalent level of protection.

#### **4.7.22 Testing of residual current devices**

- (1) A person conducting a business or undertaking must ensure that residual current devices used at the workplace are tested regularly by a competent person to ensure that the devices are operating effectively.
- (2) A person conducting a business or undertaking must replace a residual current device that is not operating effectively.

- (3) A person conducting a business or undertaking must keep a record of each testing of a residual current device until the next testing is carried out.

## **Division 7      Overhead electric lines**

### **4.7.23 Overhead electric lines**

- (1) A person conducting a business or undertaking must ensure, so far as is reasonably practicable, that no person, plant or thing at the workplace comes within an unsafe distance of an overhead electric line.
- (2) If it is not reasonably practicable to comply with subregulation (1), the person conducting the business or undertaking must ensure that:
  - (a) a risk assessment is conducted in relation to the proposed work; and
  - (b) risk control measures implemented are consistent with any requirements of the electricity supply authority responsible for the overhead electric line.

#### **Note**

[Relevant electricity safety legislation] will also apply to the person conducting the business or undertaking.

See the jurisdictional notes in the Appendix.

## **Part 4.8 Diving Work**

### **Division 1 Preliminary**

#### **4.8.1 Purpose**

The purpose of this Part is to impose duties on a person carrying out a business or undertaking to ensure:

- (a) the fitness and competence of persons who carry out diving work; and
- (b) the health and safety of persons who carry out diving work and free diving work; and
- (c) the health and safety of other persons at workplaces where diving work or free diving work is carried out.

#### **Note**

In these Regulations:

*diving work* means work carried out in or under water or any other liquid while breathing compressed gas.

*free diving work* means work carried out in or under water or any other liquid while using a breath hold technique.

### **Division 2 Fitness and competence to carry out diving work**

#### **4.8.2 Person conducting business or undertaking must ensure fitness of workers**

- (1) A person conducting a business or undertaking must not direct or allow a worker to carry out diving work or undergo training for diving work unless the worker holds a current certificate of medical fitness.
- (2) A person conducting a business or undertaking must not direct or allow a worker to carry out 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.

#### **4.8.3 Certificate of medical fitness**

A certificate of medical fitness must:

- (a) be issued by a registered medical practitioner with appropriate training in underwater medicine; and
- (b) specify:
  - (i) the name of the person to whom it is issued; and
  - (ii) its date of issue and its date of expiry; and
  - (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; and
  - (iv) any conditions relating 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 diving work, including, in the case of a person who is under 18 years, any particular conditions applicable to the age of the person.

#### **4.8.4 Duty to keep certificate of medical fitness**

A person conducting a business or undertaking must keep the certificate of medical fitness of a worker who carries out diving work for 1 year after the work is carried out.

**4.8.5 Competence of worker—general diving work**

- (1) A person must not carry out general diving work unless the person:
  - (a) holds a statement of attainment issued by an RTO for a specified unit of competency for general diving work that includes the type of general diving work to be carried out by the person who holds the statement of attainment; or
  - (b) has the following qualifications and experience:
    - (i) a certificate or other qualification for general diving work, issued by a training organisation published by Safe Work Australia on its website; and
    - (ii) diving experience that is relevant to the diving work the person proposes to carry out.

**Note**

See section 44 of the Act.

- (2) This regulation does not apply to the following general diving work:
  - (a) incidental diving work;
  - (b) limited scientific diving work carried out in the circumstances specified in regulation 4.8.7.

**4.8.6 Competence of worker—general diving work—  
incidental diving work**

- (1) A person must not carry out incidental diving work unless the person has:
    - (a) knowledge and skills in relation to the standard operational practices; and
-

- (b) relevant diving experience; and
- (c) knowledge of the Act and these Regulations.

**Note**

See section 44 of the Act.

- (2) In this regulation, a person has *relevant diving experience* if the person has logged at least 15 hours of diving, of which at least 8 hours and 20 minutes were spent diving between 10 metres above and any depth below the maximum depth at which the diving work is to be carried out.

**4.8.7 Competence of worker—general diving work—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:
  - (a) knowledge and skills in relation to the standard operational practices, including knowledge and skills obtained outside Australia; and
  - (b) relevant diving experience, including relevant diving experience obtained outside Australia; and
  - (c) knowledge of the Act and these Regulations.

**Note**

See section 44 of the Act.

- (2) In this regulation, 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.

#### **4.8.8 Competence of worker—construction diving work**

A person must not carry out construction diving work unless the person holds a statement of attainment for construction diving work that includes the type of construction work to be carried out by the person.

**Example**

A statement of attainment issued by the Australian Diver Accreditation Scheme.

**Note**

See section 44 of the Act.

#### **4.8.9 Competence of dive supervisor**

- (1) A person must not carry out the supervision of general diving work or free diving work under regulation 4.8.11 unless the person has:
  - (a) the qualification specified in regulation 4.8.5(1); and
  - (b) experience in the type of diving work to be supervised.

**Note**

See section 44 of the Act.

- (2) A person must not carry out the supervision of construction diving work under regulation 4.8.11 unless the person has:
  - (a) the qualifications or experience specified in regulation 4.8.8; and
  - (b) experience in the type of diving work to be supervised.

**Note**

See section 44 of the Act.

#### **4.8.10 Evidence of competence**

- (1) A person conducting a business or undertaking must not direct or allow a worker to carry out diving work unless the person sees written evidence that the worker has the competence required under this Division for the diving work to be carried out.
- (2) A person conducting a business or undertaking must keep the written evidence given to the person under subregulation (1) for at least 1 year after the diving work is carried out.

### **Division 3 Health and safety duties relating to diving work**

#### **4.8.11 Dive supervisor required**

A person conducting a business or undertaking must appoint one or more workers as dive supervisors to supervise all diving work carried out in the business or undertaking.

#### **4.8.12 Hazard identification and risk assessment**

- (1) A person conducting a business or undertaking must, so far as is reasonably practicable, ensure that all hazards associated with diving work are identified by a dive supervisor.
- (2) A person conducting a business or undertaking must, so far as is reasonably practicable, ensure that all risks to health and safety associated with hazards identified under subregulation (1) are assessed by a dive supervisor.
- (3) A risk assessment under subregulation (2) must take into account all relevant matters including those specified in clause D2.4 of Appendix D to AS 2299:1.

- (4) A person conducting a business or undertaking must comply with subregulations (1) and (2) before directing or allowing a worker to carry out diving work.
- (5) A person conducting a business or undertaking must ensure that the risk assessment is reviewed and as necessary revised by a dive supervisor if risk control measures are reviewed under regulation 4.8.14.

#### **4.8.13 Implementation of risk control measures**

- (1) A person conducting a business or undertaking must ensure that measures to control risks associated with diving work are implemented by a dive supervisor.
- (2) A person conducting a business or undertaking must ensure that the implementation of measures to control risks associated with diving work are monitored by a dive supervisor to ensure that they are effective in controlling risks.

#### **4.8.14 Review of risk control measures**

- (1) A person conducting a business or undertaking must ensure that risk control measures are reviewed and as necessary revised by a dive supervisor if:
  - (a) there is a significant change to:
    - (i) the manner in which diving work is to be carried out; or
    - (ii) the environmental conditions in which the work is to be carried out; or
  - (b) a notifiable incident occurs in relation to diving work; or

- (c) a risk control measure does not control the risks associated with diving work; or
  - (d) a health and safety representative at the workplace requests a review.
- (2) If a change specified in subregulation (1)(a) increases the risks to health and safety associated with diving work that has already commenced when the change occurs, the person conducting the business or undertaking must ensure that:
- (a) the work stops immediately; and
  - (b) the work is not resumed until the control measures are reviewed and as necessary revised and any new or different control measures are implemented.
- (3) A health and safety representative at a workplace may request a review of risk control measures relating to diving work if the health and safety representative believes on reasonable grounds that:
- (a) a circumstance specified in subregulation (1)(a), (b) or (c) exists; and
  - (b) the person conducting the business or undertaking has not ensured an adequate review of the risk control measures in response to that circumstance.

#### **4.8.15 Dive plan must be prepared**

- (1) A person conducting a business or undertaking must not direct or allow diving work to be carried out unless a dive plan for the dive:
- (a) is prepared by the dive supervisor; or
  - (b) has already been prepared.

- (2) A dive plan must state:
- (a) the method of carrying out the diving work to which it relates; and
  - (b) the tasks and duties of each person involved in the dive; and
  - (c) the diving equipment, breathing gases and procedures to be used in the dive; and
  - (d) bottom times and decompression profiles; and
  - (e) hazards associated with the dive and measures to be implemented in the control of risks associated with those hazards; and
  - (f) emergency procedures.

**4.8.16 Dive plan must be complied with**

- (1) A person conducting a business or undertaking must ensure, so far as is reasonably practicable, that diving work is carried out in accordance with the dive plan prepared for it.
- (2) A person conducting a business or undertaking must ensure that the dive supervisor briefs workers on the dive plan before commencing the diving work to which the plan relates.

**4.8.17 Dive plan must be kept**

A person conducting a business or undertaking must ensure that a dive plan is kept for at least 1 year after the diving work is completed.



**4.8.18 Standby diver**

- (1) A person conducting a business or undertaking must ensure that, while any construction diving work is being carried out, one or more standby divers are present and equipped to rescue a worker carrying out the work.
- (2) If a risk assessment under regulation 4.8.12 indicates that a standby person is necessary, a person conducting a business or undertaking must ensure that, while any general diving work is being carried out, one or more standby divers are present and equipped to rescue a worker carrying out the work.

**4.8.19 Dive safety log**

- (1) A person conducting a business or undertaking must establish a dive safety log in accordance with clause 2.6.3 of AS 2299:1.
  - (2) A person conducting a business or undertaking must ensure that, after diving work is completed, the dive safety log is signed by:
    - (a) each worker who has carried out the diving work, as soon as practicable after completing the dive; and
    - (b) the dive supervisor.
  - (3) If workers are carrying out diving work from a vessel, the person conducting the business or undertaking must ensure that the dive supervisor makes and signs entries in the dive safety log of the number of workers and other persons on board the vessel:
    - (a) before the diving work commences; and
    - (b) before the vessel leaves the location after the diving work is completed.
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- (4) A person conducting a business or undertaking must ensure that a dive safety log is kept for at least 1 year after the last entry is made.

**4.8.20 Record of risk assessment**

- (1) A person conducting a business or undertaking must, in accordance with this regulation, keep a written record of any risk assessment conducted under regulation 4.8.12(2).
- (2) The record must:
- (a) specify the following:
    - (i) the date of the initial assessment;
    - (ii) the date of any review of risk controls;
    - (iii) the nature of the diving work;
    - (iv) the dates on which the work starts, resumes or stops;
    - (v) the location of the workplace;
    - (vi) the name of each worker who carries out diving work;
    - (vii) the hazards identified under regulation 4.8.12 and the assessment of risks to health and safety associated with those hazards;
    - (viii) the control measures considered, both initially and on being reviewed;
    - (ix) the control measures implemented, both initially and on being revised; and
  - (b) be kept for at least 1 year after the diving work is completed.

**Division 4      Free diving work**

**4.8.21 Duties of person conducting business or undertaking**

A person conducting a business or undertaking must comply with Division 3 (except regulation 4.8.18) as if a reference in Division 3 to diving work were a reference to free diving work.

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## **CHAPTER 5 PLANT AND STRUCTURES**

### **Part 5.1 Regulation of 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**

##### **5.1.1 Application of Part to plant and structures**

- (1) Subject to this regulation, this Part applies to all plant.
- (2) 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 structures as specified in this Part.

#### **Division 2 Duties of persons conducting businesses or undertakings that design plant**

##### **5.1.2 Provision of information to manufacturer**

A designer of plant must ensure, when the design of the plant is made available to the manufacturer, that the manufacturer of the plant is provided with:

- (a) information to enable the plant to be manufactured in accordance with the design specifications; and
- (b) if applicable, information relating to:
  - (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 any risks associated with the use of the plant identified by the designer; 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.

**Note**

A designer also has duties under section 22 of the Act.

**5.1.3 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 risk control, the designer must:

- (a) revise the information originally supplied to the manufacturer to ensure that:
  - (i) the risk is eliminated so far as is reasonably practicable; or
  - (ii) if it is not reasonably practicable to eliminate the risk, the risk is minimised so far as is reasonably practicable; or
- (b) instruct 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.

**Note**

A designer also has duties under section 22 of the Act.

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#### **5.1.4 Records and information**

If the design of plant is required to be registered under Part 5.2, the designer of that plant must make a record that contains:

- (a) a record of the method used to determine the risk controls for the plant and the risk controls that result from that determination; and
- (b) a copy of the information provided to a manufacturer under section 22 of the Act in relation to that plant; and
- (c) a copy of the information provided to a manufacturer under regulation 5.1.2 in relation to that plant; and
- (d) if applicable, a copy of the information provided to a manufacturer under regulation 5.1.3 in relation to that plant.

#### **5.1.5 Record of standards or engineering principles used**

- (1) A designer of plant must record any published technical standard, including any part of a published technical standard, that was used to design the plant.
- (2) If a designer of plant has not used published technical standards to design the plant, the designer must record any engineering principles used to design the plant.

#### **5.1.6 Records to be available for inspection**

- (1) A designer of plant must ensure that the records made under regulations 5.1.4 and 5.1.5 are kept available for inspection by the regulator under the Act.

- (2) A designer of plant must ensure that the records made under regulations 5.1.4 and 5.1.5 are made available for inspection by the design verifier of the plant design.
- (3) A record must be kept for:
  - (a) 5 years after the record is made; or
  - (b) if the plant is likely to be used as intended for more than 5 years, the period that the plant is used as intended.

#### **5.1.7 Guarding**

- (1) This regulation applies if a designer of plant uses guarding as a measure to control risk.
  - (2) The designer must, so far as is reasonably practicable, ensure that the guarding designed for that purpose will prevent access to the danger point or danger area of the plant.
  - (3) The designer must ensure that:
    - (a) if access to the area of the plant requiring guarding is not necessary during operation, maintenance or cleaning of the plant, the guarding is a permanently fixed physical barrier; or
    - (b) if access to the area of the plant requiring guarding is necessary during operation, maintenance or cleaning of the plant, the guarding is an interlocked physical barrier that allows access to the area being guarded at times when that area does not present a risk and prevents access to that area at any other time; or
    - (c) if it is not reasonably practicable to use guarding referred to in paragraph (a) or (b), the guarding used is a physical barrier that can only be altered or removed by the use of tools; or
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- (d) if it is not reasonably practicable to use guarding referred to in paragraph (a), (b) or (c), the design includes a presence-sensing safeguarding system that eliminates any risk arising from the area of the plant requiring guarding while a person or any part of a person is in the area being guarded.
- (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 by-passing 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.
- (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.
- (6) Despite anything to the contrary in this regulation, the designer must ensure that:
  - (a) the guarding is of a kind that can be removed to allow convenient repair, servicing and maintenance of plant at any time that the plant is not in normal operation; and
  - (b) if the guarding is removed, the plant cannot be restarted unless the guarding is replaced.

#### **5.1.8 Operational controls**

- (1) A designer of plant must ensure that the design provides for any operator's controls for the plant to be:
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- (a) suitably 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.
- (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 controls that:
- (a) permit operation of the plant while a person is undertaking the maintenance or cleaning of the plant; and
  - (b) 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.

#### **5.1.9 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 each emergency stop control is reset.

- (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 device 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 device to be coloured red; and
  - (c) that the device cannot be adversely affected by electrical or electronic circuit malfunction.

#### **5.1.10 Warning devices**

If the design of plant includes an emergency warning device or a risk assessment of plant identifies a need to provide an emergency warning device for the plant, 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.

### **Division 3 Duties of persons conducting businesses or undertakings that manufacture plant**

#### **5.1.11 Control of risk**

- (1) A manufacturer of plant must:
  - (a) ensure that the plant is manufactured and inspected having regard to the information provided to the manufacturer by the designer of the plant under the Act and these Regulations; and

- (b) if the information provided to the manufacturer by the designer of the plant under the Act and these Regulations requires the plant to be tested, ensure that the plant is tested in accordance with that information; and
  - (c) ensure that if, during the manufacturing process, any hazard is identified in the design of the plant for which the designer has not provided a risk control:
    - (i) that hazard is not incorporated into the manufacture of the plant; and
    - (ii) the designer of the plant is advised in writing of the hazard as soon as is reasonably possible; and
    - (iii) reasonable steps are taken to consult with the designer of the plant regarding the alteration of the design to rectify the hazard; and
  - (d) if it is not possible to advise the designer of the hazard in accordance with paragraph (c)(ii), 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.
- (2) A manufacturer to whom subregulation (1)(c) applies must not manufacture the plant until:
- (a) the designer gives the manufacturer the revised information or written instruction under regulation 5.1.3; or
  - (b) the manufacturer eliminates or minimises the risk in accordance with subregulation (1)(d).
-

- (3) If the designer instructs a manufacturer of plant in accordance with regulation 5.1.3(b), the manufacturer may proceed in accordance with the designer's original information.

#### **5.1.12 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.
- (2) A manufacturer of plant must ensure that:
- (a) any guarding used as a measure to control risk in relation to plant is of a kind that can be removed to allow convenient repair, servicing and maintenance of plant at any time that the plant is not in normal operation; and
  - (b) that if guarding is removed the plant cannot be restarted unless the guarding is replaced.

#### **5.1.13 Information must be obtained and provided**

A manufacturer of plant must:

- (a) take all reasonable steps to obtain the information required to be provided to the manufacturer by the designer of the plant under section 22(4)(a) and (c) of the Act and regulations 5.1.2 and 5.1.3; and
  - (b) ensure that 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 regulation 5.1.2 at the time the plant is supplied by the manufacturer; and
  - (c) if the manufacturer acts in accordance with regulation 5.1.11(1)(c), ensure that a person to whom the manufacturer supplies the plant
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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 regulation 5.1.3.

**Division 4 Duties of persons conducting businesses or undertakings that supply plant**

**5.1.14 Information to be obtained and provided by importer**

An importer of plant must:

- (a) take all reasonable steps to obtain the information that would be required to be provided by a manufacturer under section 23(4)(a) and (c) of the Act and these Regulations; and
- (b) ensure that the person to whom the plant is supplied is given the information obtained by the importer under paragraph (a) when the plant is supplied.

**5.1.15 Information to be obtained and provided by supplier**

A supplier of plant must:

- (a) take all reasonable steps to obtain the information required to be provided by the manufacturer under section 23(4)(a) and (c) of the Act and these Regulations; and
- (b) ensure that the person to whom the plant is supplied is given the information obtained by the supplier under paragraph (a) when the plant is supplied.

**5.1.16 Supply of second-hand plant—duties of importer**

- (1) An importer of second-hand plant must ensure that, so far as is reasonably practicable, any faults in the plant are identified.

- (2) An importer of second-hand plant must ensure that the person to whom the plant is supplied is advised in writing before the plant is supplied of:
  - (a) the condition of the plant; and
  - (b) any faults identified under subregulation (1); and
  - (c) if appropriate, that the plant should not be used until the faults are rectified.
- (3) This regulation does not apply to plant to be used for scrap or spare parts.

**5.1.17 Supply of second-hand plant—duties of supplier**

- (1) A supplier of second-hand plant must ensure that, so far as is reasonably practicable, any faults in the plant are identified.
- (2) A supplier of second-hand plant must ensure that the person to whom the plant is supplied is advised in writing before the plant is supplied of:
  - (a) the condition of the plant; and
  - (b) any faults identified under subregulation (1); and
  - (c) if appropriate, that the plant should not be used until the faults are rectified.
- (3) This regulation does not apply to plant to be used for scrap or spare parts.

**5.1.18 Second-hand plant to be used for scrap or spare parts**

- (1) An importer of plant to be used for scrap or spare parts must, before the plant is supplied, advise the person to whom the plant is supplied, either in writing or by marking the plant, of the purposes for which the plant may be safely used and that the plant in its current form is not be used as plant.

- (2) A supplier of plant to be used for scrap or spare parts must, before the plant is supplied, advise the person to whom the plant is supplied, either in writing or by marking the plant, of the purposes for which the plant may be safely used and that the plant in its current form is not be used as plant.

**Division 5      Duties of persons conducting businesses or undertakings that install, construct or commission plant or structures**

**5.1.19 Duties of persons conducting businesses or undertakings that install, construct or commission plant**

- (1) This regulation applies to a person who conducts a business or undertaking that installs, constructs or commissions plant that is to be used, or could reasonably be expected to be used, as, or at, a workplace.
- (2) The person must ensure that the plant is installed, constructed or commissioned having regard to:
  - (a) the information provided by the designer or manufacturer of the plant under the Act and these Regulations; or
  - (b) the instructions provided by a competent person to the extent that those instructions relate to health and safety.

**5.1.20 Duties of persons conducting businesses or undertakings that install, construct or commission structures**

- (1) This regulation applies to a person who conducts a business or undertaking that installs, constructs or commissions a structure that is to be used, or could reasonably be expected to be used, as or at, a workplace.
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- (2) The person must ensure that the structure is installed, constructed or commissioned having regard to:
  - (a) the information provided by the designer or manufacturer of the structure under the Act and these Regulations; or
  - (b) the instructions provided by a competent person to the extent that those instructions relate to health and safety.

**Division 6      Duties of persons conducting businesses or undertakings involving 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 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 and control of plant at a workplace* in regulation 1.1.5 and section 21 of the Act.

**5.1.21 General risk control**

- (1) This regulation applies if it is not reasonably practicable to eliminate risks to health and safety associated with plant.
  - (2) The person with management or control of the plant must minimise risks to health and safety associated with plant, so far as is reasonably practicable, by implementing any of the following risk control measures:
    - (a) substituting, for a hazard giving rise to a risk to health and safety, a new activity, procedure, plant, process or substance that lessens the risk to health and safety; or
    - (b) isolating persons from the hazard; or
    - (c) implementing engineering controls; or
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- (d) combining any of the risk control measures specified in paragraphs (a), (b) and (c).
- (3) If complying with subregulation (2) does not minimise the risks so far as is reasonably practicable, the person must minimise the remaining risk, so far as is reasonably practicable, by implementing administrative controls.
- (4) If complying with subregulations (2) and (3) does not minimise the risks so far as is reasonably practicable, the person must minimise the remaining risk, so far as is reasonably practicable, by providing appropriate personal protective equipment to persons who are at risk.

**5.1.22 Control of risks arising from installation or commissioning**

- (1) A person with management or control of plant at a workplace must ensure that the plant is not commissioned unless the person has established, so far as is reasonably practicable, that it is safe to commission the plant.
  - (2) A person with management or control of plant at a workplace must ensure that the plant is not decommissioned or dismantled unless the person has established, so far as is reasonably practicable, that it is safe to decommission or dismantle the plant.
  - (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.
  - (4) A person with management or control of plant at a workplace must ensure, so far as is reasonably practicable, that a person who installs, assembles, constructs, commissions or decommissions or dismantles the plant is provided with all
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information necessary to eliminate or minimise risks to health or safety.

- (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 that risks associated with these activities are monitored.

#### **5.1.23 Review of risk control measures**

- (1) A person with management or control of plant at a workplace must ensure that measures implemented to control risks to health and safety associated with plant or its associated systems of work are reviewed and, as necessary, revised:
    - (a) before the plant is used for the first time in a workplace;
    - (b) before any alteration is made to the plant or any change is made in the way the plant is used or in its associated systems of work, including a change in the location of the plant;
    - (c) if new or additional information about hazards or risks relating to the plant or its associated systems of work becomes available to the person;
    - (d) after a notifiable incident occurs that involves the plant or its associated systems of work;
    - (e) there is evidence that a control measure is not adequately controlling risks to health and safety associated with the plant or its associated systems of work;
    - (f) a health and safety representative at the workplace requests the review.
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- (2) A health and safety representative at a workplace may request a review of risk control measures relating to risks to health and safety associated with plant or its associated systems of work if the health and safety representative believes on reasonable grounds that:
- (a) a circumstance specified in subregulations (1)(a) to (1)(e) exists; and
  - (b) the person with management or control of the plant at the workplace has not ensured an adequate review of the risk control measures in response to that circumstance.

**5.1.24 Preventing unauthorised alterations to or interference with plant**

The person with management or control of plant at a workplace must ensure that measures are implemented to prevent alterations to or interference with the plant that are not authorised by the person.

**5.1.25 Proper use of plant and controls**

- (1) A person with management or control of plant at a workplace must ensure that plant is used only for the purpose for which it was designed, unless the person has determined, in accordance with subregulation (2), that the proposed use does not increase the risk to health or safety.
  - (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.
  - (3) The person with management or control of plant at a workplace must ensure that all health and safety features and warning devices (including guarding, operational controls, emergency stops and warning devices) are used in accordance with
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the instructions and information provided by that person under regulation 5.1.28.

**5.1.26 Plant not in use**

A 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.

**5.1.27 Records of specified plant**

- (1) A person with management or control of specified plant at a workplace must keep a record of all tests, inspections, maintenance, commissioning, decommissioning, dismantling and alterations of the plant.
- (2) The records must be kept for:
  - (a) 5 years unless paragraph (b) applies;
  - (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 with management or control of specified plant at a workplace must keep the records available for inspection under the Act.
- (4) The person with management and control of specified plant at a workplace must make the records available to any person to whom the person relinquishes control of the plant.
- (5) In this regulation *specified plant* means any of the following:
  - (a) plant that is required by Division 2 of Part 5.2 to be registered;
  - (b) an industrial lift truck;
  - (c) a mobile crane;

- (d) a hoist designed to lift persons, with a platform movement that exceeds 2·4 metres;
- (e) a boom-type elevating work platform;
- (f) a presence sensing safeguarding system;
- (g) a vehicle hoist;
- (h) a mast climbing work platform;
- (i) a gantry crane that:
  - (i) exceeds 5 tonnes; or
  - (ii) is designed to lift molten metal or dangerous goods;
- (j) a bridge crane that:
  - (i) exceeds 10 tonnes lifting capacity; or
  - (ii) is designed to lift molten metal or dangerous goods.

#### **5.1.28 Information, training, instruction and supervision**

- (1) A person with management or control of plant at a workplace must ensure that any worker or other person at the workplace who may be exposed to a risk arising from the use or presence of plant, and any supervisor of that worker, are provided with relevant information, training and instruction in relation to the following before being exposed to the plant:
  - (a) the nature of any hazards associated with:
    - (i) the plant; and
    - (ii) systems of work that involve the plant; and
  - (b) the processes used for the identification of hazards and the assessment and control of risks;

- (c) the need for, and the proper use and maintenance of, risk control measures;
  - (d) safety procedures associated with the plant;
  - (e) the use, fit, testing and storage of personal protective equipment;
  - (f) the availability and use of specific information relating to the plant.
- (2) A person with management or control of plant at a workplace must ensure that persons who are to use plant are, before using the plant, provided with any information, training, instruction or supervision that is necessary to protect them from risks to their health and safety arising from using the plant.
- (3) A person with management or control of plant at a workplace must ensure that necessary safety information is provided to persons who are involved in the following:
- (a) installing, constructing or commissioning plant;
  - (b) testing and inspecting plant;
  - (c) decommissioning, dismantling or disposing of plant.
- (4) A person with management or control of plant at a workplace must ensure that information about any emergency procedures relating to plant is displayed so that it can be readily seen by persons who may be affected by the operation of the plant.

#### **5.1.29 Guarding**

- (1) This regulation applies if guarding is used as a measure to control risk associated with plant at a workplace.

- (2) A person with management or control of the plant at a workplace must ensure that:
    - (a) if access to the area of the plant requiring guarding is not necessary during operation, maintenance or cleaning of the plant, the guarding is a permanently fixed physical barrier; or
    - (b) if access to the area of the plant requiring guarding is necessary during operation, maintenance or cleaning of the plant, the guarding is an interlocked physical barrier that allows access to the area being guarded at times when that area does not present a risk and prevents access to that area at any other time; or
    - (c) if it is not reasonably practicable to use guarding referred to in paragraph (a) or (b), the guarding is a physical barrier that can only be altered or removed by the use of tools; or
    - (d) if it is not reasonably practicable to use guarding referred to in paragraph (a), (b) or (c), the guarding includes a presence-sensing safeguarding system that eliminates any risk arising from the area of the plant requiring guarding while a person or any part of a person is in the area being guarded.
  - (3) The person with management or control of the plant at the workplace 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
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- (c) does not create a risk in itself; and
  - (d) is properly maintained.
- (4) If the plant to be guarded contains moving parts which may break or cause workpieces to be ejected from the plant, the person with management or control of plant at the workplace must ensure, so far as is reasonably practicable, that the guarding will control any risk from those broken or ejected parts and workpieces.
- (5) Despite anything to the contrary in this regulation, a person with management or control of plant at a workplace must ensure that:
- (a) the guarding is of a kind that can be removed to allow convenient repair, servicing and maintenance of plant at any time that the plant is not in normal operation; and
  - (b) if guarding is removed the plant cannot be restarted unless the guarding is replaced.

#### **5.1.30 Guarding and insulation from heat and cold**

A 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.

#### **5.1.31 Operational controls**

- (1) A person with management or control of plant at a workplace must ensure that any operator's controls are:
- (a) suitably identified on the plant so as to indicate their nature and function; and
  - (b) located so as to be readily and conveniently operated by each person using the plant; and
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- (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.
- (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 must ensure that the controls:
- (a) permit operation of the plant while a person is undertaking the maintenance or cleaning of the plant; and
  - (b) 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.

#### **5.1.32 Emergency stops**

- (1) A person with management or control of plant at a workplace must, if the plant is designed to be operated or attended by more than one person and more than one emergency stop control is fitted, ensure that the multiple emergency stop controls are of the "stop and lock-off" type so that the plant cannot be restarted after an emergency stop control has been used unless each emergency stop control is reset.

- (2) A person with management or control of plant at a workplace must, if the plant includes an emergency stop control, ensure that:
- (a) the device 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 device is coloured red; and
  - (c) the device cannot be adversely affected by electrical or electronic circuit malfunction.

#### **5.1.33 Warning devices**

A person with management or control of plant at a workplace must, if the design of plant includes an emergency warning device or a risk assessment of plant identifies a need to provide an emergency warning device for the plant, ensure that the device is positioned on the plant to ensure that the device will work to best effect.

### **Division 7 Duties of persons conducting businesses or undertakings involving management or control of specific 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 and control of plant at a workplace* in regulation 1.1.5 and section 21 of the Act.

#### **5.1.34 Powered mobile plant—general control of risk**

- (1) A person with management or control of powered mobile plant at a workplace must, so far as is reasonably practicable, eliminate the risk of:
- (a) the plant overturning; or
  - (b) things falling on the operator of the plant; or
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- (c) the operator being ejected from the plant; or
  - (d) the plant colliding with any person or thing.
- (2) If it is not reasonably practicable to eliminate risks in accordance with subregulation (1), the person with management or control of powered mobile plant at a workplace must minimise the risks so far as is reasonably practicable.

**5.1.35 Powered mobile plant—specific controls**

- (1) Without limiting regulation 5.1.34(2), a person with management or control of powered mobile plant at a workplace must ensure, so far as is reasonably practicable, that an appropriate combination of operator protective devices is provided, maintained and used.
  - (2) Without limiting regulation 5.1.34(2), a person with management or control of powered mobile plant at a workplace must ensure, so far as is reasonably practicable, that no person other than the operator rides on powered mobile plant unless the person is provided with a level of protection that is equivalent to that provided to the operator.
  - (3) Without limiting regulation 5.1.34(2), a person with management or control of powered mobile plant at a workplace must ensure that the risk of powered mobile plant colliding with pedestrians or other powered mobile plant is:
    - (a) eliminated so far as is reasonably practicable; or
    - (b) if it is not reasonably practicable to eliminate the risk, minimised so far as is reasonably practicable.
  - (4) Without limiting subregulation (3), if there is a possibility of powered mobile plant at a workplace colliding with pedestrians or other powered mobile plant, the person with management or
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control of the powered mobile plant must ensure that the plant has a warning device that will warn persons who may be at risk from the movement of the plant.

#### **5.1.36 Roll-over protection on tractors**

- (1) A person with management or control of a tractor at a workplace that was manufactured, imported or originally purchased after 1981 must ensure that the tractor is not used unless it is securely fitted with roll-over protective structure that conforms with the relevant standards.
- (2) A person with management or control of a tractor at a workplace that was manufactured, imported or originally purchased during or before 1981 must ensure that the tractor is not used unless:
  - (a) it is securely fitted with roll-over protective structure that conforms with the relevant standards; or
  - (b) if such a structure is not available, an alternative roll-over protective structure designed by a suitably qualified engineer having regard to the performance requirements of the relevant standards.
- (3) In designing an alternative structure for the purposes of subregulation (2)(b), an engineer may, if satisfied that deformation testing is not required, substitute calculated deformations.
- (4) An alternative structure designed for the purposes of subregulation (2)(b) must be identified with the information required by the relevant standards.
- (5) If a tractor is used in a place that is too low for the tractor to work while it is fitted with a roll-over protective structure, the structure may be lowered or removed for the period during which the tractor is used in such a situation (but only if other

measures to minimise the risk of roll-over or harm from falling objects are in place).

- (6) This regulation does not apply if the tractor is:
- (a) installed in a fixed position, and in a manner which would no longer permit it to be used as a powered mobile plant; or
  - (b) a tractor with a mass of less than 560 kilograms or a mass of 15 000 kilograms or more; or
  - (c) being used for a historical activity.

- (7) In this regulation:

**historical activity**, in relation to the use of a tractor, includes an activity ancillary to a historical activity.

**Examples**

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

**relevant standards** means the relevant standards for rollover protection for tractors published by SafeWork Australia on its website.

**Note**

Regulations 5.1.34 and 5.1.35 will also apply to a tractor.

**5.1.37 Protective structures on earthmoving machinery**

- (1) A person with management or control of earthmoving machinery at a workplace that was manufactured, imported or originally purchased after 1 January 1989 must ensure that the machinery is not used unless it is securely fitted with:

- (a) a protective structure that conforms with the relevant standards; or
  - (b) if such a structure is not available, an alternative structure designed by a suitably qualified engineer having regard to the performance standards under the relevant standards.
- (2) In designing an alternative structure for the purposes of subregulation (1)(b), an engineer may, if satisfied that deformation testing is not required, substitute calculated deformations.
- (3) An alternative structure designed for the purposes of subregulation (1)(b) must be identified with the information required by the relevant standards.
- (4) In this regulation:
- relevant standards* means the relevant standards for protective structures for earthmoving machinery published by SafeWork Australia on its website.

**Note**

Regulations 5.1.34 and 5.1.35 will also apply to earthmoving machinery.

**5.1.38 Inspection of registered mobile cranes and tower cranes**

- (1) A person with management or control of a mobile crane or tower crane must ensure that it is inspected by a competent person every 10 years from the date of registration of the crane under Part 5.2.
- (2) In this regulation *competent person* has the same meaning as it has in regulation 5.2.27.

### **5.1.39 Industrial lift trucks**

- (1) A person with management or control of an industrial lift truck must ensure that the truck is:
  - (a) equipped with lifting attachments that are appropriate to 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 are eliminated so far as is reasonably practicable or, if it is not reasonably practicable to eliminate the risks, reduced so far as is reasonably practicable.
- (2) A person with management or control of an industrial lift truck must ensure that any person other than the operator, who rides on an industrial lift truck, is seated in a seat that is:
  - (a) specifically designed for carrying a passenger; and
  - (b) fitted with appropriate seat restraints; and
  - (c) located within the zone of protection that is provided by the operator protective device required to be fitted to the industrial lift truck.

#### **Note**

Regulations 5.1.34 and 5.1.35 will also apply to an industrial lift truck.

### **5.1.40 Plant that lifts or suspends loads**

- (1) This regulation:
  - (a) applies to plant that is used to lift or suspend persons, plant, substances or things;

- (b) does not apply to plant used in connection with:
- (i) stunt work; or
  - (ii) acrobatics; or
  - (iii) theatrical performances.

**Note**

Part 4.4 will apply to the matters in subregulation (1)(b).

- (2) A person with management or control of plant at a workplace must ensure, so far as is reasonably practicable, that plant is specifically designed to lift or suspend the loads for which it is to be used.
- (3) If it is not reasonably practicable to use plant that its specifically designed to lift or suspend the loads for which it is to be used, the person with management or control of plant at a workplace must ensure that:
  - (a) the plant used to lift or suspend load does not cause a greater risk than if specifically designed plant were used; and
  - (b) if the plant is lifting or suspending persons:
    - (i) the persons are lifted or suspended in a work box that is securely attached to the plant; and
    - (ii) the persons in the work box remain substantially within the work box while they are being lifted or suspended; and
    - (iii) 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



- (iv) 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 the normal operation.
- (4) A person with management or control of plant at a workplace must ensure that the lifting and suspending is carried out:
  - (a) with lifting attachments that are appropriate to the load being lifted or suspended; and
  - (b) within the safe working limits of the plant.
- (5) A person with management or control of plant (other than an amusement device) at a workplace must ensure, so far as is reasonably practicable, that no loads are suspended or travel over a person.
- (6) A person with management or control of plant at a workplace 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.
- (7) A person with management or control of plant at a workplace must ensure, so far as is reasonably practicable, that no load is lifted simultaneously by more than one piece of plant unless each piece of plant used is specifically designed for that purpose.

#### **5.1.41 Lifts**

- (1) A 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 preclude 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 as a result of objects falling onto that person, a secure barrier is provided to prevent, so far as is reasonably practicable, falling objects from striking the person or otherwise causing a risk; and
  - (c) if there is a risk to a person working in a lift well as a result of movement of a lift car, measures are taken to ensure the risk is eliminated or, if it is not reasonably practicable to eliminate the risk, minimised so far as is reasonably practicable.
- (2) A person with management or control of the lift at a workplace must ensure that there is a safe means of entry to and exit from the base of the lift well.
- (3) If a lift is required to be registered under Division 2 of Part 5.2, a person with management or control of the lift must ensure that any risk to people travelling in the lift or associated with the use of a lift, is:
- (a) eliminated so far as is reasonably practicable; or
  - (b) if it is not reasonably practicable to eliminate the risk, minimised so far as is reasonably practicable.
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- (4) If subregulation (3) applies to a person in respect of a lift, the person must ensure that there is fixed, in a conspicuous place in the lift, a legible notice that states the safe working load specified in the design of the lift.

#### **5.1.42 Scaffolds**

- (1) This regulation applies to:
- (a) a suspended scaffold; and
  - (b) a cantilevered scaffold; and
  - (c) a spur scaffold; and
  - (d) a hung scaffold; and
  - (e) any other scaffold from which a person or thing could fall more than 4 metres.
- (2) A 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.
- (3) A 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
  - (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.

- (4) If an inspection indicates that a scaffold at a workplace or its supporting structure is unsafe, the person with management or control of the scaffold at the workplace must ensure that:
  - (a) all appropriate 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.
- (5) A person with management or control of a scaffold at a workplace must ensure the implementation of controls that prevent unauthorised access to the scaffold while the scaffold is incomplete and unattended.

**Example**

Danger tags and other warning signs.

**5.1.43 Pressure equipment**

- (1) A person with management or control of pressure equipment (other than a gas cylinder) at a workplace must ensure that the pressure equipment is installed, tested, commissioned, operated and maintained so as to eliminate risks to health and safety of any person arising from the use of the equipment.
- (2) A person with management or control of pressure equipment at a workplace must ensure that:
  - (a) the equipment is inspected on a regular basis by a competent person; and
  - (b) any gas cylinder that is inspected is marked with a current inspection mark showing the most recent inspection.
- (3) A 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) each gas cylinder is only filled with gas for which that cylinder is designed.

#### **5.1.44 Industrial robots**

- (1) This regulation applies to the person with management or control of an industrial robot or other remotely controlled or automatically energised plant at a workplace.
- (2) The person must not permit a worker to work in the immediate vicinity of the plant if it could start without warning and cause a hazard, unless appropriate controls and systems of work are in place to control the risks to health and safety.
- (3) The person must not permit a worker to work in the immediate vicinity of the plant if it could activate or deactivate in an uncontrolled manner or move in an unexpected manner.
- (4) 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 by:
  - (a) isolating the area; or
  - (b) providing:
    - (i) interlocked guards; or
    - (ii) presence-sensing devices; or
    - (iii) permit to work systems.

#### **5.1.45 Lasers**

- (1) This regulation applies to a person with management or control of laser equipment at a workplace.
-

- (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.
- (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.
- (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.
- (5) If the laser equipment is used in construction work, the person must ensure that the workers operating the equipment are trained in the proper operation of the equipment.
- (6) The person must ensure that laser equipment that is capable of producing diffuse reflections or that may constitute a fire hazard is not used in construction work.

**Division 8      Additional duties of persons conducting businesses or undertakings involving management or control of amusement devices**

**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 and control of plant at a workplace* in regulation 1.1.5 and section 21 of the Act.
- 2    This Division applies in addition to Division 5.

#### **5.1.46 Operation of amusement devices**

- (1) A person with management or control of an amusement device at a workplace must ensure that the amusement device is operated only by a person (the *operator*) who is competent to operate it.
- (2) A person with management or control of an amusement device at a workplace must ensure that the operator of the amusement device:
  - (a) checks the amusement device before it is operated on each day on which it is to be operated; and
  - (b) operates the amusement device without passengers before operating it with passengers on each day on which the amusement device is to be operated; and
  - (c) ensures that each daily check and operation of the amusement device without passengers is properly and accurately recorded in the log book for the amusement device.

#### **5.1.47 Storage of amusement devices**

- (1) A person with management or control of an amusement device at a workplace must ensure that the device is not stored unless the person has established, so far as is reasonably practicable, that it is safe to store the device.
- (2) A 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.

**5.1.48 Maintenance, repair, 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, repair, 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.
- (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.

**5.1.49 Annual inspection of amusement device by engineer**

- (1) A 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 professional engineer.
  - (2) A detailed annual inspection carried out by a professional engineer under subregulation (1) must include:
    - (a) a check of information relating to the operational history of the amusement device since the last detailed inspection; and
-



- (b) a check of the log book for the amusement device; and
  - (c) a check that maintenance and inspections have been undertaken in accordance with the regulation 5.1.48; and
  - (d) a check that any required tests have been conducted, and that appropriate records have been maintained; and
  - (e) a detailed inspection of the amusement device to ensure compliance with the Act and these Regulations (including a specific inspection of the critical components of the amusement device).
- (3) In this regulation:

*professional engineer* means a person:

- (a) who is registered on the National Professional Engineers Register administered by the Institution of Engineers, Australia and has experience in dealing with amusement devices; or
- (b) who is a member of the Institution of Engineers Australia with the status of Chartered Professional Engineer and has the competence to inspect plant or structures; or
- (c) who has skills, qualifications and experience determined by the regulator to be appropriate for the purposes of this regulation.

#### **5.1.50 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 regulation 5.1.27, 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.

**Note**

The record-keeping duty imposed by regulation 5.1.27 applies in relation to amusement devices.

- (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 de-commissioning, dismantling and disposal, of an amusement device are provided with:
  - (a) the log book for the amusement device in which details concerning erection, storage, operation, maintenance and repair of the amusement device are recorded; and
  - (b) the operating and maintenance manuals for the amusement device.

## **Part 5.2 Registration of Plant Designs and Plant**

### **Division 1 Plant designs to be registered**

#### **5.2.1 Plant design to be registered**

The design of an item of plant specified in Part 1 of Schedule 6, must be registered in accordance with this Part.

**Note**

See section 42 of the Act.

#### **5.2.2 Altered plant designs to be registered**

- (1) If the design of an item of plant specified in Part 1 of Schedule 6 that is registered under this Part is altered the altered design must be registered in accordance with this Part.

**Note**

See section 42 of the Act.

- (2) In this regulation a reference to the alteration of a design is a reference to an alteration that may require new risk control measures to protect health and safety.

#### **5.2.3 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 has been registered by a corresponding regulator under a corresponding WHS law.
- (2) A design referred to in subregulation (1) that is altered is not required to be registered under this Part if the altered design has been registered by the corresponding regulator that registered the original plant or structure design.

**5.2.4 Duty of persons conducting businesses or undertakings that manufacture plant**

A manufacturer must not manufacture plant specified in Part 1 of Schedule 6 unless the design of that plant is registered under this Part.

**5.2.5 Duty of persons conducting businesses or undertakings that import plant**

An importer must not supply plant specified in Part 1 of Schedule 6 unless the design of that plant has been registered under this Part.

**5.2.6 Duty of persons conducting businesses or undertakings that supply plant**

A supplier must not supply plant specified in Part 1 of Schedule 6 unless the design of that plant has been registered under this Part.

**Division 2 Items of plant to be registered**

**5.2.7 Items of plant to be registered**

An item of plant specified in Part 2 of Schedule 6 must be registered in accordance with this Part.

**Note**

See section 42 of the Act.

**5.2.8 Recognition of mobile plant registered by corresponding regulator**

An item of plant is not required to be registered under this Part if the plant has been registered by a corresponding regulator under a corresponding WHS law.

**5.2.9 Duty of persons conducting businesses or undertakings that install, construct or commission plant**

- (1) This regulation applies to a person who conducts a business or undertaking of installing, constructing or commissioning plant.
-

- (2) The person must not install, construct or commission an item of plant that is specified in Part 2 of Schedule 6 unless that item of plant has been registered under this Part.

### **Division 3 Registration process for plant designs**

#### **5.2.10 Application of Division and purpose of registration**

- (1) This Division applies to the registration of a plant design specified in Part 1 of Schedule 6 as requiring registration.
- (2) The purpose of registering a plant design is to ensure that the design is verified as meeting the relevant published technical standards and engineering principles.

#### **5.2.11 Application for registration**

- (1) An application for registration of a plant design must be made in the manner and form required by the regulator.
- (2) The application must include the following information:
  - (a) the applicant's name; and
  - (b) other evidence of identity required by the regulator; and
  - (c) whether the applicant is a body corporate; and
  - (d) a statement signed by the designer of the plant:
    - (i) stating that the designer has complied with the designer's obligations under section 22 of the Act in respect of the design of the plant; and
    - (ii) specifying the published technical standards and engineering principles used in the design; and

- (e) a design verification statement that accords with regulation 5.2.12; and
  - (f) representational drawings of the plant design; and
  - (g) a declaration to the effect 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 not be greater than A3 in size and must be capable of being kept in an electronic form.
- (4) The application must be accompanied by the relevant fee.

**Note**

See the jurisdictional note in the Appendix.

**5.2.12 Design verification statement**

The design verification statement must:

- (a) be made in writing and signed by a person who is eligible to be a design verifier for the design; and
- (b) state that the design was produced in accordance with published technical standards or engineering principles specified in the statement; and
- (c) include:
  - (i) the name, business address and qualifications (if applicable) of the design verifier; and
  - (ii) if applicable, the name and business address of the organisation for which the design verifier works.

**5.2.13 Who can be the design verifier for a design of plant**

- (1) A person is eligible to be a design verifier for a design of plant if:
    - (a) the person has:
      - (i) educational or vocational qualifications in an engineering discipline relevant to the design to be verified; or
      - (ii) knowledge of the technical standards relevant to the design to be verified; or
      - (iii) the skills necessary to independently verify that the design was produced in accordance with the published technical standards and engineering principles used in the design; or
    - (b) the person is accredited by a body that is accredited or approved by the Joint Accreditation System—Australia and New Zealand or the National Association of Testing Authorities, to undertake conformity assessments in relation to the technical standards relevant to the design to be verified; or
    - (c) the person is accredited by a body that is accredited or approved by an overseas body that is equivalent to the Joint Accreditation System—Australia and New Zealand or the National Association of Testing Authorities, to undertake conformity assessments in relation to the technical standards relevant to the design to be verified.
  - (2) A person is not eligible to be the design verifier for a design of plant or a structure if:
    - (a) the person was involved in 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) Subregulation (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.

#### **5.2.14 Duty of design verifier**

A design verifier of a design of plant specified in Part 1 of Schedule 6 must document the design verification process carried out by that person and the results of that process.

#### **5.2.15 Design verification statements not to be made in certain circumstances**

A person must not make a design verification statement for a design of plant specified in Part 1 of Schedule 6 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.

#### **5.2.16 Additional information**

- (1) If an application for registration does not contain enough information to enable the regulator to make a decision whether or not to grant the registration, the regulator may ask the applicant to provide additional information.
  - (2) A request for additional information must:
    - (a) specify the date 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 regulation.

#### **5.2.17 Decision on application**

- (1) Subject to subregulation (2), the regulator must grant the registration if satisfied that:
    - (a) the application has been made in accordance with this Division; and
    - (b) the applicant does not hold an equivalent registration under a corresponding WHS law; and
    - (c) if the applicant is an individual, the applicant:
      - (i) resides in [this jurisdiction]; or
      - (ii) resides outside [this jurisdiction] and satisfies the regulator that circumstances exist that justify the grant of the registration; and
    - (d) if the applicant is a body corporate, the applicant's registered office:
      - (i) is located in [this jurisdiction]; or
      - (ii) is located outside [this jurisdiction] and the applicant has satisfied the regulator that circumstances exist that justify the grant of the registration; and
    - (e) the applicant is able to ensure compliance with any conditions that will apply to the registration.
  - (2) The regulator must refuse to grant a registration if it is 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.
- (3) If the regulator decides to grant the registration, it must notify the applicant within 30 days after making the decision.
- (4) If the regulator does not make a decision within 120 days after receiving the application, the regulator is taken to have refused to grant the registration applied for.

#### **5.2.18 Refusal of registration**

If the regulator refuses to grant a registration, the regulator must, as soon as practicable, give the applicant written notice of the decision setting out the reasons for the decision.

##### **Note**

A decision to refuse an application for registration is a reviewable decision (see regulation 10.1.1).

#### **5.2.19 Conditions of registration**

- (1) The regulator may impose any conditions on the registration it considers appropriate when granting the registration.
- (2) Without limiting subregulation (1), the regulator may impose conditions in relation to the following matters:
- (a) the recording or keeping of information;
  - (b) 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 regulation 10.1.1).

**5.2.20 Registration of plant design granted for unlimited duration**

A registration of a plant design is granted for an unlimited duration.

**5.2.21 Design registration number**

- (1) This regulation applies if the regulator registers a plant design.
- (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 to that design.
- (4) The manufacturer, supplier or importer of plant to whom a design registration number is given under this regulation must give that number to the person with management or control of the plant manufactured to that design or supplied to that person by the manufacturer, supplier or importer.
- (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.

**5.2.22 Registration document**

- (1) If the regulator registers a plant design, the regulator must issue to the applicant a registration document in the form determined 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 of the plant design;  
and
- (d) the date on which the registration takes  
effect.

**5.2.23 Registration document to be available**

A registration holder must keep the registration document available for inspection by an inspector under the Act.

**5.2.24 Disclosure of design information**

- (1) Subject to this regulation, the regulator must not disclose to any person any confidential information provided by an applicant for registration of a plant design.
- (2) The regulator may disclose information relating to a plant design in the following circumstances:
  - (a) to a corresponding regulator or an authorised officer of a corresponding regulator, at the request of the corresponding regulator;
  - (b) to any person authorised by the applicant for the registration of the design.
- (3) The regulator may 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 relating to the design of the plant 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 plant**

**5.2.25 Application of Division and purpose of registration**

- (1) This Division applies to the registration of an item of plant specified in Part 2 of Schedule 6 as requiring registration.
- (2) The purpose of registering an item of plant is to ensure that it is inspected by a competent person to ensure it is safe to operate.

**5.2.26 Application for registration**

- (1) An application for registration of an item of plant must be made in the manner and form required by the regulator.
  - (2) The application must include the following information:
    - (a) the applicant's name; and
    - (b) other evidence of identity required by the regulator; and
    - (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; and
    - (d) sufficient information to clearly identify the item of plant; and
    - (e) if the design of the plant was also required to be registered under this Part, details of:
      - (i) the design registration number; and
      - (ii) the regulator or corresponding regulator which registered the design; and
    - (f) a statement that the item of plant has been inspected by a competent person and is safe to operate; and
-

- (g) a declaration to the effect 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.

**Note**

See the jurisdictional note in the Appendix.

**5.2.27 When is a person competent to inspect plant**

A person is a competent person to inspect an item of plant if:

- (a) the person has:
  - (i) educational or vocational qualifications in an engineering discipline relevant to the plant to be inspected; or
  - (ii) knowledge of the technical standards relevant to the plant to be inspected; or
- (b) the person is accredited by a body accredited or approved by the Joint Accreditation System—Australia and New Zealand or the National Association of Testing Authorities, to undertake conformity assessments in relation to the technical standards relevant to the plant to be inspected; or
- (c) the person is accredited by a body accredited or approved by an overseas body that is equivalent to the Joint Accreditation System—Australia and New Zealand or the National Association of Testing Authorities, to undertake conformity assessments in relation to the technical standards relevant to the plant to be inspected.

**5.2.28 Additional information**

- (1) If an application for registration does not contain enough information to enable the regulator to make a decision whether or not to grant the registration, the regulator may ask the applicant to provide additional information.
- (2) A request for additional information must:
  - (a) specify the date 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 regulation.

**5.2.29 Decision on application**

- (1) Subject to subregulation (2), the regulator must grant the registration if satisfied that:
  - (a) the application has been made in accordance with this Division; and
  - (b) the applicant does not hold an equivalent registration under a corresponding WHS law; and
  - (c) the plant is:
    - (i) located in [this jurisdiction]; or
    - (ii) located outside [this jurisdiction] and the the regulator is satisfied that circumstances exist that justify the grant of the registration; and

- (d) if the applicant is an individual, the applicant:
    - (i) resides in [this jurisdiction]; or
    - (ii) resides outside [this jurisdiction] and satisfies the regulator that circumstances exist that justify the grant of the registration; and
  - (e) if the applicant is a body corporate, the applicant's registered office:
    - (i) is located in [this jurisdiction]; or
    - (ii) is located outside [this jurisdiction] and the applicant has satisfied the regulator that circumstances exist that justify the grant of the registration; and
  - (f) the applicant is able to ensure compliance with any conditions that will apply to the registration.
- (2) The regulator must refuse to grant a registration if it is 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.
- (3) If the regulator decides to grant the registration, it must notify the applicant within 30 days after making the decision.
- (4) If the regulator does not make a decision within 120 days after receiving the application, the regulator is taken to have refused to grant the registration applied for.



### **5.2.30 Refusal of registration**

If the regulator refuses to grant a registration, the regulator must, as soon as practicable, give the applicant written notice of the decision setting out the reasons for the decision.

#### **Note**

A decision to refuse an application for registration is a reviewable decision (see regulation 10.1.1).

### **5.2.31 Conditions of registration**

- (1) The regulator may impose on the registration of an item of plant any conditions it considers appropriate.
- (2) Without limiting subregulation (1), the regulator may impose conditions in relation to the following matters:
  - (a) matters relating to the use and maintenance of the plant so as to eliminate or, if this is not reasonably practicable, minimise as far as reasonably practicable, risks to health and safety;
  - (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 regulation 10.1.1).

### **5.2.32 Registration of plant granted for unlimited duration**

A registration of an item of plant is granted for an unlimited duration.

#### **Note**

A registration of plant can be cancelled, see regulations 5.2.36(3) and 5.2.37(5).

**5.2.33 Registration number**

- (1) This regulation applies if the regulator registers an item of plant.
- (2) The regulator must issue a registration number for the plant to the registration holder within 30 days after that registration.
- (3) The registration holder must give the registration number to the person with management or control of the plant at a workplace.
- (4) The person with management or control of the plant or structure at a workplace must ensure that the registration number is marked on the item of plant.

**5.2.34 Registration document**

- (1) If the regulator registers an item of plant, the regulator must issue to the applicant a registration document in the form determined by the regulator.
- (2) The registration document must include:
  - (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 on which the registration takes effect.

**5.2.35 Registration document to be available**

The registration holder of an item of plant must keep the registration document available for inspection by an inspector under the Act.

**5.2.36 Annual fee**

- (1) The person with management or control of registered plant must pay to the regulator the annual fee specified in Schedule 2.
- (2) The annual fee is payable each year:
  - (a) on the date on which the annual notice of maintenance is required to be given under regulation 5.2.37; and
  - (b) in the manner determined by the regulator.
- (3) If the annual fee is not paid, the regulator may, by written notice to the owner of the plant or the person who appears to be the person with management or control of the plant, cancel the registration of the plant.

**5.2.37 Annual notice of maintenance of plant**

- (1) The person with management or control at a workplace of a registered item of plant must give the regulator a notice in relation to the maintenance of the plant on each anniversary of the registration of the plant.
- (2) The notice must:
  - (a) be made in the manner and form determined by the regulator; and
  - (b) include:
    - (i) the registration number of the item of plant; and
    - (ii) a statement that the plant has been maintained in a safe condition and is safe to operate; and
    - (iii) other information (if any) required by the regulator.

- (3) The regulator may require additional information be provided in relation to a notice received under this regulation.
- (4) The person with management or control of the plant or structure at a workplace must give the regulator the additional information within the time required by the regulator.
- (5) If this regulation is not complied with, the regulator may cancel the registration of the plant by written notice to the owner of the plant or the person who appears to be the person with management or control of the plant.

**Division 5      Changes to registration and registration documents**

**5.2.38 Application of Division**

This Division applies to:

- (a) the registration of a plant design; and
- (b) the registration of an item of plant.

**5.2.39 Changes to information**

- (1) A registration holder must give the regulator written notice of any change to any material particular in any information given at any time by the registration holder to the regulator in relation to the registration within 14 days after the registration holder becomes aware of the change.
- (2) Subregulation (1) applies whether the information was given in the application for grant of the registration or in any other circumstance.
- (3) Without limiting 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 risk 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.

**5.2.40 Amendment of registration imposed by regulator**

- (1) The regulator may, on its own initiative, amend a registration, including by amending the registration to:
    - (a) vary or delete a condition of the registration; or
    - (b) impose a new condition on the registration.
  - (2) Before amending a registration under this regulation, the regulator must give the registration holder written notice that:
    - (a) sets out the proposed amendment and the reasons for it; and
    - (b) advises the registration holder that the registration holder may make a submission to the regulator in relation to the proposed amendment within a specified period.
  - (3) If the registration holder makes a submission within the time specified in the notice, the regulator must consider that submission.
  - (4) After the time specified in the notice, the regulator may make:
    - (a) the proposed amendment; or
    - (b) a different amendment that results from consideration of any submission made by the registration holder.
-

- (5) If the regulator amends the registration, it must 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) specifies the date, being not less than the relevant prescribed time after the registration holder is given the notice, on which the amendment takes effect.

**Note**

A decision to amend a registration is a reviewable decision (see regulation 10.1.1).

**5.2.41 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 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) advises the registration holder that the registration holder may make a submission to the regulator in relation to the proposed refusal within a specified period.
- (3) If the registration holder makes a submission within the time specified in the notice, the regulator must consider that submission.

- (4) After the time specified 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 specifying 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 licence holder a written notice that:
  - (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) specifies the date, being not less than the relevant prescribed time 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 regulation 10.1.1).

**5.2.42 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.

**5.2.43 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.

**5.2.44 Registration holder to return registration document**

A registration holder must return the registration document to the regulator for amendment at the written request of the regulator within the time specified in the request.

**5.2.45 Replacement registration document**

- (1) A registration holder must give written notice to the regulator as soon as is reasonably practicable if the registration document is lost, stolen or destroyed.
- (2) If a registration document is lost, stolen or destroyed, the registration holder may apply to the regulator for a replacement document.
- (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.



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Part 5.2 Registration of Plant Designs and Plant

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- (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.
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## CHAPTER 6 CONSTRUCTION WORK

### Part 6.1 Preliminary

#### 6.1.1 Meaning of *construction work*

- (1) In this Part, *construction work* means any work carried out in connection with the construction, alteration, conversion, fitting-out, commissioning, renovation, repair, maintenance, refurbishment, demolition, decommissioning or dismantling of a structure.
  - (2) Without limiting subregulation (1), *construction work* includes:
    - (a) any installation and testing carried out in connection with an activity specified in subregulation (1); and
    - (b) the removal from the workplace of any product or waste resulting from demolition; and
    - (c) the prefabrication or testing of elements, at a place specifically established for the construction work, for use in construction work; and
    - (d) the assembly of prefabricated elements to form a structure, or the disassembly of prefabricated elements forming part of a structure; and
    - (e) the installation, testing or maintenance of an essential service in respect of any structure; and
    - (f) any work connected with an excavation or any preparatory work or site preparation (including landscaping as part of site preparation) carried out in connection with an activity specified in subregulation (1); and
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- (g) an activity specified in subregulation (1), that is carried out on, under or near water, including work on buoys and obstructions to navigation.
- (3) In this Part, **construction work** does not include:
  - (a) the manufacture of fixed plant; or
  - (b) the prefabrication of elements as standard stock for sale; or
  - (c) testing, maintenance or repair work of a minor nature carried out in connection with a structure; or
  - (d) mining or the exploration for or extraction of minerals.

#### **6.1.2 Meaning of *high risk construction work***

In this Chapter, **high risk construction work** means construction work that:

- (a) involves a risk of a person falling more than 2 metres; or
- (b) is carried out on a telecommunication tower; or
- (c) involves demolition of an element of a structure that is load-bearing or otherwise related to the physical integrity of the structure; or
- (d) involves, or is likely to involve, the disturbance of asbestos; or
- (e) involves structural alterations or repairs that require temporary support to prevent collapse; or
- (f) involves a confined space; or

- (g) involves:
  - (i) a shaft or trench with an excavated depth greater than 1.5 metres; or
  - (ii) a tunnel; or
- (h) involves the use of explosives; or
- (i) is carried out on or near pressurised gas distribution mains or piping; or
- (j) is carried out on or near chemical, fuel or refrigerant lines; or
- (k) is carried out on or near energised electrical installations or services; or
- (l) is carried out in an area that may have a contaminated or flammable atmosphere; or
- (m) involves tilt-up or precast concrete; or
- (n) is carried out on, in or adjacent to a road, railway, shipping lane or other traffic corridor that is in use by traffic other than pedestrians; or
- (o) is carried out 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.

### **6.1.3 Meaning of *construction project***

In this Chapter, a *construction project* is a project that involves construction work, if the cost of the construction work is \$200 000 or more.

#### **6.1.4 Meaning of *principal contractor***

- (1) In this Chapter, a person conducting a business or undertaking that commissions a construction project is, subject to this regulation, the ***principal contractor*** for the project.
- (2) If the person specified in subregulation (1) engages a 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 to the extent necessary to discharge the duties imposed on 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 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**

### **6.2.1 Person who commissions work must consult with designer**

- (1) A person conducting a business or undertaking that commissions construction work on a structure must, so far as is reasonably practicable, consult with the designer of the whole or any part of the structure about how to ensure that risks to health and safety arising from the design during the construction work are:
  - (a) eliminated, so far as is reasonably practicable; or
  - (b) if it is not reasonably practicable to eliminate the risks, minimised so far as is reasonably practicable.
- (2) Consultation under subregulation (1) must include giving the designer any information that the person conducting the business or undertaking that commissions the construction work has in relation to the hazards and risks at the workplace where the construction work is to be carried out.

### **6.2.2 Designer must give safety report to person who commissions work**

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 that commissioned the construction work a written report that specifies the hazards associated with the design of the structure that:

- (a) create a risk to the health or safety of persons who are to carry out 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.

**6.2.3 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, including a copy of the report given to the person under regulation 6.2.2.

## **Part 6.3 Duties of Person Conducting Business or Undertaking**

### **Division 1 General**

#### **Note**

As a principal contractor is a person conducting a business or undertaking, this Part also applies to a principal contractor.

#### **6.3.1 Control of risk in construction work**

- (1) This regulation applies if it is not reasonably practicable for a person conducting a business or undertaking to eliminate risks to health and safety associated with construction work.
- (2) If it is not reasonably practicable to eliminate risks to health and safety associated with construction work, a person conducting a business or undertaking must minimise those risks so far as is reasonably practicable by implementing any of the following risk control measures:
  - (a) substituting, for a hazard giving rise to a risk to health and safety, a new activity, procedure, plant, process or substance that lessens the risk to health and safety; or
  - (b) isolating persons from the hazard; or
  - (c) implementing engineering controls; or
  - (d) combining any of the risk control measures specified in paragraphs (a), (b) and (c).
- (3) If complying with subregulation (2) does not minimise the risks so far as is reasonably practicable, the person must minimise the remaining risk, so far as is reasonably practicable, by implementing administrative controls.



- (4) If complying with subregulations (2) and (3) does not minimise the risks so far as is reasonably practicable, the person must minimise the remaining risk, so far as is reasonably practicable, by providing appropriate personal protective equipment to persons who are at risk.

### **6.3.2 Review of risk control measures**

- (1) A person conducting a business or undertaking must review and as necessary revise control measures implemented to control risks to health and safety associated with construction work in the following circumstances:
- (a) before any change is made to:
    - (i) the way construction work is carried out; or
    - (ii) a system of work associated with the construction work; or
    - (iii) the location of the construction work;
  - (b) if a new hazard associated with the construction work is identified or new or additional information about a known hazard becomes available;
  - (c) if a notifiable incident occurs in relation to construction work;
  - (d) if a control measure does not control risk;
  - (e) if a health and safety representative at the workplace requests a review.
- (2) A health and safety representative at a workplace may request a review of risk control measures if the health and safety representative believes on reasonable grounds that:
- (a) a circumstance specified in subregulation (1)(a), (b), (c) or (d) exists; and

- (b) the person conducting the business or undertaking has not adequately reviewed the risk control measures in response to that circumstance.

**Division 2 High risk construction work—safe work method statements**

**6.3.3 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.
  - (2) A safe work method statement must:
    - (a) identify work that is high risk construction work; and
    - (b) specify hazards associated with that high risk construction work and risks associated with those hazards; and
    - (c) describe the measures to be implemented to control those risks; and
    - (d) describe how the risk control measures are to be implemented, monitored and reviewed.
  - (3) A safe work method statement must:
    - (a) take 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
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- (ii) if the high risk construction work is carried out in connection with a construction project, the WHS management plan that has been prepared for the workplace; and
- (b) be set out and expressed in a way that is readily accessible and comprehensible to persons who use it.

#### **6.3.4 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 risk control measures are revised under regulation 6.3.2.

#### **6.3.5 Compliance with safe work method statement**

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:

- (a) high risk construction work is carried out in accordance with the safe work method statement for the work; and
- (b) if high risk construction work is not carried out in accordance with the safe work method statement for the work, the work:
  - (i) is stopped immediately or as soon as it is safe to do so; and
  - (ii) resumed in accordance with the statement.

#### **6.3.6 Safe work method statement—copy to be given to principal contractor**

A person conducting a business or undertaking that includes carrying out high risk construction work in connection with a construction project

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must, before the high risk construction work commences, ensure that a safe work method statement is given to the principal contractor.

**6.3.7 Safe work method statement must be kept**

- (1) A person conducting a business or undertaking must ensure that the safe work method statement is, for the period specified in subregulation (3), kept so as to be readily available for inspection under the Act.
- (2) A person conducting a business or undertaking must ensure that a copy of the safe work method statement is made available to any person engaged by the person conducting the business or undertaking to carry out high risk construction work, on request.
- (3) A safe work method statement must be kept:
  - (a) if a notifiable incident occurs in connection with the high risk construction work to which the statement relates, for at least 2 years after the incident occurs; and
  - (b) in every other case, until the high risk construction work is completed.

**Division 3 Excavation work**

**6.3.8 Excavation work—underground essential services information**

- (1) A person conducting a business or undertaking who proposes to carry out excavation work must have current underground essential services information relating to the workplace and areas adjacent to the workplace, before commencing the work.

- (2) A person conducting a business or undertaking must, in carrying out excavation work, have regard to the information referred to in subregulation (1).

**Notes**

- 1 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.
- 2 See the jurisdictional note in the Appendix.
- (3) A person conducting a business or undertaking must, for the period specified in subregulation (5), ensure that the information referred to in subregulation (1) is kept so as to be readily available for inspection under the Act.
- (4) A person conducting a business or undertaking must ensure that a copy of the information referred to in subregulation (1) is made available to any person engaged by the person conducting the business or undertaking to carry out excavation work, on request.
- (5) Information kept under this regulation must be kept:
- (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.

**6.3.9 Notification of regulator of certain excavation work**

- (1) A person conducting a business or undertaking who proposes to carry out construction work that includes excavation work involving a trench, tunnel or shaft must ensure that the regulator is given written notice at least 5 days before commencing the work if:
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- (a) an excavation to be made by the proposed work is more than 1.5 metres high (when measured from the bottom of the excavation); and
  - (b) either:
    - (i) the excavation is capable of allowing a person to enter; or
    - (ii) there is a possibility that a person who is involved in carrying out the work or is in the vicinity of the work or an excavation could be injured by a fall or by the dislodgement of soil or rock.
- (2) A notice must state:
- (a) the name and contact details of the person conducting the business or undertaking; and
  - (b) if the high risk work is in connection with a construction project, the name and contact details of the principal contractor for the project or of the principal contractor's representative; and
  - (c) the name and contact details of the person directly supervising the work; and
  - (d) the date of the notice; and
  - (e) the nature of the excavation; and
  - (f) whether explosives will be used in carrying out the work and, if so, the licence details of the person who is to use the explosives; and
- Note**
- See the jurisdictional note in the Appendix.
- (g) when the person conducting the business or undertaking reasonably believes the work is to commence and to be completed; and
  - (h) where the work is to be carried out.
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Part 6.3 Duties of Person Conducting Business or Undertaking

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(3) This regulation does not apply if the excavation to be made by the excavation work is:

- (a) a mine; or
- (b) a bore to which the [relevant water law] applies; or

**Note**

See the jurisdictional note in the Appendix.

- (c) made for the purpose of rescuing a person or the carrying out of any other emergency response by an emergency service; or
- (d) made for the purpose of carrying out other emergency work; or
- (e) made of use as a place of burial or interment of the dead.

## **Part 6.4 Additional Duties of Principal Contractor**

### **6.4.1 Application**

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.

### **6.4.2 Specific control—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 where the construction project is being undertaken.

### **6.4.3 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.
- (2) A WHS management plan must include the following:
  - (a) the names and positions 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 and cooperation in relation to compliance with their duties under the Act and these Regulations;
- (c) the arrangements in place for managing any work health and safety incidents that occur;
- (d) any site-specific health and safety rules, and the arrangements for ensuring that all persons at the workplace are informed of these rules;
- (e) the arrangements for the collection and any assessment, monitoring and review of safe work method statements at the workplace.

#### **6.4.4 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, to the extent that it relates to the work to be carried out by the person; and
- (b) the person's right to inspect the WHS management plan under regulation 6.4.7.

#### **6.4.5 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.
  - (2) The principal contractor for a construction project must ensure, so far as is reasonably practicable that each person carrying out construction work in
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connection with the project is made aware of any revision to the WHS management plan that is relevant to the construction work being carried out by the person.

#### **6.4.6 High risk construction work—safe work method statements**

The principal contractor for a construction project must, before any high risk construction work commences, take all reasonable steps to obtain from each person conducting a business or undertaking that is to carry out high risk construction work a copy of the safe work method statement relating to that work.

##### **Note**

The WHS management plan contains arrangements for co-operation between persons conducting a business or undertaking at the construction project workplace, including in relation to the preparation of safe work method statements (see regulation 6.4.3(2)(b) and (e)).

#### **6.4.7 Copy of WHS management plan must be kept**

- (1) The principal contractor for a construction project must ensure that a copy of the WHS management plan for the project is, for the period specified in subregulation (3) kept so as to be readily available for inspection under the Act.
- (2) The principal contractor for a construction project must ensure that a copy of the WHS management plan for the project is made available to any person who is to carry out construction work in connection with the construction project, on request.
- (3) A WHS management plan must be kept:
  - (a) if a notifiable incident occurs in connection with the construction project to which the plan relates, for at least 2 years after the incident occurs; and

- (b) in every other case, until the project is completed.

#### **6.4.8 Further health and safety duties**

- (1) The principal contractor for a construction project must put in place arrangements for ensuring compliance at the workplace with the following:
  - (a) regulation 3.1.1;
  - (b) regulation 3.1.2;
  - (c) Part 3.2;
  - (d) Part 3.3;
  - (e) Part 3.4;
  - (f) Part 4.4.

##### **Note**

All persons conducting a business or undertaking at the construction project workplace have these same duties (see Chapter 3 of these Regulations 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.

- (2) The principal contractor for a construction project must ensure, so far as is reasonably practicable, that the following are without risks to health and safety:
  - (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.

- (3) The principal contractor for a construction project must ensure, so far as is reasonably practicable, that the workplace at which the construction project is undertaken is secured so as to prevent unauthorised access.

## **Part 6.5 General Induction Training**

### **Note**

See the jurisdictional note in the Appendix.

### **Division 1 General induction training requirements**

#### **6.5.1 Duty to provide general induction training**

A person conducting a business or undertaking must ensure that general induction training is provided to a worker who is to carry out construction work, if the worker:

- (a) has not successfully completed general induction training; or
- (b) successfully completed general induction training more than 2 years previously and has not carried out construction work in the preceding 2 years.

#### **6.5.2 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 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.
- (2) For the purposes of subregulation (1), a person conducting a business or undertaking must ensure that:
  - (a) the worker holds a general induction training card; or

- (b) if the worker has applied for but not yet been issued with a general induction training card, the worker holds a general induction training certification, issued within the preceding 60 days.

## **Division 2      General induction training cards**

### **6.5.3 Issue of card**

- (1) A person who has successfully completed general induction training in [this jurisdiction] may apply to the regulator for a general induction training card.
- (2) The application must:
  - (a) be made in the manner and form required by the regulator; and
  - (b) include the applicant's name and any evidence of identity required by the regulator; and
  - (c) include either:
    - (i) a general induction training certification issued to the applicant; or
    - (ii) a written declaration by the person who provided the general induction training on behalf of the relevant RTO that the applicant has successfully completed general induction training; and
  - (d) be made
    - (i) within 60 days after the issue of the general induction training certification; or
    - (ii) if the application is accompanied by a declaration referred to in paragraph (c)(ii), at any time after completion of the general induction training; and

- (e) be accompanied by the relevant fee.

**Note**

See the jurisdictional note in the Appendix.

- (3) The regulator must issue a general induction training card to the applicant if:
  - (a) the application has been made in accordance with subregulation (2); and
  - (b) the regulator is satisfied that the applicant has successfully completed general induction training.
- (4) The regulator must make a decision on the application as soon as reasonably possible.
- (5) If the regulator has not decided on the application within 60 days, the applicant is taken to hold a general induction training card until a decision is made.

**6.5.4 Content of card**

A general induction training card must:

- (a) state:
  - (i) that the card holder has completed general induction training; and
  - (ii) the name of the card holder; and
  - (iii) the date on which the card was issued; and
  - (iv) a unique identifying number; and
  - (v) the State in which the card was issued; and
- (b) contain space for the signature of the card holder.

### **6.5.5 Replacement of card**

- (1) If a general induction training card issued by the regulator is lost, stolen or destroyed, the card holder may apply to the regulator for a replacement card.
- (2) An application for a replacement general induction training card 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.

**Note**

See the jurisdictional note in the Appendix.

- (3) The regulator may issue a replacement card if satisfied that:
  - (a) the general induction training card has been lost, stolen or destroyed; and
  - (b) the general induction training card has not been cancelled; and
  - (c) the applicant has successfully completed general induction training.

### **6.5.6 Refusal to issue or replace card**

The regulator may refuse to issue a general induction training card or a replacement general 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



- (c) produced a general induction training certification that had been obtained on the basis of the giving of false or misleading information by any person or body.

#### **6.5.7 Cancellation of card—grounds**

The regulator may cancel a general 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 induction training certification that had been obtained on the basis of the giving of false or misleading information by any person or body.

#### **6.5.8 Cancellation of card—process**

- (1) The regulator may cancel a general induction training card:
  - (a) on the regulator's own initiative; or
  - (b) on receiving a complaint from any person; or
  - (c) on receiving advice from a corresponding regulator.

##### **Note**

Under section 4 of the Act, a *corresponding regulator* is the holder of a public office, or a public authority, of the Commonwealth, or of a State or Territory, who or which is responsible for administering the WHS law in that jurisdiction.

- (2) Before cancelling a general induction training card, the regulator must 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 representations to the regulator in relation to the proposed cancellation.
- (3) On cancelling a general induction card, the regulator must give the card holder a written notice of its decision, stating:
  - (a) when the cancellation takes effect; and
  - (b) the reasons for the cancellation; and
  - (c) when the card must be returned to the regulator.

#### **6.5.9 RTO may enter agreement to issue cards**

**Note**

See the jurisdictional note in the Appendix.

- (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 regulations 6.5.3, 6.5.4, 6.5.5 and 6.5.6, with any necessary alterations.
  - (2) If an RTO with whom the regulator has entered an agreement under this regulation 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) Nothing in an agreement under this regulation prevents the regulator from exercising its functions and powers in accordance with this Division.
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**Division 3 Duties of workers**

**6.5.10 Duties of workers**

- (1) A worker carrying out construction work must keep available for inspection by an inspector:
    - (a) his or her general induction training card; or
    - (b) if the worker has applied for a general induction training card and has not been notified of the decision on the application, a certification held by the worker that was issued no more than 60 days before applying for the card.
  - (2) A card holder, on receiving a cancellation notice under regulation 6.5.8(3), must return the card in accordance with the notice.
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## **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.

#### **Division 1 Interpretation and application**

##### **Subdivision 1 Application**

###### **7.1.1 Application—general**

- (1) This Part applies to:
  - (a) the use, handling and storage of substances, mixtures and articles at a workplace; and
  - (b) a pipeline used to convey a hazardous chemical.
- (2) This Part does not apply to a pipeline that is regulated under [another law in force in this jurisdiction in relation to health and safety].

###### **7.1.2 Application—exceptions**

- (1) This Part does not apply to the following:
    - (a) infectious substances and infectious mixtures;
    - (b) engines, machinery and vehicles classified as class 9 dangerous goods under the ADG Code;
    - (c) substances or mixtures that satisfy the criteria for elevated temperature dangerous goods under the ADG Code and cannot otherwise be classified under the ADG Code or the GHS;
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- (d) substances, mixtures or articles classified as hazardous to the environment under the ADG Code and cannot otherwise be classified under the ADG Code or the GHS;
- (e) substances, mixtures or articles that are radioactive (other than prohibited or restricted hazardous chemicals referred to in Schedule 10, table 10.3, item 17) and cannot otherwise be classified under the ADG Code or the GHS;
- (f) dangerous goods and explosives being transported by road, rail, sea or air if the transport is regulated under [another law].

**Note**

See the jurisdictional note in the Appendix.

- (2) This Part does not apply to the following hazardous chemicals only in the circumstances described:
    - (a) chemicals in batteries when incorporated in plant;
    - (b) fuel in a container fitted to a vehicle, vessel or aircraft, mobile plant, appliance or other device, if the fuel is intended for use in the operation of the device;
    - (c) fuel in the fuel container of a domestic or portable fuel burning appliance, if the quantity of fuel is not more than 25 kilograms or 25 litres;
    - (d) hazardous chemicals in portable firefighting or medical equipment for use in a workplace;
    - (e) hazardous chemicals that form part of the integrated refrigeration system of refrigerated freight containers;
    - (f) potable liquids that are consumer products at retail premises.
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- (3) This Part, other than the following regulations, does not apply to articles classified as explosives under the ADG Code, class 1 (Explosives):
- (a) regulation 7.1.3;
  - (b) regulation 7.1.9;
  - (c) regulation 7.1.11;
  - (d) regulation 7.1.19;
  - (e) regulation 7.1.21;
  - (f) regulation 7.1.22.
- (4) This Part does not apply to the following things except to the extent that the use, handling or storage of those things is related to a work activity at a workplace:
- (a) food and beverages within the meaning of the Food Standards Australia New Zealand Food Standards Code; or
  - (b) therapeutic agents at the point of intentional intake by or administration to humans or animals; or
  - (c) tobacco or products made of tobacco; or
  - (d) cosmetics or toiletries.

## **Subdivision 2 Key concepts relating to classifying and packing hazardous chemicals**

### **7.1.3 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) a determination is made about whether the substance or mixture can be classified into a hazard class under the GHS including a classification referred to in Schedule 7; and
-

- (b) if the substance or mixture can be classified into a hazard class—a determination is made about whether the substance or mixture is dangerous goods or an explosive under the ADG Code.

**Note**

The Schedule 7 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; and
  - (c) if the substance or mixture can be classified into a hazard class—a determination is made about whether the substance or mixture is dangerous goods or an explosive under the ADG Code.
- (3) An article is *correctly classified* if:
  - (a) a determination is made about whether the article is dangerous goods or an explosive under the ADG Code; and
  - (b) if the article contains a substance or mixture that may be released during the use, handling or storage of the article—the substance or mixture is correctly classified.

#### 7.1.4 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 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) cannot be mistakenly identified as containing food.
- (2) However, 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 for class 2 dangerous goods; and
  - (b) in any other case—the container:
    - (i) has a capacity not more than the capacity stated for a hazardous chemical stored in bulk; and
    - (ii) is clearly marked with the chemical's name; and
    - (iii) is made of material that is compatible with, and will not be adversely affected by, the chemical; and



- (iv) is in sound condition and will contain the chemical for the time the chemical is likely to be packed; and
- (v) does not usually contain food and cannot be mistakenly identified as containing food.

#### **7.1.5 Correctly packing dangerous goods**

- (1) This regulation applies to a hazardous chemical that is:
  - (a) dangerous goods under the ADG Code; and
  - (b) supplied to somewhere else.
- (2) The hazardous chemical is *correctly packed* if the chemical is packed in a container that complies with regulation 7.1.4 and the ADG Code.

### **Subdivision 3 Labelling—hazardous chemicals**

#### **7.1.6 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.
- (2) A hazardous chemical is *correctly labelled* if it complies with Schedule 9.
- (3) This regulation does not apply to a hazardous chemical if:
  - (a) the hazardous chemical is a consumer product; 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 consumer household use; and
  - (ii) a way that is consistent with consumer household use; and
  - (iii) a way that is incidental to the nature of the work carried out by a worker using the chemical.
- (4) This regulation does not apply to hazardous chemicals in transit.

#### **7.1.7 Labelling hazardous chemicals—containers**

- (1) A person conducting a business or undertaking at a workplace must ensure that a hazardous chemical is correctly labelled if the chemical is:
- (a) manufactured at the workplace; or
  - (b) transferred or decanted from the chemical's original container at the workplace.
- (2) The person conducting the business or undertaking at the workplace must ensure so far as is reasonably practicable that a hazardous chemical container is correctly labelled while the container contains the chemical.
- (3) The person conducting the business or undertaking at the workplace must ensure that a container labelled for a hazardous chemical is used only for the use, handling or storage of the hazardous chemical.
- (4) This regulation does not apply to a container if:
- (a) the hazardous chemical in the container is used immediately after it is put in the container; and
  - (b) the container is thoroughly cleaned immediately after the chemical is used, handled or stored so that the container is in

the condition it would be in if it had never contained the chemical.

#### **7.1.8 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.

### **Division 2 Obligations relating to safety data sheets and other matters**

#### **Subdivision 1 Contents of safety data sheets**

##### **7.1.9 Safety data sheets—content**

- (1) A safety data sheet for a hazardous chemical must:
  - (a) be in English; and
  - (b) contain unit measures expressed in Australian legal units of measurement under the *National Measurement Act 1960* of the Commonwealth; and
  - (c) state the date it was last reviewed or, if it has not been reviewed, the date it was prepared; and
  - (d) if the hazardous chemical is dangerous goods—state the proper shipping name and UN number of the chemical; and
  - (e) state the name, and the Australian address and business telephone number of:
    - (i) the manufacturer; or
    - (ii) the supplier; or
    - (iii) the importer, who must be resident in Australia; and

- (f) state an Australian business telephone number from which information about the chemical can be obtained in an emergency.
- (2) A safety data sheet for a hazardous chemical must state the following information about the chemical:
- (a) Section 1: Identification: Product identifier and identity for the chemical;
  - (b) Section 2: Hazard(s) identification;
  - (c) Section 3: Composition and information on ingredients, in accordance with Schedule 8 (Disclosure of ingredients);
  - (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;
  - (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) This regulation is subject to regulation 7.1.12.

## **Subdivision 2 Obligations of manufacturers and importers**

### **Note**

A manufacturer or importer of hazardous chemicals may also be a person conducting a business or undertaking at a workplace.

### **7.1.10 Classification of hazardous chemicals**

The manufacturer or importer of a substance, mixture or article must:

- (a) determine whether the substance, mixture or article is a hazardous chemical; and
- (b) if the substance, mixture or article is a hazardous chemical—ensure that the chemical is correctly classified.

### **7.1.11 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 chemical:
    - (a) before first manufacturing or importing the chemical; or
    - (b) if that is not practicable—as soon as practicable after first manufacturing or importing the chemical.
  - (2) The manufacturer or importer of the hazardous chemical must:
    - (a) review the safety data sheet at least once every 5 years; and
    - (b) amend the safety data sheet whenever necessary to ensure that it contains correct, current information.
  - (3) The manufacturer or importer of the hazardous chemical must provide the current safety data sheet for the chemical to a person conducting a
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business or undertaking, or anyone else, if the person:

- (a) is likely to be affected by the chemical; or
  - (b) asks for the safety data sheet.
- (4) This regulation does not apply to a manufacturer or importer of a hazardous chemical who has not manufactured or imported the hazardous chemical in the last 5 years.

**7.1.12 Safety data sheets—research chemical, waste product or sample for analysis**

- (1) This regulation applies if:
- (a) a hazardous chemical is a research chemical, waste product or sample for analysis; and
  - (b) it is not reasonably practicable for a manufacturer or importer of the hazardous chemical to comply with regulation 7.1.9.
- (2) The manufacturer or importer must prepare a safety data sheet for the hazardous chemical that:
- (a) is in English; and
  - (b) states the name, Australian address and business telephone number of:
    - (i) the manufacturer; or
    - (ii) the importer, who must be resident in Australia; and
  - (c) states that full identification or hazard information is not available for the chemical, and in the absence of full identification or hazard information, a precautionary approach must be taken by a person using, handling or storing the chemical; and
  - (d) states the chemical identity or structure of the chemical or chemical composition, as far as is reasonably practicable; and
-

- (e) states any known or suspected hazards; and
- (f) states any precautions that a person using, handling or storing the chemical must take to the extent that the precautions have been identified.

#### **7.1.13 Emergency disclosure of chemical identities**

- (1) This regulation applies if a medical practitioner:
  - (a) believes on reasonable grounds 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 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 treat the patient; and
  - (d) gives an undertaking to the manufacturer or importer to give the manufacturer or importer as soon as practicable a written statement about the need to obtain the chemical identity of the ingredient.
- (2) The manufacturer or importer of a hazardous chemical must give a medical practitioner the chemical identity of an ingredient of the hazardous chemical as soon as practicable.
- (3) Schedule 8 does not apply to the requirement under this regulation.

#### **7.1.14 Packing hazardous chemicals**

The manufacturer or importer of a hazardous chemical must ensure that the chemical is correctly packed.

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#### **7.1.15 Labelling hazardous chemicals**

- (1) The manufacturer or importer of a hazardous chemical must ensure that the chemical is correctly labelled.
- (2) Subregulation (1) does not apply if:
  - (a) the hazardous chemical is a consumer product, retaining its original label; and
  - (b) it is reasonably foreseeable that the hazardous chemical will be used in a workplace only:
    - (i) in quantities that are consistent with household use; and
    - (ii) in a way that is consistent with household use; and
    - (iii) in a way that is incidental to the nature of the work, and the work activities, undertaken by a worker using the chemical.

#### **Subdivision 3 Obligations of suppliers**

##### **Note**

A supplier of hazardous chemicals may also be a person conducting a business or undertaking at a workplace.

#### **7.1.16 Restriction on age of person who can supply hazardous chemicals that are dangerous goods**

A person must not supply a hazardous chemical that is dangerous goods to another person unless the first person has attained the age of 16 years.

#### **7.1.17 Retailer or supplier packing hazardous chemicals**

- (1) A retailer who supplies a hazardous chemical in a container provided by the person supplied with the chemical must ensure that the chemical is correctly packed.
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- (2) The supplier of a hazardous chemical must not supply the chemical to another workplace if the supplier knows or ought reasonably to know that the chemical is not correctly packed.

**7.1.18 Supplier labelling hazardous chemicals**

The supplier of a hazardous chemical must not supply the chemical to another workplace if the supplier knows or ought reasonably to know that the chemical is not correctly labelled.

**7.1.19 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 chemical is provided with the chemical:
  - (a) when the chemical is first supplied to the workplace; and
  - (b) if the safety data sheet for the chemical is amended—when the chemical is first supplied to the workplace after the safety data sheet is amended.
- (2) A hazardous chemical is taken to be first supplied to a workplace if the supply is the first supply of the chemical to the workplace for 5 years.
- (3) The supplier of a hazardous chemical to a workplace must ensure that a current safety data sheet for the chemical is provided to a person at the workplace if the person asks for the safety data sheet.
- (4) This regulation does not apply to a supplier of a hazardous chemical if:
  - (a) the hazardous chemical is a consumer product; or

- (b) the supplier is a retailer.

**Note**

A manufacturer or importer is required to prepare a safety data sheet under regulation 7.1.11.

**7.1.20 Supply of prohibited and restricted carcinogens**

- (1) Subject to subregulation (3), the supplier of a prohibited or restricted carcinogenic substance referred to in an item in Schedule 10, table 10.1 must not supply the substance unless the person 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 person has applied to the regulator under regulation 7.1.60 for authorisation, and the regulator has authorised the use, handling or storage of the substance; or
      - (ii) the regulator has granted an exemption to the person to use, handle or store the substance.
  - (2) The supplier of a prohibited or restricted carcinogenic substance referred to in an item in Schedule 10, table 10.2, column 2 must not supply the substance for a use referred to in column 3 for the item unless the person supplied with the substance gives the supplier evidence that:
    - (a) the person has applied to the regulator under regulation 7.1.60 for authorisation, and the regulator has authorised the use, handling or storage of the substance; or
    - (b) the regulator has granted an exemption to the person to use, handle or store the substance.
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- (3) The supplier of a prohibited or restricted carcinogenic substance under subregulation (1) or (2) must retain the following record of the supply for 5 years after the substance was last supplied to the person:
  - (a) the name of the person supplied;
  - (b) the name and quantity of the substance supplied.

#### **Subdivision 4 Obligations of persons conducting businesses or undertakings**

##### **7.1.21 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 supplied to the workplace from the Australian manufacturer or importer of the chemical:
    - (a) when or before the chemical is first supplied to the workplace; or
    - (b) if the person is not able to obtain the safety data sheet under paragraph (a)—as soon as practicable after the chemical is first supplied to the workplace; or
    - (c) if the safety data sheet for the chemical is amended—when or before the chemical is first supplied to the workplace after the safety data sheet is amended.
  - (2) A person conducting a business or undertaking at a workplace must ensure that a current safety data sheet for a hazardous chemical is readily available to:
    - (a) a worker who is involved in using, handling or storing a hazardous chemical at the workplace; and
-

- (b) an emergency services worker, or anyone else, who is likely to be exposed to the chemical at the workplace.
- (3) Subregulations (1) and (2) do not apply to a hazardous chemical that:
- (a) is in transit; or
  - (b) if the person conducting the business or undertaking at the workplace is a retailer, is:
    - (i) a consumer product; and
    - (ii) intended for supply to other premises; and
    - (iii) not intended to be opened on the person's premises; or
  - (c) the chemical is a consumer product and it is reasonably foreseeable that the hazardous chemical will be used in the workplace only:
    - (i) in quantities that are consistent with household use; and
    - (ii) in a way that is consistent with household use; and
    - (iii) in a way that is incidental to the nature of the work, and the work activities, undertaken by a worker using the chemical.
- (4) If subregulation (3) applies to a hazardous chemical, the person conducting the business or undertaking at the workplace must ensure that sufficient information about the safe use, handling and storage of the chemical is readily available to:
- (a) a worker at the workplace; and
  - (b) an emergency services worker, or anyone else, who is likely to be exposed to the chemical at the workplace.
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- (5) A person conducting a business or undertaking at a workplace must ensure that the current safety data sheet for a hazardous chemical is readily available to a person at the workplace if the person:
- (a) is likely to be affected by the chemical; or
  - (b) asks for the safety data sheet.

#### **7.1.22 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; and
  - (ii) changes a foreign safety data sheet in a way that is consistent with the duties of an importer; or
- (b) the change is only the attachment of a non-English translation of the safety data sheet, and clearly states that the translation is not part of the original safety data sheet.

#### **Note**

The manufacturer or importer of a hazardous chemical must amend a safety data sheet as necessary to ensure the information is current (see regulation 7.1.11(2)(b)).

### **Division 3 Register and manifest of hazardous chemicals**

#### **Subdivision 1 Hazardous chemicals register**

##### **7.1.23 Hazardous chemicals register**

- (1) A person conducting a business or undertaking at a workplace must maintain a register of hazardous chemicals used, handled or stored at the workplace.
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- (2) The register must include:
  - (a) a list of hazardous chemicals used, handled or stored; and
  - (b) the current safety data sheet for each chemical listed.
- (3) The person must ensure that the register is readily available 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.
- (4) This regulation does not apply to a hazardous chemical if:
  - (a) the chemical is in transit, unless there is a significant or frequent presence of the chemical in transit at the workplace; or
  - (b) the chemical is:
    - (i) a consumer product; and
    - (ii) the person is not required to obtain a safety data sheet for the chemical under regulation 7.1.21.

### **Subdivision 2 Manifest of hazardous chemicals that are dangerous goods**

#### **Note**

Regulation 7.1.43 requires an emergency plan to be prepared if more than a manifest quantity of a class of hazardous chemicals is used, handled or stored at a workplace.

#### **7.1.24 Application—Subdivision 2**

This Subdivision applies only to hazardous chemicals that are dangerous goods.

### **7.1.25 Meaning of *manifest quantity***

In this Subdivision, a *manifest quantity* for a hazardous chemical referred to in an item in Schedule 11, table 11.1, column 2 is the quantity referred to in column 5 for the item.

### **7.1.26 Manifest of hazardous chemicals**

- (1) A person conducting a business or undertaking at a workplace must, if the quantity of a class of hazardous chemicals used, handled or stored at the workplace is more than the manifest quantity for the class:
  - (a) prepare a manifest of hazardous chemicals; and
  - (b) amend the manifest as soon as reasonably practicable if:
    - (i) the type or quantity of hazardous chemical 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.

#### **Example**

A workplace holds 2000 L each of 5 flammable solvents (class 3, packing group II). Because the total quantity of hazardous chemicals is greater than the manifest quantity for class 3, packing group II hazardous chemicals, a manifest must be prepared.

- (2) A manifest of hazardous chemicals must comply with Schedule 12.
- (3) The manifest must be kept in a place determined in agreement with the primary emergency services authority that is readily available to an inspector and the emergency services authority.

**7.1.27 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 notified in writing if a quantity of a hazardous chemical that is more than the manifest quantity for the chemical is used, handled or stored at the workplace.
- (2) The notification must be made:
  - (a) either:
    - (i) at least 14 days before the chemical is first used, handled or stored at the workplace; or
    - (ii) if the person first knows that the hazardous chemical will be first used, handled or stored at the workplace less than 14 days before the chemical is first used, handled or stored—immediately after the person first knows; and
  - (b) at least once a year after the first notification if the hazardous chemical is used, handled or stored at the workplace:
    - (i) for more than 1 year; and
    - (ii) in a quantity more than the manifest quantity for the hazardous chemical; and
  - (c) either:
    - (i) at least 14 days before a significant change in the risk of using, handling or storing the hazardous chemical; or
    - (ii) if the person first knows that there will be a significant change in the risk of using, handling or storing the hazardous chemical less than 14 days before the



change happens—immediately after the person first knows; and

- (d) as soon as reasonably practicable after the hazardous chemical stops being used, handled or stored at the workplace in a quantity more than the manifest quantity for the hazardous chemical.
- (3) The notification 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 of the business or undertaking was previously occupied by someone else—the name of the previous occupier, if known;
  - (d) the activities of the business or undertaking that involve using, handling or storing hazardous chemicals;
  - (e) the manifest prepared by the person conducting the business or undertaking under regulation 7.1.26.
- (4) The person conducting the business or undertaking at the workplace must ensure that, if the regulator asks for any further information in relation to the manifest quantity of a hazardous chemical, the information is given to the regulator.
- (5) The person conducting the business or undertaking at the workplace must ensure that the regulator is notified if the hazardous chemical is no longer used, handled or stored at the workplace.

## **Division 4 Placards**

### **7.1.28 Meaning of placard quantity**

For this Division, the *placard quantity* for a hazardous chemical of a kind referred to in an item in Schedule 11, table 11.1, column 2 is the quantity referred to in column 4 for the item.

### **7.1.29 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 displayed at the workplace if the total quantity of a hazardous chemical used, handled or stored at the workplace is more than the placard quantity for the chemical.
- (2) An outer warning placard must comply with Schedule 13 (Placard requirements).
- (3) This regulation does not apply to a workplace if:
  - (a) the workplace is a retail outlet; and
  - (b) the hazardous chemical at the workplace is used to refuel a vehicle, and is either:
    - (i) Division 2.1, class 3 dangerous goods; or
    - (ii) a C1 combustible liquid.

### **7.1.30 Placards for dangerous goods—requirement to display**

- (1) A person conducting a business or undertaking at a workplace must ensure that a dangerous goods placard is displayed at the workplace if the total quantity of dangerous goods stored at the workplace is more than the placard quantity for the goods.
  - (2) A dangerous goods placard must comply with Schedule 13 (Placard requirements).
-

- (3) This regulation does not apply to dangerous goods if:
- (a) the dangerous goods at the workplace are in bulk in a container, including an intermediate bulk container, that is intended for transport and a placard is displayed on the container in accordance with the ADG Code; or
  - (b) the dangerous goods at the workplace are class 3 dangerous goods, or a C1 combustible liquid, stored in an underground tank at a retail outlet and used to refuel a vehicle.

**Division 5      Controlling risk—obligations of persons conducting businesses or undertakings**

**Subdivision 1    General obligations relating to risk control**

**7.1.31 Identifying hazards**

- (1) A person conducting a business or undertaking at a workplace must ensure so far as is reasonably practicable that a hazard in relation to using, handling or storing a hazardous chemical at the workplace is identified.
- (2) The person must consider the following in identifying the hazard:
  - (a) the hazardous properties of the chemical;
  - (b) a potential chemical or physical reaction between the 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 chemical;
  - (d) any structure, plant or system of work:
    - (i) that is used in the use, handling or storage of the chemical; or

- (ii) that could interact with the chemical at the workplace;
- (e) information about any dangerous incident or adverse health effect in relation to using, handling or storing the chemical.

#### **7.1.32 Controlling risk**

- (1) This regulation applies if it is not reasonably practicable for a person conducting a business or undertaking at a workplace to eliminate the risk of a hazard in relation to using, handling or storing a hazardous chemical at the workplace.
- (2) The person must so far as is reasonably practicable minimise the risk by:
  - (a) doing any of the following that is available:
    - (i) substituting the hazardous chemical with a substance, mixture or article that is less hazardous, or a less hazardous form of the chemical;
    - (ii) reducing the quantity of the hazardous chemical used, handled or stored at the workplace;
    - (iii) isolating the source of exposure to the hazardous chemical;
    - (iv) using engineering controls; and
  - (b) if, having complied with paragraph (a), the risk is not eliminated—putting administrative controls in place; and
  - (c) if, having complied with paragraphs (a) and (b), the risk is not eliminated—minimise the risk to health and safety by providing personal protective equipment to persons using, handling or storing a hazardous chemical at the workplace.

### **7.1.33 Review of risk control measures**

- (1) A person conducting a business or undertaking at a workplace must ensure that any measures implemented to control risks in relation to hazardous chemicals in the workplace are reviewed and, if necessary, revised at least every 5 years and:
  - (a) before any alteration is made to systems of work that is likely to result in changes to risks associated with hazardous chemicals in the workplace; or
  - (b) if the person receives advice from a registered medical practitioner under regulation 7.1.54 that adverse health effects have been identified by the health surveillance; or
  - (c) if a notifiable incident occurs that involves a hazardous chemical in the workplace; or
  - (d) following any change to a safety data sheet for the hazardous chemical or the register of hazardous chemicals; or
  - (e) if there is evidence that the risk control measures are not controlling the risk; or
  - (f) if a health and safety representative at the workplace requests the review.
- (2) A health and safety representative may request a review of risk control measures to control risks in relation to hazardous chemicals in the workplace if the health and safety representative believes on reasonable grounds that:
  - (a) a circumstance specified in subregulations (1)(a) to (1)(e) exists; and

- (b) the person conducting a business or undertaking at a workplace has not ensured an adequate review of the risk control measures in response to that circumstance.

#### **7.1.34 Safety signs**

- (1) This regulation applies if a person conducting a business or undertaking at a workplace displays a safety sign at the workplace to:
  - (a) warn of a particular hazard; or
  - (b) state the responsibilities of a particular person.
- (2) 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.
- (3) In this regulation:  
*safety sign* does not include a placard.

#### **7.1.35 Isolation of hazardous chemicals**

- (1) A person conducting a business or undertaking at a workplace must ensure that a hazardous chemical is used, handled or stored in a way:
  - (a) to eliminate the risk of a physical or chemical reaction; or
  - (b) if it is not reasonably practicable to eliminate the risk of a physical or chemical reaction—to minimise the risk by isolating the hazardous chemical from other hazardous chemicals or things that it is not compatible with.

**Examples**

Isolating hazardous chemical:

- separating a hazardous chemical;
  - segregating a hazardous chemical;
  - separating and segregating a hazardous chemical.
- (2) Subregulation (1) does not apply if the hazardous chemical undergoes a 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 ensure so far as is reasonably practicable that a hazardous chemical is used, handled or stored so as not to contaminate food, food packaging or personal use products.

**Examples**

Personal use product:

- cosmetics;
- face washer.

**7.1.36 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 does not become unstable, decompose or change so as to:
- (a) create a hazard that is different from the hazard originally created by the chemical; or
  - (b) significantly increase the risk associated with any hazard in relation to the chemical.
- (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 chemical; and
- (b) if a hazardous chemical used, handled or stored at the workplace is known to be unstable above a particular temperature—the chemical is used, handled or stored below that temperature.
- (3) This regulation does not apply if:
- (a) the hazardous chemical is changed or allowed to become unstable, without risk to health or safety, as part of a deliberate process or activity at the workplace; or
  - (b) the hazardous chemical undergoes a chemical reaction in a manufacturing process or as part of a deliberate process or activity at the workplace.

## **Subdivision 2 Fire and ignition sources**

### **7.1.37 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.
  - (2) In this regulation:  
*flammable or combustible substances* includes the following:
    - (a) flammable and combustible liquids, including waste liquids, in containers, whether empty or full;
    - (b) gas cylinders, whether empty or full.
-



**7.1.38 Ignition sources**

- (1) A person conducting a business or undertaking at a workplace must ensure so far as is reasonably practicable that an ignition source in a hazardous area at the workplace is eliminated.
- (2) If it is not reasonably practicable to eliminate the ignition source, the person must ensure that the fire risk from the source is minimised so far as is reasonably practicable.
- (3) This regulation does not apply if the ignition source is part of a deliberate process or activity at the workplace.

**Subdivision 3 Spills and damage**

**7.1.39 Containing and managing spills**

- (1) A person conducting a business or undertaking at a workplace must ensure that in each area of the workplace where a hazardous chemical is used, handled or stored, provision is made for a spill containment system that:
  - (a) eliminates the risk from any spill or leak of a solid or liquid hazardous chemical or, if it is not reasonably practicable to eliminate the risk, minimises the risk so far as is reasonably practicable; and
  - (b) so far as is reasonably practicable, contains within the workplace any part of the hazardous chemical that spills or leaks, and any resulting effluent.
- (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.

- (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.

**7.1.40 Protecting hazardous chemicals from damage**

A person conducting a business or undertaking at a workplace must ensure that so far as is reasonably practicable containers of hazardous chemicals and any associated pipe work or attachments are protected against damage caused by an impact or excessive loads.

**Subdivision 4 Emergency plans and safety equipment**

**7.1.41 Fire protection and firefighting equipment**

- (1) A person conducting a business or undertaking at a workplace must ensure that:
- (a) the workplace is provided with fire protection and firefighting equipment that:
    - (i) is designed and built for the types of hazardous chemicals at the workplace in the quantities in which they are used, handled or stored at the workplace, and the conditions under which they are used, handled or stored, having regard to:
      - (A) the fire load of the chemicals; and
      - (B) the fire load from other sources; and
      - (C) the compatibility of the chemicals with other substances and mixtures at the workplace; and
    - (ii) is compatible with firefighting equipment used by the primary emergency services authority; and

- (b) the fire protection and firefighting equipment is properly installed, tested and maintained; and
  - (c) a dated written record is kept of the latest testing results and maintenance until the next test is conducted.
- (2) If a part of the fire protection and firefighting equipment provided at the workplace becomes unserviceable or inoperative, the person must ensure so far as is reasonably practicable that:
- (a) the implications of the equipment being unserviceable or inoperative are assessed; and
  - (b) for risks that were eliminated or minimised by the equipment when functioning fully, alternative measures are taken:
    - (i) to eliminate the risks; or
    - (ii) if it is not practicable to eliminate the risks—to minimise the risks.
- (3) The person must ensure that the fire protection and firefighting equipment is returned to full operation as soon as practicable.

#### **7.1.42 Emergency equipment**

A person conducting a business or undertaking at a workplace must ensure that equipment is always available at the workplace for use in an emergency.

##### **Note**

A person conducting a business or undertaking must comply with Part 3.4.

#### **7.1.43 Emergency plans**

- (1) This regulation applies if more than the manifest quantity of a class of hazardous chemical is used, handled or stored at a workplace.
-

- (2) A person conducting a business or undertaking at the workplace must give a copy of an emergency plan prepared under Part 3.4 in relation to the workplace to the primary emergency services authority.
- (3) If the primary emergency services authority 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.

#### **7.1.44 Safety equipment**

- (1) This regulation applies if safety equipment is required to control an identified risk in relation to using, handling 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 accessible to persons at the workplace.

### **Subdivision 5 Hazardous atmospheres**

#### **7.1.45 Controlling risks from hazardous atmospheres**

- (1) A person conducting a business or undertaking at a workplace must ensure that the risks in relation to a hazardous atmosphere at the workplace:
    - (a) are eliminated; or
    - (b) if it is not reasonably practicable to eliminate the risk—are minimised so far as is reasonably practicable.
  - (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
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- (c) the concentration of a flammable gas, vapour, mist, or fumes is more than 5 percent of the lower explosive limit for the gas, vapour, mist or fumes; or
- (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.

**7.1.46 Ensuring exposure standards for substances etc not exceeded**

A person conducting a business or undertaking at a workplace must ensure that no-one at the workplace is exposed to a substance or mixture in an atmospheric concentration more than the exposure standard for the substance or mixture.

**7.1.47 Monitoring workplace contaminant levels**

- (1) A person conducting a business or undertaking at a workplace must ensure that atmospheric monitoring is carried out to determine the airborne concentration of hazardous chemicals at the workplace if:
  - (a) the person is not certain on reasonable grounds whether the airborne concentration of the hazardous chemical at the workplace is more than the exposure standard; or
  - (b) monitoring is necessary to determine whether there is a risk to health.
- (2) The person must ensure that the results of atmospheric monitoring under this regulation are:
  - (a) recorded, and kept for 30 years after the date the record is made; and
  - (b) readily available to persons at the workplace who may be exposed to the hazardous chemical.

## **Subdivision 6 Storage and handling systems**

### **7.1.48 Controlling risks from storage or handling systems**

- (1) A person conducting a business or undertaking at a workplace must ensure that so far as is reasonably practicable 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.
- (2) The person must ensure that sufficient information 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.

#### **Example**

Information provided at a training course.

### **7.1.49 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.

#### **7.1.50 Stopping use and disposing of handling systems**

- (1) This regulation 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 chemicals or be disposed of.
- (2) The person must ensure that so far as is reasonably practicable the system is free of the hazardous chemicals when the system stops being used for the use, handling or storage of the chemicals or is disposed of.
- (3) If it is not reasonably practicable for the person to remove the hazardous chemicals from the system, the person must correctly label the system.

**Note**

For correctly labelling hazardous chemicals, see Subdivision 3 of Division 1.

#### **7.1.51 Stopping use of underground storage and handling systems**

- (1) This regulation 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 chemicals or be disposed of.
- (2) The person must ensure that so far as is reasonably practicable the system is removed.

- (3) If it is not reasonably practicable for the person to remove the system, the person must ensure that so far as is reasonably practicable the system is without risks to health and safety.

#### **7.1.52 Notification of abandoned tank**

- (1) This regulation 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 dangerous goods of class 2.1 or class 3, or C1 combustible liquids.
- (2) The tank is taken to be abandoned if:
  - (a) the tank has not been used to store dangerous goods of class 2.1 or class 3, or C1 combustible liquids for 2 years; or
  - (b) the person does not intend to use the tank to store dangerous goods of class 2.1 or class 3, or C1 combustible liquids again.
- (3) The person must notify the regulator of the abandonment of the tank as soon as practicable after the tank is abandoned.
- (4) In this regulation:

***tank*** means a container, other than an intermediate bulk container (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 surveillance**

**7.1.53 Duty to provide health surveillance**

- (1) A person conducting a business or undertaking at a workplace must ensure that health surveillance is provided to a worker at the workplace if:
  - (a) there is a significant risk to the worker's health because of exposure to a hazardous chemical referred to in Schedule 14; or
  - (b) the person identifies a significant risk to the worker's health if the worker is exposed to a hazardous chemical (other than asbestos) and either:
    - (i) valid techniques are available to detect the effect on the worker's health; or
    - (ii) a valid way of determining biological exposure to a hazardous chemical is available and it is uncertain, on reasonable grounds, whether the exposure is more than the biological exposure standard.

**Note**

The biological exposure standard is published by SafeWork Australia.

- (2) The person must pay all the expenses in relation to health surveillance.
- (3) The person must ensure that:
  - (a) health surveillance of a type referred to in an item in Schedule 14, column 3 is carried out in relation to a hazardous chemical referred to in column 2 for the item, unless:
    - (i) an equal or better type of health surveillance is available; and

- (ii) the use of the type is recommended by a registered medical practitioner with the relevant competencies; and
- (b) the worker is told about any health surveillance requirements before the worker starts work using, handling or storing a hazardous chemical; and
- (c) health surveillance is carried out under the supervision of a registered medical practitioner with the relevant competencies after consulting the worker.

#### **7.1.54 Health surveillance report**

- (1) A person conducting a business or undertaking at a workplace must ensure that a summary of health surveillance results is obtained from the medical practitioner who supervised the surveillance as soon as is reasonably practicable after the surveillance is carried out in relation to a worker.
  - (2) The summary of health surveillance results must include the following:
    - (a) any advice indicating a disease or adverse health effect that is likely to be related to exposure to a hazardous chemical at the workplace;
    - (b) any recommendation that the person:
      - (i) take remedial measures; or
      - (ii) ensure that the worker is not exposed to a hazardous chemical for any period;
    - (c) whether medical counselling is required in relation to work-related health risks.
  - (3) If the person receives advice or a recommendation referred to in subregulation (2), the person must ensure that a copy is given to the regulator as soon as is reasonably practicable.
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- (4) If the person receives a recommendation referred to in subregulation (2)(b), the person must ensure that the control measures in relation to the hazardous chemical are reviewed and, if necessary, revised.
- (5) The person must give a summary of the health surveillance results, together with an explanation of the results, to the worker as soon as is reasonably practicable.

#### **7.1.55 Health surveillance records**

- (1) A person conducting a business or undertaking at a workplace must ensure that health surveillance results in relation to a worker at the workplace 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.
- (2) The person must not disclose the health surveillance results of a worker to someone else, other than the regulator under regulation 7.1.54(3), without the worker's written consent.
- (3) Subregulation (2) does not apply if the record is disclosed to a person who must keep the record confidential under a duty of professional confidentiality.

### **Division 7 Induction, information, training and supervision**

#### **7.1.56 Duty to provide information training and supervision**

- (1) A person conducting a business or undertaking at a workplace must provide any information, ongoing training and supervision to a worker that is necessary to protect the worker from risks to the
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worker's health and safety arising from the work if, at the workplace, the worker:

- (a) uses, handles or stores a hazardous chemical;  
or
  - (b) operates, tests, maintains, repairs or decommissions a handling system for a hazardous chemical; or
  - (c) is likely to be exposed to a hazardous chemical.
- (2) The person must ensure that the induction, information, ongoing training and supervision of the worker is:
- (a) appropriate for, and proportionate to, the risks associated with the hazardous chemical;  
and
  - (b) presented in a language and form that the worker understands.
- (3) The induction, ongoing training and supervision of the worker must include information in relation to the following:
- (a) the nature of the hazards and properties of the hazardous chemical, and any process used to identify, assess and control the risks relevant to the work carried out by the worker;
  - (b) the use and maintenance of the measures to control the risks;
  - (c) the conduct of any monitoring or health surveillance;
  - (d) the effective operation of the emergency plans for the workplace;
  - (e) any procedures and equipment that may be required in an emergency;
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- (f) the proper selection, use, maintenance and storage of personal protective equipment.
- (4) The person must keep a record of induction and training for at least 5 years after the induction or training is completed.

**Division 8 Prohibition, authorisation and restricted use**

**7.1.57 Using, handling and storing prohibited carcinogens**

A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, a prohibited carcinogen referred to in Schedule 10, table 10.1, column 2 unless:

- (a) the prohibited carcinogen is used, handled or stored for genuine research or analysis; and
- (b) the regulator has authorised the use, handling or storage of the prohibited carcinogen in accordance with regulation 7.1.60.

**Note**

See section 43 of the Act.

**7.1.58 Using, handling and storing restricted carcinogens**

A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, a restricted carcinogen referred to in an item in Schedule 10, table 10.2, column 2 for a purpose referred to in column 3 for the item unless the regulator has authorised the use, handling or storage of the restricted carcinogen in accordance with regulation 7.1.60.

**Note**

See section 43 of the Act.

**7.1.59 Using, handling and storing restricted hazardous chemicals**

- (1) A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, a restricted hazardous chemical referred to in an item in Schedule 10, table 10.3, column 2 for a purpose referred to in column 3 for the item.
- (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 in relation to existing electrical equipment or construction material.

**Note**

See section 43 of the Act.

**7.1.60 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 or restricted carcinogen referred to in Schedule 10 at the workplace.
- (2) The application must include the following information:
  - (a) the person's business address;
  - (b) the name and address of the supplier of the carcinogen;
  - (c) the address where the carcinogen will be used, handled or stored;
  - (d) the name of the carcinogen;

- (e) the quantity of the carcinogen to be used, handled or stored at the workplace each year;
- (f) the purpose and activity for which the carcinogen will be used, handled or stored;
- (g) the number of workers that may be exposed to the carcinogen;
- (h) information about the person's risk management procedure including a summary of the steps taken, or to be taken, by the person in relation to the following:
  - (i) hazard identification;
  - (ii) risk control measures;
  - (iii) if elimination or substitution of the carcinogen is not reasonably practicable—why the elimination or substitution is not reasonably practicable;
- (i) any other information requested by the regulator.

**7.1.61 Authorisation to use, handle or store prohibited and restricted carcinogens**

- (1) If a person applies under regulation 7.1.60 for authorisation to use, handle or store a prohibited or restricted carcinogen, the regulator may authorise the use, handling or storage of the carcinogen under this regulation.
  - (2) The regulator must refuse to authorise the use, handling or storage of the carcinogen for a use not referred to in this regulation.
  - (3) The regulator may authorise the person to use, handle or store a prohibited carcinogen referred to in an item in Schedule 10, table 10.1 at the workplace only if the carcinogen will be used, handled or stored for genuine research or analysis.
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- (4) The regulator may authorise the person to use, handle or store a restricted carcinogen referred to in an item in Schedule 10, table 10.2 at the workplace only if the carcinogen will be used, handled or stored for a use referred to in column 3 for the item.
- (5) The regulator may impose any conditions on the authorisation that the regulator considers necessary to achieve the objectives of the Act or these regulations.

**7.1.62 Changes to information in application to be reported**

A person who applies under regulation 7.1.60 for authorisation to use, handle or store a hazardous chemical must advise the regulator in writing of any change in the information given in the application before the change or as soon as reasonably practicable after the person becomes aware of the change.

**7.1.63 Records to be kept**

- (1) This regulation applies if a person conducting a business or undertaking at a workplace is authorised under regulation 7.1.61 to use, handle or store a hazardous chemical at the workplace.
- (2) The person must keep the following records for 30 years after the authorisation ends:
  - (a) the full name, date of birth and address of each worker likely to be exposed to the hazardous chemical during the period of authorisation;
  - (b) a copy of each authorisation given to the person including any conditions imposed on the authorisation.



**7.1.64 Regulator may cancel authorisation**

The regulator may cancel an authorisation to use, handle or store hazardous chemicals given under regulation 7.1.61 if the regulator is satisfied that:

- (a) the person given the authorisation has not complied with a condition of the authorisation; or
- (b) the risk to the health or safety of a worker that may be affected by using, handling or storing the hazardous chemical has changed since the authorisation was given.

**7.1.65 Statement of exposure to be provided to workers**

- (1) This regulation applies if:
    - (a) a person conducting a business or undertaking at a workplace is authorised under regulation 7.1.61 to use, handle or store a hazardous chemical at the workplace; and
    - (b) a worker at the workplace uses, handles or stores the hazardous chemical at the workplace.
  - (2) The person must give to the worker, at the end of the worker's employment by the person, a written statement of the following:
    - (a) the name of the hazardous chemical to which the worker may have been exposed during the employment;
    - (b) the period 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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## **Division 9 Pipelines**

### **Note**

See the jurisdictional note in the Appendix.

### **7.1.66 Pipeline owner's duties**

- (1) The owner of a pipeline used to transfer hazardous chemicals must ensure that a risk of any hazard in the design, manufacture, testing, installation, commissioning, operation, maintenance and decommissioning of the pipeline:
  - (a) is eliminated; or
  - (b) if it is not reasonably practicable to eliminate the risk—is minimised so far as is reasonably practicable.
- (2) The owner of a pipeline used to transfer hazardous chemicals must ensure that so far as is reasonably practicable an activity, structure, equipment or substance that is not part of the pipeline does not affect the hazardous chemicals or the pipeline in a way that increases risk.

### **7.1.67 Pipeline builder's duties**

- (a) This regulation applies to a person who intends to build a pipeline that will:
  - (a) cross into a public place; and
  - (b) be used to transfer hazardous chemicals that are dangerous goods.
- (2) The person must ensure that, before the building of the pipeline starts, 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.
- (3) The person must ensure that the regulator is given the information:
- (a) before the pipeline is commissioned; and
  - (b) before the pipeline is likely to contain hazardous chemicals; and
  - (c) if there is any change in the information given under subregulation (2)—when the information changes; and
  - (d) if part of the pipeline is to be repaired—before the pipeline is repaired; and
  - (e) if part of the pipeline is removed, decommissioned, closed or abandoned—when the removal, decommissioning, closure or abandonment occurs.

**7.1.68 Pipeline operator's duties**

- (1) This regulation applies if the operator of a pipeline used to transfer hazardous chemicals cannot eliminate the risk caused by the pipeline and the hazardous chemicals in the pipeline to:
- (a) a workplace associated with the pipeline; or
  - (b) an area associated with the pipeline that members of the public are usually allowed to enter.
- (2) The operator must ensure that measures are put in place to minimise the risk so far as is reasonably practicable.

- (3) The operator of a pipeline that transfers a hazardous chemical that is dangerous goods 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.
- (4) The operator of a pipeline used to transfer a hazardous chemical must ensure so far as is reasonably practicable that the chemical transferred is identified by a label, sign or another way on or near the pipeline.

#### **Division 10    Exception**

##### **Note**

See the jurisdictional note in the Appendix,

#### **7.1.69 Dangerous goods exception**

These regulations do not apply to the use, handling or storage of dangerous goods if:

- (a) the dangerous goods are not used, handled or stored at a workplace; and
- (b) the dangerous goods are referred to in an item in table 7.1.69, column 2; and
- (c) the quantity of the dangerous goods is not more than the threshold referred to in table 7.1.69, column 3 for the item.

Model Work Health and Safety Regulations

Part 7.1 Hazardous Chemicals

**Table 7.1.69**

<b>Column 1 Item</b>	<b>Column 2 Dangerous goods</b>	<b>Column 3 Threshold quantities</b>
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— 500 L (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 of not more than 50 L; 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	250 L
4	Pool Chlorine and spa sanitising agents	100 kg or L
5	Sodium Hypochlorite designated by UN Number 1791	100 L
6	Dangerous goods Class 9	100 kg or L
7	Dangerous goods Packing Group 1	5 kg or L
8	C1 combustible liquids	1000 L
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	100 kg or L

## **Part 7.2 Inorganic Lead**

### **Division 1 Lead process**

#### **7.2.1 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;
- (e) melting or casting lead alloys containing more than 5% by weight of lead metal in which the temperature of the molten material is more than 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 metal;
  - (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 metal;
  - (m) spray painting with lead paint containing more than 1% by dry weight of elemental 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 is more than 0.1 square metre and the temperature of the molten material is not more than 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 metal 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 is more than 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 in accordance with regulation 7.2.2.

### **7.2.2 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) However, the regulator must not decide that the process is a lead process unless the regulator reasonably believes 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**

Deciding a process to be a lead process is a reviewable decision (see regulation 10.1.1).

### **7.2.3 Duty to give information about health risks of lead process**

- (1) This regulation applies to a person conducting a business or undertaking if the business or undertaking carries out a lead process at the workplace.
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- (2) The person must give the following information to a person likely to be engaged to carry out the lead process before the person is engaged to carry out the work:
  - (a) the health risks and toxic effects associated with exposure to lead; and
  - (b) the need for, and details of, medical examinations and biological monitoring of a worker carrying out the lead process.

## **Division 2      Lead risk work**

### **7.2.4 Meaning of *lead risk work***

In this Division, *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 be more than:

- (a) for a female of reproductive capacity—  
10µg/dL (0.48µmol/L); or
- (b) in any other case—30µg/dL (1.45µmol/L).

### **7.2.5 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.
  - (2) The assessment of a lead process must have regard to the following:
    - (a) past biological monitoring results of workers;
    - (b) airborne lead levels;
    - (c) the form of lead used;
    - (d) the tasks and processes required to be undertaken with lead;
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- (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) The assessment of a lead process 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.

#### **7.2.6 Notification of lead risk work**

- (1) If a person conducting a business or undertaking at a workplace determines that work at the workplace is lead risk work, the person must notify the regulator in writing within 7 days that the work is lead risk work.
- (2) A notification under this regulation must state the kind of lead process being carried out that includes the lead risk work.
- (3) The person must:
- (a) keep a copy of the notice given to the regulator for the period the lead risk work is carried out at the workplace; and
  - (b) ensure a copy of the notice is readily available to a worker who is likely to be exposed to lead, and the worker's health and safety representative.

**7.2.7 Changes to information in notification of lead risk work**

- (1) A person conducting a business or undertaking at a workplace must advise the regulator in writing of any change in the information given in a notice under regulation 7.2.6 before the change or as soon as reasonably practicable after the person becomes aware of the change.
- (2) The person must:
  - (a) keep a copy of the advice given to the regulator for the period the lead risk work is carried out at the workplace; and
  - (b) ensure a copy of the advice is readily available to a worker who is likely to be exposed to lead, and the worker's health and safety representative.

**7.2.8 Duty to give information about health risks of lead risk work**

- (1) This regulation applies to a person conducting a business or undertaking at a workplace if:
  - (a) the business or undertaking carries out a lead process at the workplace; and
  - (b) lead risk work is carried out in a lead process.
- (2) The person must give the following information to a worker carrying out the lead risk work before the worker first starts the work:
  - (a) the health risks and toxic effects associated with exposure to lead; and
  - (b) the need for, and details of, medical examinations and biological monitoring of a worker carrying out the lead risk work.

**Division 3 Health surveillance**

**7.2.9 Duty to provide health surveillance before first starting lead risk work**

- (1) A person conducting a business or undertaking at a workplace must arrange for a worker to undertake a medical examination and biological monitoring:
  - (a) before the worker first starts lead risk work for the person; and
  - (b) one month after the worker first starts lead risk work for the person.
- (2) This regulation does not apply to a person conducting a business or undertaking at a workplace if:
  - (a) the person has taken all reasonable steps to arrange for a worker to undertake a medical examination and biological monitoring; and
  - (b) the worker refuses blood lead level monitoring under regulation 7.2.13.

**7.2.10 Duty to provide information to medical practitioner**

A person conducting a business or undertaking at a workplace must give the following information to a medical practitioner who carries out a medical examination arranged by the person under regulation 7.2.9:

- (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 the worker is, or will be, carrying out;
  - (d) if the worker has started to carry out lead risk work—how long the worker has carried out the work.
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**7.2.11 Duty to obtain information from medical practitioner**

- (1) A person conducting a business or undertaking at a workplace must take all reasonable steps to ensure that a medical practitioner who carries out a medical examination arranged by the person under regulation 7.2.9 provides a written report on the examination to the person.
- (2) The medical practitioner's report must state the following:
  - (a) the date of the examination;
  - (b) if a blood sample is taken—the date the blood sample is taken;
  - (c) the results of biological monitoring and other tests carried out;
  - (d) the name of the pathology service used to carry out tests.
- (3) The medical practitioner's report must also state the practitioner's medical opinion about whether the worker:
  - (a) is suitable on medical grounds to carry out lead risk work; or
  - (b) has excessive lead absorption and must not carry out lead risk work; or
  - (c) shows symptoms or signs of clinical lead poisoning, and is unfit for work; or
  - (d) is fit to return to lead risk work; or
  - (e) is fit to continue to carry out lead risk work.

**7.2.12 Frequency of biological monitoring**

- (1) A person conducting a business or undertaking at a workplace must arrange for biological monitoring under the supervision of a medical practitioner of each worker who carries out lead
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risk work for the person to be carried out at the following times:

- (a) for females not of reproductive capacity and males:
    - (i) 6 months after the last biological monitoring of the worker if the last monitoring shows a blood lead level of less than 30µg/dL (1.45µmol/L); or
    - (ii) 3 months after the last biological monitoring of the worker 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); or
    - (iii) 6 weeks after the last biological monitoring of the worker if the last monitoring shows a blood lead level of 40µg/dL (1.93µmol/L) or more;
  - (b) for females of reproductive capacity:
    - (i) 3 months after the last biological monitoring of the worker if the last monitoring shows a blood lead level of less than 10µg/dL (0.48µmol/L); or
    - (ii) 6 weeks after the last biological monitoring of the worker if the last monitoring shows a blood lead level of 10µg/dL (0.48µmol/L) or more.
- (2) A person conducting a business or undertaking at a workplace 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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- (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) If the regulator makes a determination under subregulation (3) in relation to a workplace, a person conducting a business or undertaking at the workplace must arrange for biological monitoring to be carried out at the frequency stated in the determination.

#### **7.2.13 Refusal of blood lead level monitoring**

- (1) A worker may make a declaration to refuse blood lead level monitoring.
- (2) A declaration must be in writing, signed by the worker and witnessed.

#### **7.2.14 Removal of worker from lead risk work**

- (1) A person conducting a business or undertaking at a workplace must immediately remove a worker from carrying out lead risk work if:
  - (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) following a medical examination of the worker by a medical practitioner, the practitioner thinks the worker must be removed from carrying out the lead risk work; or
  - (c) there is an indication that a risk control measure has failed and as a result, the worker's blood lead level is likely to reach the relevant level for the worker referred to in paragraph (a).
- (2) The person must notify the regulator if a worker is removed from carrying out lead risk work under subregulation (1).

**7.2.15 Duty to ensure medical examination if worker removed from lead risk work**

- (1) This regulation applies if a worker is removed from carrying out lead risk work under regulation 7.2.14.
- (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 medical practitioner within 7 days after the day the worker is removed.

**7.2.16 Return to lead risk work after removal**

- (1) This regulation applies if:
- (a) a worker is removed from carrying out lead risk work at a workplace; 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 the worker to be medically examined by a medical practitioner at a
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frequency decided by the practitioner to determine whether the worker is suitable to return to carrying out lead risk work.

- (3) The person conducting the business or undertaking must ensure that the worker does not return to carrying out lead risk work until:
  - (a) the worker's blood lead level is less than:
    - (i) for 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 medical practitioner is satisfied that the worker is fit to return to carrying out lead risk work.

#### **7.2.17 Information to go to regulator**

- (1) A person conducting a business or undertaking at a workplace must give written notice to the regulator if a worker at the workplace shows symptoms or signs of lead poisoning.
- (2) A notice under subregulation (1) must not identify the worker.

### **Division 4 Risk control measures**

#### **7.2.18 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.

#### **7.2.19 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.
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- (2) A person conducting a business or undertaking at a workplace must ensure that the ways 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.

**7.2.20 Prohibition on eating, drinking and smoking**

- (1) A person conducting a business or undertaking at a workplace must 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.
- (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.

**7.2.21 Provision of changing and washing facilities**

- (1) A person conducting a business or undertaking at a workplace must so far as is reasonably practicable provide and maintain in good working order changing rooms and washing, showering and toilet facilities at the workplace to:
    - (a) minimise secondary lead exposure from contaminated clothing; and
    - (b) minimise ingestion of lead; and
    - (c) avoid the spread of lead contamination.
  - (2) A person conducting a business or undertaking at a workplace must ensure so far as is reasonably practicable that workers at the workplace remove clothing and equipment contaminated with lead, and wash their hands and faces, before entering an eating or drinking area at the workplace.
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**7.2.22 Laundering, disposal and removal of protective clothing**

- (1) A person conducting a business or undertaking at a workplace must provide for the laundering or disposal of protective clothing and work clothing if the clothing is likely to be contaminated with lead dust.
- (2) The person must ensure that the protective clothing:
  - (a) is sealed in a container, and the exterior of the container is decontaminated, and labelled to indicate the presence of lead dust before being removed; and
  - (b) if the clothing is to be laundered—is laundered at a laundry equipped to launder lead-contaminated clothing.
- (3) A person conducting a business or undertaking at a workplace must ensure that a person only removes clothing required to be laundered or disposed of from the workplace if the clothing is to be transferred to a laundry or disposed of.

**7.2.23 Review of risk control measures**

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 at least every 5 years and:

- (a) before any significant change is made to a lead process at the workplace or to a system of work that is related to the lead process; or
  - (b) if a worker is removed from carrying out lead risk work at the workplace under regulation 7.2.14; or
  - (c) if a notifiable incident that involves exposure to lead occurs at the workplace; or
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- (d) if there is evidence that the risk control measures are not controlling the risk; or
  - (e) if a health and safety representative at the workplace requests the review.
- (2) A health and safety representative may request a review of risk control measures to control risks to health from exposure to lead at the workplace if the health and safety representative believes on reasonable grounds that:
- (a) a circumstance specified in subregulations (1)(a) to (1)(d) exists; and
  - (b) the person conducting a business or undertaking at a workplace has not ensured an adequate review of the risk control measures in response to that circumstance.

## **Part 7.3 Asbestos**

### **Division 1 Prohibitions and authorised conduct**

#### **7.3.1 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.
- (2) For this regulation, work *involves* asbestos if the work involves manufacturing, supplying, selling, transporting, storing, removing, using, installing, handling, treating, disposing of or disturbing asbestos or ACM.
- (3) Subregulation (1) does not apply if the work involving asbestos is any of the following:
  - (a) genuine research and analysis;
  - (b) sampling and identification in accordance with these regulations;
  - (c) maintenance of non-friable asbestos or ACM, fixed or installed before 31 December 2003, in accordance with these regulations;
  - (d) removal or disposal of asbestos or ACM, including demolition, in accordance with these regulations;
  - (e) demonstrations, education or practical training in relation to asbestos or ACM;
  - (f) display, or preparation or maintenance for display, of an artefact or thing that is, or includes, asbestos or ACM;
  - (g) management in accordance with these regulations of in situ asbestos that was installed or fixed before 31 December 2003;

- (h) non-asbestos mining or extraction of stone if asbestos is met;
  - (i) laundering asbestos contaminated clothing in accordance with these regulations.
- (4) Subregulation (1) does not apply if the regulator approves the way of managing asbestos.
- (5) Subregulation (1) does not apply to:
- (a) soil from which visible traces of ACM have so far as is reasonably practicable been removed by the person conducting a business or undertaking carrying out the work involving the soil;
- Note**
- A person who supplies, sells, transports, stores, uses or handles soil must, so far as is reasonably practicable, visually inspect the soil, or ensure the soil is visually inspected, to ensure any visible ACM is removed from the soil.
- (b) naturally occurring asbestos managed in accordance with an asbestos management plan developed under regulation 7.3.11.

## **Division 2      General duty**

### **7.3.2 Exposure to airborne asbestos at workplace**

- (1) A person conducting a business or undertaking at a workplace must ensure that so far as is reasonably practicable exposure of a person at the workplace to airborne asbestos is eliminated.
- (2) If it is not reasonably practicable to eliminate exposure to airborne asbestos at the workplace, the person must ensure that so far as is reasonably practicable the exposure is minimised.

- (3) Without limiting subregulation (2), the person conducting the business or undertaking at the workplace must ensure that the exposure standard for asbestos is not exceeded at the workplace.

### **Division 3 Management of asbestos and associated risks**

#### **7.3.3 Application**

- (1) This Division applies to a workplace if there is in situ asbestos at the workplace.
- (2) This Division does not apply to domestic premises that are a workplace only because a person conducting a business or undertaking is carrying out work at the premises.

#### **7.3.4 Asbestos to be identified or presumed at workplace**

- (1) A person with management or control of a workplace:
    - (a) must ensure so far as is reasonably practicable that all asbestos or ACM at the workplace is identified by a competent person; and
    - (b) if material at the workplace cannot be identified but a competent person reasonably believes that the material is asbestos or ACM—must presume that the material is asbestos; and
    - (c) if part of the workplace is inaccessible to workers and likely to contain asbestos or ACM—must presume that asbestos is present in the part of the workplace.
  - (2) Subregulation (1) does not apply if:
    - (a) the person presumes that asbestos or ACM is present; or
    - (b) the person has reasonable grounds to believe that asbestos or ACM is not present.
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- (3) If asbestos or ACM is presumed to be present at a workplace, it is taken to be identified at the workplace.

#### **7.3.5 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) 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.

#### **7.3.6 Presence and location of asbestos to be indicated**

A person with management or control of a workplace must ensure that:

- (a) the presence and location of asbestos or ACM identified at the workplace under regulation 7.3.4 is clearly indicated; and
- (b) if it is reasonably practicable to indicate the presence and location of the asbestos or ACM by a label—the presence and location is indicated by a label.

#### **7.3.7 Asbestos register**

- (1) A person with management or control of a workplace must ensure that a register (an *asbestos register*) is maintained at the workplace.



- (2) The asbestos register must:
- (a) record any asbestos or ACM identified at the workplace under regulation 7.3.4, or likely to be present at the workplace from time to time; 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.

**Note**

The Code of Practice *How to Manage and Control Asbestos in the Workplace* includes details about what should be included in an asbestos register.

**7.3.8 Review of asbestos register**

A person with management or control of a workplace where an asbestos register is maintained must ensure that the register is reviewed and, if necessary, revised:

- (a) if the risk assessment or a control measure is reviewed; or
- (b) if further asbestos or ACM is identified at the workplace.

**7.3.9 Access to asbestos register**

- (1) A person with management or control of a workplace where an asbestos register is maintained must ensure that the asbestos register is readily available to:
- (a) a worker who has carried out, carries out or intends to carry out, work at the workplace; and
  - (b) a health and safety representative who represents a worker referred to in paragraph (a) to enable the representative to exercise a
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- function under the Act or these regulations;  
and
- (c) a person conducting a business or undertaking that has carried out, carries out or intends to carry out, work at the workplace; and
  - (d) a person conducting a business or undertaking that has required, requires, or intends to require work to be carried out at the workplace.
- (2) If a person conducting a business or undertaking carries out, or intends to carry out, work at the workplace that involves a risk of exposure to airborne asbestos fibres, the person with management or control of the workplace must ensure that the person is given a copy of the asbestos register.

**7.3.10 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 a copy of the asbestos register is given to the person, if any, assuming management or control of the workplace.

**7.3.11 Asbestos management plan**

- (1) This regulation applies if asbestos or ACM is:
- (a) identified at a workplace under regulation 7.3.4; 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) a written plan (an *asbestos management plan*) for the workplace is developed; and
  - (b) the plan is maintained to ensure the information in the plan is up to date.

**Note**

The Code of Practice *How to Manage and Control Asbestos in the Workplace* includes details about what should be included in an asbestos management plan.

**7.3.12 Review of asbestos management plan**

A person with management or control of a workplace that has an asbestos management plan must ensure that the plan is reviewed and revised at least every 5 years, and if one of the following happens:

- (a) there is a review of the asbestos register, risk assessment or a control measure;
- (b) the plan is no longer adequate for managing asbestos or ACM at the workplace;
- (c) there is a request, on reasonable grounds, by a health and safety representative.

**7.3.13 Risk assessment**

- (1) This regulation applies if asbestos or ACM is:
    - (a) identified at a workplace under regulation 7.3.4; 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 risk assessment of the asbestos or ACM at the workplace is or has been undertaken by a competent person.
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- (3) If a person with management or control of a workplace expects to disturb asbestos or ACM when carrying out work at the workplace, the person must ensure that a risk assessment of the workplace is undertaken:
  - (a) by a competent person; and
  - (b) before the work is carried out.

**Note**

The Code of Practice *How to Manage and Control Asbestos in the Workplace* includes details about what should be included in a risk assessment.

**7.3.14 Review of risk assessment**

- (1) The person with management or control of the workplace, who commissioned the risk assessment, must ensure that the risk assessment is reviewed by a competent person and, if necessary, revised if:
  - (a) a change is made that affects the risk of exposure to asbestos at the workplace; or
  - (b) the condition of asbestos or ACM at the workplace changes; or
  - (c) the risk assessment for the workplace is not adequate for the workplace; or
  - (d) if a control measure does not control the risk of exposure to asbestos at the workplace.
- (2) The competent person undertaking the risk assessment review may visually inspect the condition of asbestos or ACM if the person considers that a visual inspection is adequate to assess the risk.

#### **Division 4 Asbestos at the workplace**

##### **7.3.15 Duty to inform about asbestos exposure at workplace**

- (1) This regulation applies if a person conducting a business or undertaking at a workplace knows or reasonably believes that airborne asbestos fibres have been released into the atmosphere in the workplace.
- (2) For subregulation (1), airborne asbestos fibres are taken to have been released into the atmosphere if ACM has been disturbed at the workplace other than during the removal of ACM or in accordance with Division 3.
- (3) The person must so far as is reasonably practicable:
  - (a) determine the persons who were in the area of the workplace where the asbestos fibres were released at the time and after the fibres were released; and
  - (b) warn the persons about possible exposure to asbestos fibres.
- (4) The person must determine whether the exposure standard was likely to have been exceeded in the workplace.
- (5) The person must ensure that information about exposure to airborne asbestos, including the determination referred to in subregulation (4), is accessible to the persons referred to in subregulation (3)(a) as soon as practicable after the person receives it.

##### **7.3.16 Duty to provide health surveillance**

- (1) A person conducting a business or undertaking at a workplace must ensure that health surveillance is provided to a worker if the worker is:
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- (a) carrying out licensed asbestos removal work at the workplace; or
  - (b) is carrying out other asbestos removal work or is involved in carrying out maintenance work on asbestos and is determined to have been in an area of the workplace in which the exposure standard was likely to have been exceeded.
- (2) For subregulation (1)(a), the person must ensure that the health surveillance of the worker starts before the worker carries out licensed asbestos removal work.
- (3) The person must pay all expenses relating to worker health surveillance.
- (4) The person must ensure that:
- (a) health surveillance includes consideration of the worker's demographic, medical and occupational history, records of personal exposure and a physical examination of the worker; and
  - (b) the worker is told about any health surveillance requirements before the worker carries out any work that may expose the worker to asbestos at the workplace; and
  - (c) health surveillance is carried out under the supervision of a registered medical practitioner with the relevant competencies after consulting the worker.

#### **7.3.17 Health surveillance results**

- (1) A person conducting a business or undertaking at a workplace must ensure that a summary of health surveillance results is obtained from the medical practitioner who supervised the surveillance as soon as is reasonably practicable after the surveillance is carried out in relation to a worker.
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- (2) The summary of health surveillance results must include the following:
  - (a) any advice indicating a disease or adverse health effect that is likely to be related to exposure to asbestos at the workplace;
  - (b) any recommendation that the person:
    - (i) take remedial measures; or
    - (ii) is fit or not fit to continue the work that required the health surveillance;
  - (c) whether medical counselling is required in relation to work-related health risks.
- (3) If the person receives advice or a recommendation referred to in subregulation (2), the person must ensure that a copy is given to the regulator as soon as is reasonably practicable.
- (4) If the person receives a recommendation referred to in subregulation (2)(b), the person must ensure that the risk assessment and control measures in relation to asbestos are reviewed and, if necessary, revised.
- (5) The person must ensure that a copy of the health surveillance results, together with an explanation of the results, is given to the worker as soon as is reasonably practicable.

#### **7.3.18 Health surveillance records**

- (1) A person conducting a business or undertaking at a workplace must ensure that health surveillance results in relation to a worker at the workplace 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.

- (2) The person must ensure that the health surveillance results of a worker are not disclosed to someone else without the worker's written consent.
- (3) Subregulation (2) does not apply if the record is disclosed to a person who must keep the record confidential under a duty of professional confidentiality.
- (4) The person must ensure that health surveillance results relating to a worker are given to the worker if:
  - (a) the person stops conducting the business or undertaking; or
  - (b) the worker stops working for the business or undertaking.

#### **7.3.19 Duty to train workers about asbestos**

- (1) A person conducting a business or undertaking at a workplace must ensure that workers engaged by the person who the person reasonably believes may be involved in asbestos removal work or in carrying out maintenance work on asbestos are trained in the identification and safe handling of, and appropriate controls for, asbestos and ACM.
- (2) This regulation does not apply in relation to a worker to whom regulation 7.3.35 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 stopped carrying out the work for the person.



### **7.3.20 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, any of the following on asbestos or ACM:
  - (a) high-pressure water spray;
  - (b) compressed air.
- (2) A person conducting a business or undertaking must not use, or direct or allow a worker to use, any of the following equipment on asbestos or ACM unless the use of the equipment is controlled:
  - (a) power tools;
  - (b) broom;
  - (c) another implement that causes the release of airborne asbestos into the atmosphere.
- (3) The use of equipment is controlled if, during the use:
  - (a) the equipment is enclosed; or
  - (b) the equipment is designed to capture or suppress asbestos fibres; or
  - (c) the equipment is used in a way that is designed to capture or suppress asbestos fibres safely; or
  - (d) any combination of paragraphs (a), (b) or (c) is used.

## **Division 5 Demolition and refurbishment**

### **7.3.21 Application—Division 5**

- (1) This Division applies to the demolition or refurbishment of a building, structure or plant.
  - (2) In this regulation, *demolition or refurbishment* does not include minor or routine maintenance work, or other minor work.
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### **7.3.22 Review of asbestos register**

A 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.

### **7.3.23 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 started.

### **7.3.24 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 conducting a business or undertaking with management or control of the workplace, before the person starts the demolition or refurbishment.

### **7.3.25 Determining presence of asbestos or ACM**

- (1) This regulation applies if:
  - (a) demolition or refurbishment is to be carried out at a workplace; and

- (b) there is no asbestos register for the building, 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 building, structure or plant has been inspected to determine whether asbestos or ACM is fixed to or installed in the building, structure or plant.
  - (3) The person conducting a business or undertaking who is to carry out the demolition or refurbishment must ensure that the determination is undertaken by a competent person.
  - (4) The person conducting a business or undertaking who is to carry out the demolition or refurbishment must presume that asbestos or ACM is fixed to or installed in the building, structure or plant if:
    - (a) the competent person is reasonably uncertain whether asbestos is fixed to or installed in the building, structure or plant; or
    - (b) part of the building, structure or plant is inaccessible and likely to be disturbed.
  - (5) If asbestos or ACM is determined or presumed to be fixed to or installed in the building, structure or plant, the person conducting a business or undertaking who is to carry out the demolition or refurbishment must tell:
    - (a) if the workplace is domestic premises—the occupier and owner of the premises; and
    - (b) in any other case—the person conducting a business or undertaking with management or control of the workplace.
-

**7.3.26 Identification and removal of asbestos before demolition**

- (1) This regulation applies if a building, structure or plant is to be demolished.
- (2) This regulation does not apply:
  - (a) in an emergency to which regulation 7.3.28 applies; or
  - (b) to domestic premises.
- (3) The person conducting a business or undertaking with management or control of the workplace, or the building, 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 started.
- (4) Subregulation (3)(b) does not apply if the demolition is to gain access to the asbestos.

**7.3.27 Demolition of domestic premises**

- (1) A person conducting a business or undertaking who 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 started.
  - (2) This regulation does not apply in an emergency to which regulation 7.3.29 applies.
  - (3) Subregulation (1)(b) does not apply if the demolition is to gain access to the asbestos.
-

### 7.3.28 Emergency procedure

- (1) This regulation applies if:
    - (a) an emergency happens at a workplace other than domestic premises; and
    - (b) a building, structure or plant at the workplace must be demolished; and
    - (c) asbestos is fixed to or installed in the building, structure or plant before the emergency happens.
  - (2) A person with management or control of the workplace must ensure so far as is reasonably practicable that:
    - (a) before the demolition is started, 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.
  - (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 started.
  - (4) For this regulation, an **emergency** happens if:
    - (a) a building, structure or plant is structurally unsound; or
    - (b) collapse of the building, structure or plant is imminent.
-

**7.3.29 Emergency procedure—domestic premises**

- (1) This regulation applies if:
  - (a) an emergency happens at domestic premises; and
  - (b) a building, structure or plant at the premises must be demolished; and
  - (c) asbestos is fixed to or installed in the building, structure or plant before the emergency happens.
- (2) A person conducting a business or undertaking who is to carry out the demolition of the domestic premises must ensure that, before the demolition is started, 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.
- (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 started.
- (4) For this regulation, an *emergency* happens if:
  - (a) a building, structure or plant is structurally unsound; or
  - (b) collapse of the building, structure or plant is imminent.

**7.3.30 Identification and removal of asbestos before refurbishment**

- (1) This regulation applies if a building, structure or plant at a workplace is to be refurbished.
  - (2) However, this regulation does not apply to domestic premises.
-

- (3) The person with management or control of the workplace, or the building, structure or plant, must ensure:
- (a) that all asbestos that is likely to be disturbed by the refurbishment is identified; and
  - (b) so far as is reasonably practicable, that the asbestos is removed before the refurbishment is started.

#### **7.3.31 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 started.

### **Division 6 Asbestos removal work**

#### **7.3.32 Definitions—Division 6**

In this Division:

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

***competent person*** means a person who:

- (a) is familiar with relevant asbestos industry practice; and
- (b) holds:
  - (i) a certification in relation to the specified unit of competency for asbestos assessor work; or

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

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

**Note**

If a duty under this Division applies to a person carrying out asbestos removal work, the duty applies to a licensed removalist and an unlicensed asbestos removalist, unless otherwise stated.

**7.3.33 Asbestos removalist must be licensed**

A person conducting a business or undertaking at a workplace who commissions the removal of asbestos at the workplace must ensure that asbestos removal work that is required under Subdivision 1 of Division 8 to be carried out by a licensed removalist is carried out by a licensed removalist who is licensed to carry out the work.

**7.3.34 Asbestos removal supervisor must be readily available**

A licensed asbestos removalist must ensure that the nominated asbestos removal supervisor for asbestos removal work is:

- (a) if the asbestos removal work requires a class A 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 licence—readily available to a worker carrying out asbestos removal work whenever the work is being carried out.



**7.3.35 Asbestos removal worker must be competent**

- (1) A licensed removalist must not direct or allow a worker to carry out asbestos removal work unless the removalist is satisfied that the worker holds a certification in relation to the unit of competency for asbestos removal relevant to the class of asbestos removal to be carried out by the worker.
- (2) A licensed removalist must provide appropriate training to a worker carrying out 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.
- (3) In this regulation:  
*appropriate training* means training designed specifically for the workplace where the asbestos removal work is carried out and the work to be carried out at the workplace.

**7.3.36 Licensed removalist must keep training records**

- (1) A licensed removalist must keep a record of the training undertaken by a worker carrying out asbestos removal work:
  - (a) while the worker is carrying out asbestos removal work; and
  - (b) for 5 years after the day the worker stopped carrying out asbestos removal work for the removalist.
- (2) The licensed removalist must ensure that the training record is accessible at the asbestos removal area.

**7.3.37 Duty to give information about health risks of asbestos removal work**

A licensed removalist must give the following information to a person likely to be engaged to carry out 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, medical examinations and health surveillance of a worker carrying out asbestos removal work.

**7.3.38 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.
- (2) Subregulation (1) does not apply if the asbestos removal work is to be carried out at domestic premises.

**7.3.39 Asbestos removal control plan**

- (1) A licensed removalist must develop an asbestos removal control plan for any asbestos removal work the removalist is commissioned to undertake.
- (2) The licensed removalist must give a copy of the asbestos removal control plan to the person who commissioned the asbestos removal work.
- (3) The licensed removalist must ensure that a copy of the asbestos removal control plan is, for the duration of the asbestos removal work, readily available to:
  - (a) a person conducting a business or undertaking at the workplace; and

- (b) the person's workers at the workplace, or a health and safety representative who represents the workers; and
- (c) if the asbestos removal work is to be carried out in domestic premises—the occupants of the premises; and
- (d) if requested—the regulator.

**Note**

The Code of Practice *How to Safely Remove Asbestos* includes details about what should be included in an asbestos removal control plan.

**7.3.40 Regulator must be notified of asbestos removal**

- (1) A licensed removalist must give written notice to the regulator at least 5 days before the removalist starts asbestos removal work in relation to:
  - (a) friable asbestos; or
  - (b) non-friable asbestos, if more than 10 square metres is to be removed.
- (2) However, asbestos removal work may be started immediately only if there is:
  - (a) a sudden and unexpected event, including a failure of equipment, that may cause persons to be exposed to airborne 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 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).

- (4) The notice must include the following:
- (a) the following in relation to the licensed removalist:
    - (i) name;
    - (ii) registered business name;
    - (iii) Australian Business Number;
    - (iv) licence number;
    - (v) business contact details;
  - (b) the name and business contact details of the supervisor of the asbestos removal work;
  - (c) the name of the competent person or licensed assessor engaged to carry out a clearance inspection and issue a clearance certificate;
  - (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 conducting a business or undertaking 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 start 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.

**7.3.41 Licensed removalist must tell person with management or control of workplace about asbestos removal**

- (1) This regulation applies if:
    - (a) a licensed removalist is to carry out asbestos removal work at a workplace; and
    - (b) friable asbestos or ACM, or more than 10 square metres of non-friable asbestos or ACM, is to be removed from the workplace.
  - (2) The licensed removalist must, before starting the asbestos removal work, tell a person conducting a business or undertaking with management or control of the workplace:
    - (a) that asbestos removal work is to be carried out at the workplace; and
    - (b) when the work is to start.
  - (3) If the workplace is domestic premises, the licensed removalist must so far as is reasonably practicable, before starting the 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 start:
    - (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.

**7.3.42 Person with management or control of workplace must tell persons about asbestos removal**

- (1) This regulation applies if a 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 workplace, and when the work is to start:
  - (a) the person's workers and any other persons at the workplace;
  - (b) the person who commissioned the asbestos removal work;
  - (c) anyone conducting a business or undertaking at, or in the immediate vicinity of, the workplace;
  - (d) anyone occupying premises in the immediate vicinity of the workplace.

**7.3.43 Signage and barricades for asbestos removal work**

A person carrying out asbestos removal work must ensure that:

- (a) signs alerting persons about 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.

#### **7.3.44 Limiting access to asbestos removal area**

- (1) This regulation applies to:
  - (a) a person conducting a business or undertaking at a workplace who commissions a person to carry out licensed asbestos removal work at the workplace; and
  - (b) a person with management or control of a workplace who is aware that licensed asbestos removal work is being carried out at the workplace.
- (2) The person must ensure so far as is reasonably practicable that no-one other than the following has access to an asbestos removal area:
  - (a) workers engaged in the asbestos removal work;
  - (b) other persons associated with the asbestos removal work;
  - (c) anyone allowed under these regulations or another law to be in the asbestos removal area.
- (3) The person may refuse to allow access to an asbestos removal area in the workplace to anyone who does not comply with:
  - (a) a control measure adopted for the workplace in relation to asbestos; or
  - (b) a direction of the licensed removalist.
- (4) A person referred to in subregulation (2)(a), (b) or (c) has access to an asbestos removal area subject to any direction of the licensed removalist.

- (5) If a person referred to in subregulation (2)(a), (b) or (c) has access to an asbestos removal area, the person must comply with any direction of the licensed removalist.

**7.3.45 Decontamination facilities**

- (1) A person carrying out asbestos removal work 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.
- (2) A person carrying out asbestos removal work 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 decontaminated, and labelled to indicate the presence of asbestos before being removed.

**7.3.46 Disposing of asbestos waste and contaminated clothing**

- (1) A person carrying out asbestos removal work must ensure that asbestos waste:
    - (a) is contained and labelled before the waste is removed from an asbestos removal area; and
    - (b) is disposed of as soon as reasonably practicable at a site authorised to accept asbestos waste.
  - (2) A person carrying out asbestos removal work must ensure that personal protective clothing used in asbestos removal work and contaminated with asbestos:
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- (a) is sealed in a container, and the exterior of the container is decontaminated, and labelled to indicate the presence of asbestos before being removed; and
  - (b) so far as is reasonably practicable, is disposed of at the end 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 clothing—is laundered at a laundry equipped to launder asbestos-contaminated clothing.
- (3) In this regulation:
- asbestos waste* means:
- (a) asbestos removed during asbestos removal work; and
  - (b) things used for the removal of asbestos that are disposable.

#### **7.3.47 Clearance inspection and clearance certificate**

- (1) This regulation applies if:
    - (a) a person commissions asbestos removal work at a workplace; and
    - (b) the asbestos removal work must be carried out by a licensed removalist.
  - (2) The person or, if the workplace is domestic premises, the licensed removalist must ensure that, at the end of the asbestos removal work, a clearance inspection of the asbestos removal area at the workplace is completed by:
    - (a) if the asbestos removal work must be carried out by the holder of a Class A asbestos removal licence—an independent licensed assessor; or
-

- (b) in any other case—an independent competent person.
- (3) However, if it is not reasonably practicable for the licensed assessor, or competent person, to be independent, the person or licensed removalist may apply to the regulator for an exemption under Part 10.3 from the requirement that the assessor or competent person be independent.
- (4) The independent licensed assessor or competent person must provide a clearance certificate before the workplace can be re-occupied.
- (5) The independent licensed assessor or competent person must ensure that the asbestos removal area does not pose a risk to health and safety from exposure to asbestos.
- (6) The independent licensed 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.

**Division 7 Asbestos removal requiring class A licence**

**7.3.48 Air monitoring—asbestos removal requiring class A 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 independent licensed assessor undertakes air monitoring of the asbestos removal area at the workplace.
-

- (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 assessor undertakes air monitoring of the asbestos removal area at the premises.
- (3) The person who commissions the 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 the workplace;
  - (c) persons conducting businesses or undertakings at the workplace;
  - (d) other persons at the workplace.
- (4) If the workplace is domestic premises, the licensed removalist carrying out the asbestos removal work at the premises must ensure that the results of the air monitoring are given to the following:
  - (a) the person who commissioned the asbestos removal work;
  - (b) workers at the workplace;
  - (c) health and safety representatives for 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.

- (5) The independent licensed assessor must:
- (a) undertake air monitoring; and
  - (a) only use the membrane filter method for air monitoring.

**Note**

The Code of Practice *How to Safely Remove Asbestos* includes details about how to undertake air monitoring.

**7.3.49 Action if 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 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 asbestos fibre level; and
    - (ii) implement controls to prevent exposure of anyone to asbestos fibres; and
    - (iii) prevent the further release of respirable asbestos fibres; and
  - (b) if asbestos fibre levels are recorded at the asbestos removal area at more than 0.02 fibres/ml immediately:
    - (i) order the asbestos removal work to stop; and
    - (ii) notify the regulator; and
    - (iii) investigate the cause of the asbestos fibre level; and
    - (iv) implement controls to prevent exposure of anyone to asbestos fibres; and
    - (v) prevent the further release of respirable asbestos fibres.
-

- (2) If the licensed removalist stops asbestos removal work requiring a Class A asbestos removal licence because the recorded asbestos fibre level is more than 0.02 fibres/ml, the removalist must ensure that the asbestos removal work does not restart until air monitoring shows that the recorded asbestos fibre level is below 0.01 fibres/ml.

#### **7.3.50 Removing friable asbestos**

- (1) A licensed removalist removing friable asbestos must ensure so far as is reasonably practicable that:
    - (a) the asbestos removal area is enclosed to prevent the release of respirable asbestos fibres; and
    - (b) if negative pressure is used—the enclosure used is tested for leaks; and
    - (c) the wet method of asbestos removal is used; and
    - (d) the asbestos removal work does not start until the air monitoring is started by a licensed assessor; and
    - (e) air monitoring is undertaken during the asbestos removal work, at times decided by the independent licensed assessor undertaking the monitoring; and
    - (f) any glove bag used to enclose the asbestos removal area is dismantled and disposed of safely.
  - (2) However, subregulation (1)(b) and (d) do not apply if glove bags are used in the Class A asbestos removal work.
  - (3) The licensed removalist must not dismantle an enclosure for a friable asbestos removal area until the removalist receives results of air monitoring
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showing that the recorded 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 assessor who undertook the air monitoring; or
  - (b) in any other case—the person who commissioned the Class A asbestos removal work.
- (4) 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 fibres.
- (5) 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.

**Division 8      Licensing of asbestos removalists and asbestos assessors**

**Subdivision 1   Asbestos removalists—requirement to be licensed**

**7.3.51   Requirement to hold Class A asbestos removal licence**

A person must not 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 regulation 7.3.52, asbestos-contaminated dust (ACD).

**Note**

See section 43 of the Act.

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**7.3.52 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 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.

**7.3.53 Requirement to hold Class B asbestos removal licence**

A person must not carry out the removal of the following unless the person holds a Class B asbestos removal licence or a Class A asbestos removal licence:

- (a) more than 10 square metres of non-friable asbestos or ACM; or
- (b) asbestos-contaminated dust (ACD) associated with the removal of more than 10 square metres of non-friable asbestos or ACM.

**Note**

See section 43 of the Act.

**Subdivision 2 Asbestos assessors—requirement to be licensed**

**7.3.54 Requirement to hold asbestos assessor licence**

(1) A person must not carry out the following work 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 of the Act.

- (2) For the purposes of this regulation, clearance inspections may be carried out by visual inspection and air monitoring of the workplace.

**Subdivision 3 Licensing process**

**7.3.55 Who may apply for a licence**

- (1) Only a person who conducts a business or undertaking in which asbestos removal work is carried out may apply for an asbestos removal licence.
- (2) Only an individual who holds the qualifications set out in regulation 7.3.57 may apply for an asbestos assessor licence.

**7.3.56 Application for asbestos removal licence or asbestos assessor licence**

- (1) An application for an asbestos removal licence or asbestos assessor licence must include the following information:
  - (a) the applicant's name;
  - (b) if required by the regulator of an applicant who is an individual, a photograph of the applicant of the size, and in the form, specified by the regulator;
  - (c) other evidence of identity required by the regulator;



- (d) 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;
- (e) in the case of an asbestos assessor licence, the additional information referred to in regulation 7.3.57;
- (f) a declaration that the applicant does not hold an equivalent licence granted by a corresponding regulator 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 ever been convicted or found guilty of any offence under the Act or these Regulations or under any corresponding WHS law;
- (h) details of any conviction or finding of guilt declared under paragraph (g);

**Note**

See the jurisdictional note in the Appendix.

- (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 ever previously had an equivalent licence under the Act or these Regulations or under any corresponding WHS law refused, suspended or cancelled;
  - (j) details of any suspension or cancellation declared under paragraph (i), including any disqualification from applying for any further licence or authorisation;
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- (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 the Act or under any corresponding WHS law;
  - (l) details of any enforceable undertaking declared under paragraph (k);
  - (m) in the case of an application for an asbestos removal licence, the additional information set out in regulation 7.3.58 or 7.3.59, as applicable;
  - (n) a declaration to the effect that the information contained in the application is, to the best of the applicant's knowledge, true and correct.
- (2) The application must be accompanied by the relevant fee.

**Note**

See the jurisdictional note in the Appendix.

**7.3.57 Content of application—asbestos assessor licence**

For the purposes of regulation 7.3.56(1)(e), an application for an asbestos assessor licence must include:

- (a) evidence that the applicant is familiar with relevant asbestos industry practice; and
- (b) either:
  - (i) a copy of a certification that is held by the applicant in relation to the specified unit of competency for asbestos assessor work that was issued not more than 60 days before the application is made; or

- (ii) evidence that the applicant has attained a tertiary qualification in occupational health and safety, industrial hygiene, science, building construction or environmental health.

**7.3.58 Content of application—Class A asbestos removal licence**

- (1) For the purposes of regulation 7.3.56(1)(m), an application for a Class A asbestos removal licence must include the following:
  - (a) the names of the competent persons who have been engaged by the applicant to supervise the asbestos removal work to be authorised by the licence; and
  - (b) evidence, as required by the regulator, that each named supervisor is at least 18 years of age; and
  - (c) a copy of a certification issued to each named supervisor for:
    - (i) the specified unit of competency for asbestos removal supervision for Class A asbestos removal work; and
    - (ii) the specified unit of competency for the Class A asbestos removal work,that was issued not more than 60 days before the application is made; and
  - (d) evidence that each named supervisor has at least 3 years of relevant industry experience; and
  - (e) evidence that the applicant has a certified safety management system in place.

- (2) If the applicant is an individual who proposes to supervise the carrying out of the Class A asbestos removal work, the statement and information referred to in subregulation (1)(b), (c) and (d) must relate to the applicant.

**7.3.59 Application for Class B asbestos removal licence**

- (1) For the purposes of regulation 7.3.56(1)(m), an application for a Class B asbestos removal licence must include the following:
- (a) the name of the one or more competent persons who have been engaged by the applicant to supervise the asbestos removal work to be authorised by the licence; and
  - (b) evidence, as required by the regulator, that each named supervisor is at least 18 years of age; and
  - (c) a copy of a certification issued to each named supervisor for:
    - (i) the specified unit of competency for asbestos removal supervision for Class B asbestos removal work; and
    - (ii) the specified unit of competency for the Class B asbestos removal work,that was issued not more than 60 days before the application is made; and
  - (d) evidence that each named supervisor has at least one year of relevant industry experience.
- (2) If the applicant is an individual who proposes to supervise the carrying out of the Class B asbestos removal work, the statement and information referred to in subregulation (1)(b), (c) and (d) must relate to the applicant.
-

**7.3.60 Additional information**

- (1) If an application for a licence does not contain sufficient information to enable the regulator to make a decision whether or not to grant the licence, the regulator may ask the applicant to provide additional information.
- (2) A request for additional information must:
  - (a) specify the date 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 to be taken to have been withdrawn.
- (4) The regulator may make more than one request for additional information under this regulation.

**7.3.61 Decision on application**

- (1) The regulator must grant an asbestos removal licence or asbestos assessor licence if the regulator is satisfied in relation to:
  - (a) the matters specified in subregulation (2); and
  - (b) the additional matters set out in regulation 7.3.62 or 7.3.63, as applicable.
- (2) The regulator must be satisfied that:
  - (a) the application has been made in accordance with these Regulations; and
  - (b) the applicant does not hold an equivalent licence under a corresponding WHS law unless that licence is due for renewal; and

- (c) if the applicant is an individual, the applicant:
    - (i) resides in [this jurisdiction]; or
    - (ii) resides outside [this jurisdiction] and satisfies the regulator that circumstances exist that justify the grant of the licence; and
  - (d) if the applicant is a body corporate, the applicant's registered office:
    - (i) is located in [this jurisdiction]; or
    - (ii) is located outside [this jurisdiction] and the applicant has satisfied the regulator that circumstances exist that justify the grant of the licence; and
  - (e) the applicant is able to ensure that the work or other activities to which the licence relates are carried out safely and competently; and
  - (f) the applicant is able to ensure compliance with any conditions that will apply to the licence.
- (3) The regulator must refuse to grant a licence if it is satisfied that:
- (a) the applicant is disqualified under a corresponding WHS law from holding an equivalent licence; or
  - (b) the applicant, in making the application, has:
    - (i) given information that is false or misleading in a material particular; or
    - (ii) failed to give any material information that should have been given.
- (4) If the regulator decides to grant the licence, it must notify the applicant within 30 days after making the decision.
-

- (5) If the regulator does not make a decision within 120 days after receiving the application, the regulator is taken to have refused to grant the licence applied for.

**7.3.62 Class A asbestos removal licence—regulator to be satisfied of additional matters**

For the purposes of regulation 7.3.61(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 unit of competency for asbestos removal supervision for Class A asbestos removal work; and
    - (B) the specified unit of competency for the Class A asbestos removal work,  
that was issued not more than 60 days before the application was made; and
  - (iii) has 3 years of relevant industry experience; and
- (b) the applicant has a certified safety management system in place.

**7.3.63 Class B asbestos removal licence—regulator to be satisfied of additional matters**

For the purposes of regulation 7.3.61(1)(b), in relation to a Class B asbestos removal licence the regulator must be satisfied that each supervisor named by the applicant:

- (a) is at least 18 years of age; and
-

- (b) holds a certification for:
  - (i) the specified unit of competency for asbestos removal supervision for Class B asbestos removal work; and
  - (ii) the specified unit of competency for the Class B asbestos removal work,that was issued not more than 60 days before the application was made; and
- (c) has one year of relevant industry experience.

#### **7.3.64 Matters to be taken into account**

For the purposes of regulation 7.3.61(2)(e) and (f), the regulator may have regard to any relevant matter including:

- (a) any offence under the Act or these Regulations or under a corresponding WHS law, of which the applicant has been convicted or found guilty; and
- (b) any suspension or cancellation of an equivalent licence or other authorisation held by the applicant under the Act or these Regulations or under a corresponding WHS law; and
- (c) any enforceable undertaking that the applicant has entered into under the Act or a corresponding WHS law; and
- (d) the applicant's record with respect to any matters arising under the Act or these Regulations or under a corresponding WHS law.

#### **7.3.65 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 make a submission to the regulator in relation to the proposed refusal and specifying the date by which the submission must be made.
- (2) Within the relevant prescribed time after the date specified under subregulation (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) 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 regulation 10.1.1).

**7.3.66 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 subregulation (1), the regulator may impose conditions in relation to the following matters:
  - (a) control measures which must be implemented in relation to the carrying out of work or activities under the licence;
  - (b) the recording or keeping of information;

- (c) requiring the licence holder 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 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 regulation 10.1.1).

**7.3.67 Duration of licence**

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.

**7.3.68 Licence document**

- (1) If the regulator grants an asbestos removal licence or asbestos assessor licence the regulator must issue to the applicant a licence document in the form determined by the regulator.
  - (2) The licence document must include:
    - (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) the date on which the licence was granted; and
    - (d) the expiry date of the licence; and
    - (e) any licence conditions imposed by the regulator under regulation 7.3.66.
-

**7.3.69 Licence document to be available**

A licence holder must keep the licence document available for inspection by an inspector under the Act.

**Subdivision 4 Changes to licence and licence document**

**7.3.70 Changes to information**

- (1) The licence holder of an asbestos removal licence or asbestos assessor licence must advise the regulator in writing 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.
- (2) Subregulation (1) applies whether the information was given in the application for grant or renewal of the licence or in any other circumstance.

**7.3.71 Change to nominated supervisor**

If there is a change in relation to the supervisors named to the regulator by the holder of an asbestos removal licence (other than a licence holder who is an individual), the licence holder must, within 14 days after the change:

- (a) ask the regulator to amend the licence under regulation 7.3.73 to make that change; and
- (b) if the change is to add a supervisor—give the regulator the information about the supervisor referred to in regulation 7.3.62 or 7.3.63.

**7.3.72 Amendment imposed by regulator**

- (1) The regulator may, on its own initiative, amend an asbestos removal licence or asbestos assessor 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) Before amending a licence under this regulation, the regulator must give the licence holder written notice that:
- (a) sets out the proposed amendment and the reasons for it; and
  - (b) advises the licence holder that the licence holder may make a submission to the regulator in relation to the proposed amendment within a specified period.
- (3) If the licence holder makes a submission within the period specified in the notice, the regulator must consider that submission.
- (4) After the period specified in the notice, the regulator may make:
- (a) the proposed amendment; or
  - (b) a different amendment that results from consideration of any submission made by the licence holder.
- (5) If the regulator makes an amendment, it must give the licence 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) specifies the date, being not less than the relevant prescribed time 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 regulation 10.1.1).

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**7.3.73 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 make the amendment, it must give the licence holder written notice that:
    - (a) states the intention to refuse to make the amendment and the reasons for that intention; and
    - (b) advises the licence holder that the licence holder may make a submission to the regulator in relation to the proposed refusal within a specified period.
  - (3) If the licence holder makes a submission within the time specified in the notice, the regulator must consider that submission.
  - (4) After the time specified 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 licence holder.
  - (5) If the regulator makes the amendment, it must give the licence holder a written notice specifying 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 licence holder a written notice that:
    - (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) specifies the date, being not less than the relevant prescribed time after the licence holder is given the second 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 regulation 10.1.1).

**7.3.74 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.

**7.3.75 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.

**7.3.76 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 within the time specified in the request.

### **7.3.77 Replacement licence document**

- (1) A licence holder must give written notice to the regulator as soon as is reasonably practicable if the licence document is lost, stolen or destroyed.
- (2) If a licence document is lost, stolen or destroyed, the licence holder may apply to the regulator for a replacement document.
- (3) An application for a replacement licence 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 licence 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 licence holder written notice of this decision, including the reasons for the decision.

### **7.3.78 Voluntary surrender of licence**

A licence holder may voluntarily surrender the licence document to the regulator.

## **Subdivision 5 Renewal of licence**

### **7.3.79 Regulator may renew licence**

The regulator may renew an asbestos removal licence or asbestos assessor licence on application by the licence holder.

### **7.3.80 Application for renewal**

- (1) A licence holder may apply to the regulator to renew an asbestos removal licence or asbestos assessor licence.

- (2) An application for renewal of a licence must:
- (a) be made:
    - (i) in the manner and form required by the regulator; and
    - (ii) within the relevant prescribed time; and
  - (b) include written evidence that the applicant has obtained any retraining or reassessment or taken any other action required under regulation 7.3.66; and
  - (c) be accompanied by the relevant fee.

**Note**

See the jurisdictional note in the Appendix.

**7.3.81 Decision on application**

- (1) For the purposes of this Subdivision:
- (a) regulation 7.3.56 applies as if a reference in that regulation to an application for a licence were a reference to an application to renew a licence; and
  - (b) regulations 7.3.61 and 7.3.64 apply as if a reference in regulation 7.3.61 to the grant of a licence were a reference to the renewal of a licence; and

**Note**

A refusal to renew a licence is a reviewable decision (see regulation 10.1).

- (c) regulation 7.3.65 applies as if a reference in that regulation to a refusal to grant a licence were a reference to a refusal to renew a licence.
- (2) Before renewing an asbestos removal licence, the regulator must be satisfied as to the matters in regulation 7.3.82.
-



- (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.

**7.3.82 Renewal of asbestos removal licence—regulator to be satisfied of certain matters**

For the purposes of regulation 7.3.81(2), the regulator may renew an asbestos removal licence if satisfied that:

- (a) each supervisor named by the applicant:
- (i) holds a certification for the specified unit of competency for supervision of the asbestos removal work to be authorised by the licence; and
  - (ii) has appropriate experience in the asbestos removal work to be authorised by the licence; and
- (b) asbestos removal work of the type authorised by the licence has been carried out on behalf of the applicant during the term of the licence.

**7.3.83 Status of licence during review**

- (1) If, before an asbestos removal licence or asbestos assessor licence expires, the regulator gives the licence holder written notice that it proposes to refuse to renew the licence, the licence continues to have effect in accordance with this regulation.
- (2) If the licence holder does not apply for internal 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 time for applying for an external review.

- (3) If the licence holder applies for an internal review, the licence continues to have effect until the first 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 first of the following events:
  - (a) the licence holder withdraws the application for review; or
  - (b) [the external review body] makes a decision on the review.
- (6) The licence continues to have effect under this regulation even if its expiry date passes.

## **Subdivision 6 Suspension and cancellation of licence**

### **7.3.84 Suspension or cancellation of licence**

- (1) The regulator may suspend or cancel an asbestos removal licence or asbestos assessor licence if it is satisfied that:
    - (a) the licence holder has failed to ensure that the work or other activities authorised by the licence are carried out safely and competently; or
    - (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;  
or
- (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; or
  - (d) the licence was granted or renewed on the basis of a certification that was obtained on the basis of the giving of false or misleading information by any person or body.
- (2) It is a ground for the suspension or cancellation of an asbestos removal licence if the licence holder does not have a qualified nominated asbestos removal supervisor.

**Note**

Regulation 7.3.71 provides for a licence holder to notify the regulator of any change in a nominated supervisor.

- (3) For the purposes of subregulation (1)(b), a licence holder complies with a condition on the licence that requires the licence holder or a nominated supervisor of the licence holder to undergo retraining or reassessment during the term of the licence if the licence holder provides a certification in relation to that retraining or reassessment.
  - (4) If the regulator suspends or cancels a licence, the regulator may disqualify the licence holder from applying for:
    - (a) a further licence of the same type; or
-

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

**Note**

A decision to suspend a licence, to cancel a licence or to disqualify the licence holder from applying for a further licence is a reviewable decision (see regulation 10.1.1).

**7.3.85 Matters taken into account**

- (1) In making a decision under regulation 7.3.84, the regulator must take into account:
  - (a) any representations made by the licence holder under regulation 7.3.86; and
  - (b) any advice received from a corresponding regulator.
- (2) For the purposes of regulation 7.3.84(1)(a) and (b), the regulator may take into account any relevant matter, including:
  - (a) any offence under the Act or these Regulations or under a corresponding WHS law, of which the licence holder has been convicted or found guilty; and
  - (b) any suspension or cancellation of an equivalent licence or other authorisation held by the licence holder under the Act or these Regulations or under a corresponding WHS law; and
  - (c) any enforceable undertaking that has been entered into by the licence holder under this Act or a corresponding WHS law; and

- (d) the licence holder's record with respect to any matters arising under the Act or these Regulations or under a corresponding WHS law.

**7.3.86 Notice to and representations 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 or disqualification that outlines all relevant allegations, facts and circumstances known to the regulator; and
- (b) give the licence holder a reasonable opportunity to make representations to the regulator in relation to the proposed suspension or cancellation and any proposed disqualification.

**Note**

See the jurisdictional note in the Appendix.

**7.3.87 Notice of decision**

- (1) The regulator must give the licence holder written notice of a decision under regulation 7.3.84 to cancel or suspend an asbestos removal licence or asbestos assessor licence.
- (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) whether or not the suspension ending is conditional upon the licence holder obtaining retraining or reassessment or taking any other action; and
    - (iii) the reasons for the suspension; and
    - (iv) any class of licence or authorisation under these Regulations that the licence holder must not apply for 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 licence holder is disqualified from applying for a further licence; and
  - (d) if the licence holder is disqualified from obtaining a further licence or authorisation, state:
    - (i) when the disqualification ends; and
    - (ii) whether or not the disqualification ending is conditional upon the licence holder obtaining retraining or reassessment or taking any other action; and
    - (iii) the reasons for the disqualification; and
    - (iv) any class of licence or authorisation under these Regulations that the licence holder must not apply for during the period of suspension or disqualification; and
  - (e) when the licence document must be returned to the regulator.
-

### **7.3.88 Immediate suspension**

- (1) The regulator may suspend an asbestos removal licence or asbestos assessor licence on a ground referred to in regulation 7.3.84 without giving notice under regulation 7.3.86 if satisfied that, in circumstances which create an imminent risk to health and safety:
  - (a) it is necessary that work carried out under the licence cease; or
  - (b) a corresponding regulator has suspended an equivalent licence held by the licence holder under this regulation as applying in the corresponding jurisdiction.
- (2) If the regulator decides to suspend a licence under this regulation:
  - (a) the regulator must give the licence holder written notice of the suspension and the reasons for the suspension; and
  - (b) the suspension of the licence takes effect on the giving of the notice.
- (3) The regulator must then give notice under regulation 7.3.86 within 14 days after giving the notice under subregulation (2) and must make its decision under regulation 7.3.84 as soon as is reasonably practicable.

**Note**

See the jurisdictional note in the Appendix.

- (4) If the regulator does not give notice in accordance with subregulation (3), the suspension ends at the end of the 14 day period.
  - (5) If the regulator gives the notice under regulation 7.3.86, the licence remains suspended until the decision is made under regulation 7.3.84.
-

**7.3.89 Licence holder to return licence document**

A licence holder, on receiving a notice under regulation 7.3.87, must return the licence document to the regulator in accordance with the notice.

**7.3.90 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.

**Subdivision 7 General**

**7.3.91 Asbestos removal licence register**

The regulator must maintain a register of:

- (a) each person holding an asbestos removal licence; and
- (b) each supervisor named to the regulator in respect of an asbestos removal licence.

**7.3.92 Asbestos assessors register**

The regulator must establish and maintain a publicly available register of each person holding an asbestos assessor licence.

**7.3.93 Work must be supervised by named supervisor**

A person who holds an asbestos removal licence must ensure that asbestos removal work authorised by the licence is supervised by a supervisor named to the regulator by the licence holder.

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## CHAPTER 8 MAJOR HAZARD FACILITIES

### Part 8.1 Preliminary

#### Division 1 Application and interpretation

##### 8.1.1 This Chapter does not apply to certain facilities

- (1) This Chapter does not apply in relation to a facility that is regulated by the National Offshore Petroleum Safety Authority under the [.....].

**Note**

See jurisdictional note in the Appendix.

- (2) This Chapter does not apply in relation to [.....].

**Note**

See the jurisdictional note in the Appendix.

- (3) This Chapter does not apply in relation to a biological facility or a radiological facility at which Schedule 15 chemicals are present only for the purpose of assessing biological or radiological hazards.

- (4) In subregulation (3):

**biological facility** means [.....].

**radiological facility** means [.....].

##### 8.1.2 Meaning of hazardous chemicals that are *present or likely to be present*

- (1) A reference in these Regulations 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 meet the maximum capacity of the facility, including:

- (a) the maximum capacity of process vessels and interconnecting pipe systems that contain the chemicals; and
  - (b) the maximum capacity of storage tanks and vessels used for the chemicals; and
  - (c) the maximum capacity of other storage areas at the facility that could contain the chemicals; and
  - (d) the maximum capacity of pipelines outside process areas to contain the chemicals; and
  - (e) the maximum quantity of chemicals that would, in the event of failure, escape into the facility from a pipeline that is situated off the premises but is connected to the facility; and
  - (f) the maximum quantity of 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) Subregulation (1) applies with any necessary changes to chemicals that are *likely to be present* at a proposed facility.

### **8.1.3 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:
- (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) Despite subregulations (1) and (2), a person nominated as the operator of a facility under subregulation (4) is the operator of that facility for the purposes of this Chapter.
- (4) If more than one person is an operator of the facility within the meaning of subregulation (1), those persons must give the regulator a written nomination of one of those persons as the operator of the facility for the purposes of this Chapter.
- (5) A nomination for the purposes of subregulation (4) may be included in:
  - (a) a notification under regulation 8.2.1; or
  - (b) an application for registration under regulation 8.7.3.
- (6) If the nomination is included in:
  - (a) a notification under regulation 8.2.1, the person nominated must give the notification; and
  - (b) an application for registration under regulation 8.7.3, the person nominated must make the application.

#### **8.1.4 Meaning of *modification* of a facility**

- (1) In these Regulations, a reference to a ***modification*** of a facility is a reference to a change at the facility that has the effect of:
  - (a) creating a major incident hazard that has not previously been identified; or
  - (b) increasing the likelihood of a major incident occurring; or

- (c) in relation to a major incident that may occur, increasing:
  - (i) its magnitude; or
  - (ii) the severity of its health and safety consequences.
- (2) For the purposes of subregulation (1), a **change** at a facility includes:
  - (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; and
  - (b) a change to the quantity of Schedule 15 chemicals present or likely to be present at the facility; and
  - (c) a change to the operation, or the nature of the operation, of the facility; and
  - (d) a change in the safety role of workers; and
  - (e) a change to the safety management system; and
  - (f) an organisational change at the facility, including a change in senior management of the facility.

#### **8.1.5 Tailing dams**

- (1) Schedule 15 chemicals present in the tailing dam of a mine are not to be considered in determining whether a mine is a facility or a major hazard facility.
- (2) In this regulation:
  - mine** means [.....].
  - tailing dam** means [.....].

**Division 2 Requirement to be registered or licensed**

**8.1.6 A major hazard facility must be registered or licensed**

- (1) For the purposes of section 41 of the Act, major hazard facilities are required to be registered under Part 8.7 or licensed under Part 8.8.
- (2) The purpose of registration of a major hazard facility under Part 8.7 is to allow the operator of the facility a limited period of time to prepare the facility for the licensing process, including by preparing a safety case for the facility.
- (3) The operator of a licensed major hazard facility or registered major hazard facility must hold the licence or registration for the facility.

## **Part 8.2 Determination of Major Hazard Facility**

### **8.2.1 Operators of certain 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 in accordance with this Division.
- (2) Notification must be given:
  - (a) within 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.

#### **Note**

See the jurisdictional note in the Appendix.

### **8.2.2 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 10% of their threshold quantity may notify the regulator of this circumstance.

#### **Notes**

- 1 See definition of *proposed facility* in regulation 1.1.5.
  - 2 For the meaning of *likely to be present*, see regulation 8.1.2.
- (2) A notification under this regulation must include the information required by regulations 8.2.3, 8.2.4 and 8.2.5 (with any necessary changes).

### **8.2.3 Content of notification—the facility**

A notification under regulation 8.2.1 must include the following information about the facility:

- (a) the location of the facility, including:
  - (i) the street address and the nearest intersection; and
  - (ii) land title identification; and

**Note**

See the jurisdictional note in the Appendix.

- (b) 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;
- (c) the maximum number of persons, including workers, likely to be present at the facility on a normal working day;
- (d) a description of land use and activities in the surrounding area, including zoning information obtained from the local authority for the local authority area in which the facility and the surrounding area are located;

**Note**

See the jurisdictional note in the Appendix.

- (e) a scaled plan of the facility that includes the area outside the facility that is within 500 metres of the facility's perimeter;

**Note**

If necessary, the regulator may ask for a more detailed plan under regulation 8.7.8.

- (f) details of a contact person with whom the regulator may communicate for the purposes of this Division, including the person's full name, job title, business phone numbers
-

(including mobile number), fax number and email address.

#### **8.2.4 Content of notification—operator of the facility**

- (1) A notification under regulation 8.2.1 must include the following information about the operator of the facility:
  - (a) if the operator is a body corporate:
    - (i) the person's full corporate name; and
    - (ii) the person's Australian Company Number; and
    - (iii) the nature of the person's business; and
    - (iv) if applicable, the registered business name of the person's business; and
    - (v) the location and mailing address of the person's registered office;
  - (b) if the operator is a natural person:
    - (i) the person's full name; and
    - (ii) the nature of the person's business; and
    - (iii) if applicable, the registered business name of the person's business; and
    - (iv) the person's postal and business address.
- (2) In this regulation, ***registered business name*** means the name of a business as registered or otherwise recorded or noted under [.....].

**Note**

See the jurisdictional note in the Appendix.



**8.2.5 Content of notification—hazardous chemicals at the facility**

- (1) A notification under regulation 8.2.1 must include the following information about the Schedule 15 chemicals present or likely to be present at the facility:
  - (a) the name and quantity of each Schedule 15 chemical that is present or likely to be present in a quantity that exceeds 2% of its threshold quantity as determined under clause 3 of Schedule 15;
  - (b) the names and quantities of Schedule 15 chemicals that are present or likely to be present in a quantity that exceeds their threshold quantity in accordance with the aggregation rule in clause 4 of Schedule 15;
  - (c) the circumstances that have caused the quantity of Schedule 15 chemicals present or likely to be present to exceed 10% of their threshold quantity.
- (2) A notification under regulation 8.2.1 must include the names and quantities of all hazardous chemicals that are not Schedule 15 chemicals, that are present or likely to be present at the facility in quantities that may increase:
  - (a) the likelihood of a major incident occurring;  
or
  - (b) in the event of a major incident occurring, the severity of its potential health and safety consequences.

**8.2.6 When regulator may conduct inquiry on notification**

The regulator may conduct an inquiry under this Division to determine if a facility is a major hazard facility if a notification under regulation 8.2.1 or 8.2.2 discloses that the quantity of

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Schedule 15 chemicals present or likely to be present at the facility exceeds 10% of their threshold quantity.

**Note**

Where the Schedule 15 chemicals are present or likely to be present at a facility in a quantity that exceeds their threshold quantity, that facility is a major hazard facility without the need for a determination to be made (see definition of *major hazard facility* in regulation 1.1.5).

**8.2.7 When regulator may conduct inquiry without notification**

The regulator may conduct an inquiry under this Part to determine if a facility is a major hazard facility without notification being given under regulation 8.2.1 or 8.2.2 if the regulator has reasonable grounds to believe that the quantity of Schedule 15 chemicals present or likely to be present at the facility may exceed 10% of their threshold quantity.

**8.2.8 Inquiry procedure**

- (1) This regulation sets out the procedure for an inquiry.
  - (2) The regulator must give a written notice to the person specified in subregulation (3):
    - (a) informing the person of the reasons for the inquiry; and
    - (b) advising the person that the person may make a submission to the regulator in relation to the inquiry within 14 days after the notice is given.
  - (3) Notice under subregulation (2) must be provided:
    - (a) in relation to an inquiry for the purposes of regulation 8.2.6, to the contact person identified in the notification given by the operator under regulation 8.2.1 or 8.2.2; and
-

- (b) in relation to an inquiry for the purposes of regulation 8.2.7, 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 services that have responsibility for the area in which the facility is located; and
  - (c) decide whether or not to make the determination, in accordance with regulation 8.2.9.

#### **8.2.9 Determination on inquiry**

- (1) This regulation applies if an inquiry under regulation 8.2.8 discloses that the quantity of Schedule 15 chemicals present or likely to be present at a facility exceeds 10% of their threshold quantity, but does not exceed their threshold quantity.
- (2) The regulator may determine the 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 having regard to all relevant matters, including:
  - (a) the quantity or 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.

**Note**

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 definition of major hazard facility in regulation 1.5.1.

**8.2.10 Notice and effect of determination**

- (1) If the regulator determines a facility to be a major hazard facility, the regulator must give the operator of the facility a written notice of the determination, specifying:
  - (a) the reasons for the determination; and
  - (b) the date on which the determination takes effect, which must be at least 30 days after the date of the notice.
- (2) A determination takes effect on the date specified in the notice.

## **Part 8.3 Duties of Operators of Registered Major Hazard Facilities**

### **Notes**

- 1 The operator of a registered major hazard facility is required to comply with this Part and to prepare a safety case in order to apply for a major hazard facility licence.
- 2 Chapter 7 (Hazardous Chemicals) continues to apply to a facility that is a registered major hazard facility.

### **Division 1 Safety case outline**

#### **8.3.1 Safety case outline must be provided**

The operator of a registered major hazard facility must provide the regulator with a safety case outline for the facility within 3 months after the facility is registered.

#### **8.3.2 Content**

A safety case outline 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 regulation 8.3.7;
- (f) a draft of the security plan prepared or to be prepared under regulation 8.3.8.

### **8.3.3 Alteration**

- (1) If the regulator is not satisfied that a safety case outline provided by the operator of a registered major hazard facility will lead to the development of a safety case that complies with regulation 8.3.11, 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 reasons for the proposed requirement; and
  - (b) advising the operator that the operator may make a submission to the regulator in relation to the proposed requirement; and
  - (c) specifying the date 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) 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.
- (5) The operator of a registered major hazard facility must give the regulator a copy of a safety case outline that has been altered:
- (a) under this regulation; or
  - (b) by the operator on the operator's initiative.
- (6) The safety case outline as altered becomes the safety case outline for the facility.

#### **8.3.4 Compliance**

The operator of a registered major hazard facility must prepare the safety case for the facility in accordance with the safety case outline for the facility.

### **Division 2 Health and safety duties**

#### **8.3.5 Identification of major incidents and major incident hazards**

- (1) The operator of a registered major hazard facility must, within the time specified in the safety case outline for the facility, identify:
- (a) all major incidents that could occur in the course of the operation of the facility; and
  - (b) all major incident hazards for the facility.
- (2) The operator must document:
- (a) all major incidents and major incident hazards identified; 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 might give rise to the major incidents.

#### **8.3.6 Safety assessment—duty to conduct**

- (1) The operator of a registered major hazard facility must conduct a safety assessment in relation to the operation of the facility within the time specified in the safety case outline for the facility.
- (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 may potentially occur in the course of the operation of the facility, including:
  - (a) the nature of each major incident and major incident hazard; and
  - (b) the likelihood of each major incident hazard causing a major incident; and
  - (c) in the event of a major incident occurring, its potential magnitude and the severity of its potential health and safety consequences; and
  - (d) the range of risk control measures considered; and
  - (e) the risk 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 risk control measures to implement.

#### **8.3.7 Emergency plan—duty to prepare**

- (1) The operator of a registered major hazard facility must, within the time specified in the safety case outline for the facility, prepare an emergency plan for the facility that:
  - (a) addresses all health and safety consequences of a major incident occurring; and
  - (b) includes all matters specified in Schedule 16.
- (2) In preparing an emergency plan, the operator must:
  - (a) consult with:
    - (i) the emergency services that have responsibility for the area in which the facility is located; and

**Note**

See the jurisdictional note in the Appendix.

- (ii) in relation to the off-site health and safety consequences of a major incident occurring, the local authority for the local authority area in which the facility and the surrounding area are located; and
  - (b) have regard to the advice and recommendations provided by the persons consulted.
- (3) An emergency plan must be documented.

**Note**

The requirements of this regulation are in addition to the requirements in relation to emergency plans under Part 3.4.

**8.3.8 Security plan—duty to prepare**

- (1) The operator of a registered major hazard facility must, within the time specified in the safety case outline for the facility, prepare a security plan for the facility.
- (2) The security plan must address:
  - (a) all major incident hazards that are related to the security of the facility; and
  - (b) the need to ensure that persons are not put at risk by the actions of:
    - (i) persons entering the facility or part of the facility without being authorised; and
    - (ii) persons obtaining access, without being authorised, to:
      - (A) any document or information relating to the operation of the facility; or
      - (B) any computer or equipment controlling or operating the facility or containing any

document or information relating to the operation of the facility.

- (3) In preparing a security plan, the operator must have regard to any advice and recommendations provided by [the police force].

**Note**

See the jurisdictional note in the Appendix.

- (4) A security plan must be documented.

**8.3.9 Safety management system—duty to establish**

- (1) The operator of a registered major hazard facility must establish a safety management system for the operation of the facility within the time specified in the outline for the proposed safety case for the facility.
  - (2) The safety management system must be designed to be used by the operator as the primary means of ensuring the safe operation of the facility.
  - (3) A safety management system established under this regulation must provide a comprehensive and integrated system for the management of all aspects of risk control in relation to the operation of the facility.
  - (4) A safety management system established under this regulation 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 facility; and
    - (c) specify 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
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- (e) be set out and expressed in a way that is readily accessible and comprehensible to persons who use it.

### **Division 3      Safety case**

#### **8.3.10 Safety case must be provided**

The operator of a registered major hazard facility must provide the regulator with a completed safety case, prepared in accordance with regulation 8.3.11, at least 6 months before the expiry of the registration of the facility.

#### **8.3.11 Content**

- (1) The operator must prepare a safety case in accordance with the safety case outline prepared or altered under this Division.
- (2) A safety case provided to the regulator must contain the following:
  - (a) a summary of the identification conducted under regulation 8.3.5, including a list of all major incidents identified;
  - (b) a summary of the safety assessment conducted under regulation 8.3.6;
  - (c) a summary of the emergency plan prepared under regulation 8.3.7;
  - (d) a summary of the security plan prepared under regulation 8.3.8;
  - (e) a summary of the safety management system established under regulation 8.3.9;
  - (f) a description of the consultation with workers that occurred under regulation 8.5.2 in the preparation of the safety case; and
  - (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 safety management system for the facility established in accordance with regulation 8.3.9 provides a comprehensive and integrated system for the management of all aspects of risk control in relation to the operation of the facility; and
    - (b) the adequacy of the risk control measures to be implemented by the operator.
  - (5) The operator must include in the safety case a signed statement that:
    - (a) the information provided under subregulations (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 risk 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 health and safety
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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 usually present in [this jurisdiction].

#### **8.3.12 Co-ordination**

- (1) The regulator may require the operators of 2 or more major hazard facilities to co-ordinate the preparation of the safety cases for their facilities if the regulator believes on reasonable grounds that such co-ordination 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 co-ordinated 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 facilities.

## **Part 8.4 Duties of Operators of Licensed Major Hazard Facilities**

### **8.4.1 Control of risk**

- (1) The operator of a licensed major hazard facility must adopt 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.
- (2) The operator of a licensed major hazard facility must adopt 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.

### **8.4.2 Review of hazard and incident identification, safety assessment and emergency and security plans**

- (1) The operator of a licensed major hazard facility must, in accordance with this regulation, review and as necessary revise:
  - (a) the identification of major incidents and major incident hazards under regulation 8.3.5; and
  - (b) the safety assessment conducted under regulation 8.3.6 in order to ensure the adequacy of the risk control measures to be implemented by the operator; and
  - (c) the emergency plan prepared under regulation 8.3.7; and
  - (d) the security plan prepared under regulation 8.3.8.

- (2) The operator must conduct a review under this regulation in the following circumstances:
- (a) if a modification to the facility is proposed;
  - (b) if a notifiable incident occurs in the course of the operation of the facility;
  - (c) if an effectiveness test indicates a deficiency in a risk control measure;

**Note**

The safety management system must include effectiveness tests for risk control measures. See clause 7 of Schedule 17.

- (d) if a health and safety representative at the facility requests the operator to do so;
  - (e) in addition to the occasions specified in paragraphs (a) to (d), at least once every 5 years.
- (3) In reviewing and revising the emergency plan, the operator must consult with the emergency services with which the operator consulted when the plan was prepared.
- (4) For the purposes of subregulation (2)(d), a health and safety representative for a work group at a licensed major hazard facility may request the operator of the facility to conduct a review under this regulation if the health and safety representative believes on reasonable grounds that:
- (a) a circumstance specified in subregulation (2)(a), (b) or (c) exists; and
  - (b) the operator has not adequately reviewed the safety assessment in response to that circumstance.



**8.4.3 Safety management system—implementation and review**

- (1) The operator of a licensed major hazard facility must implement the safety management system established for the facility under regulation 8.3.9.
- (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 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 facility.
- (3) The operator must review and as necessary revise the safety management system in the following circumstances:
  - (a) if a modification is made to the facility;
  - (b) if a major incident occurs at the facility;
  - (c) if a review under regulation 8.4.2 results in a revision of the identification of major incidents and major incident hazards, the safety assessment or the emergency plan;
  - (d) in addition to the occasions specified in paragraphs (a), (b) and (c), at least once every 5 years.

**Note**

The operator of a licensed major hazard facility is required to inform the regulator of any change to certain information relating to the licence (see regulation 8.8.13).

#### **8.4.4 Safety case—review**

The operator of a licensed major hazard facility must review and as necessary revise the safety case for the facility after any review is conducted under regulation 8.4.2 or 8.4.3.

##### **Note**

The operator of a licensed major hazard facility is required to inform the regulator of certain information relating to the licence. See regulation 8.8.13.

#### **8.4.5 Emergency plan—duty to test and implement**

- (1) The operator of a licensed major hazard facility must, in relation to an emergency plan prepared under regulation 8.3.7:
  - (a) keep a copy of the plan at the facility; and
  - (b) provide a copy of the plan to the emergency services with whom the plan was prepared.
- (2) The operator must test the emergency plan in conjunction with the emergency services with whom the plan was prepared at least once every 3 years.
- (3) The operator must, as soon as possible, implement the emergency plan if:
  - (a) a major incident occurs in the course of the operation of the facility; or
  - (b) an event occurs that could reasonably be expected to lead to a major incident.
- (4) In implementing an emergency plan under subregulation (3), the operator must immediately notify the emergency services with which the plan was prepared of the occurrence of the incident or event.

#### **8.4.6 Security plan—duty to test and implement**

- (1) The operator of a licensed major hazard facility must, in relation to a security plan prepared under regulation 8.3.8:
  - (a) keep a copy of the plan at the facility; and
  - (b) provide a copy of the plan to [the police force].
- (2) The operator must test the security plan in conjunction with [the police force] at least once every 3 years.
- (3) The operator must implement the security plan in accordance with its terms.

**Note**

See the jurisdictional note in the Appendix.

#### **8.4.7 Information, training and instruction for workers**

- (1) The operator of a licensed major hazard facility must ensure the provision of information, training and instruction to workers at the facility in relation to:
  - (a) the major incidents and major incident hazards identified under regulation 8.3.5; and
  - (b) the content and implementation of the safety management system for the facility, including the implementation of risk control measures; and
  - (c) the emergency plan; and
  - (d) the security plan; and
  - (e) the safety role for workers under Part 8.5.
- (2) The operator, in order to ensure that the information, training and instruction provided to workers remain relevant and effective, must ensure that:

- (a) the provision of the information, training and instruction is monitored; and
  - (b) the content of the information, training and instruction is reviewed and as necessary revised.
- (3) The operator must:
- (a) make a record of training provided under this regulation; and
  - (b) retain the record for as long as the worker is engaged or caused to be engaged by the operator.

#### **8.4.8 Information for visitors**

The operator of a licensed major hazard facility must ensure that a person other than a worker who enters the facility is as soon as possible:

- (a) informed about hazards at the facility that may affect that person; and
- (b) instructed in safety precautions the person should take at the facility; and
- (c) instructed in the actions the person should take if the emergency plan is implemented while the person is at the facility.

#### **8.4.9 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 authority for the local authority area in which the facility and the surrounding area are located:
- (a) the name and location of the facility;
  - (b) the name, position and contact details of a contact person from whom information may be obtained;
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- (c) a general description of the facility's operations;
  - (d) the means by which the local community will be notified of a major incident occurring;
  - (e) the actions, as specified in the emergency plan for the facility, that members of the local community should take if a major incident occurs;
  - (f) a summary of the safety case for the facility.
- (2) The operator must ensure that the information provided under subregulation (1) is:
- (a) set out and expressed in a way that is readily accessible and comprehensible to persons who are not familiar with the facility and its operations; and
  - (b) reviewed and as necessary revised if a modification is made to the facility; and
  - (c) sent in writing to any community or public library serving the local community.
- (3) In complying with subregulation (1), the operator is not required to disclose information that may expose the facility to a major incident hazard in relation to the security of the facility.
- (4) The operator of a major hazard facility who receives a written request from a person who, on reasonable grounds, believes that the occurrence of a major incident at the 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 regulation.

**8.4.10 Information for local community—major incident**

As soon as practicable after a major incident occurs, the operator of the major hazard facility must take all reasonable steps to provide 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, 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
- (c) recommended actions that the local authority and members of the local community should take to eliminate or minimise risks to health and safety.

## **Part 8.5 Consultation and Workers' Safety role**

### **8.5.1 Safety role for workers**

- (1) The operator of a registered major hazard facility must, within the time specified in the safety case outline for the facility, implement a safety role for the workers at the facility that enables them to contribute to:
  - (a) the identification of major incidents and major incident hazards under regulation 8.3.5; and
  - (b) the consideration of risk control measures in the conduct of the safety assessment under regulation 8.3.6.
- (2) The operator of a licensed major hazard facility must extend the safety role for workers at the facility so as to enable them to contribute to the conduct of a review under regulation 8.4.2.

### **8.5.2 Operator of major hazard facility must consult with workers**

- (1) For the purposes of section 49(f) of the Act, the operator of a registered major hazard facility must consult with workers at the facility in relation to:
    - (a) the preparation of the safety case outline under Division 1 of Part 8.3; and
    - (b) the preparation of an emergency plan under regulation 8.3.7; and
    - (c) the preparation of a security plan under regulation 8.3.8; and
    - (d) the development and review of the safety role for workers under regulation 8.5.1; and
    - (e) the establishment of a safety management system for the facility under regulation 8.3.9; and
-

- (f) the preparation of a safety case for the facility under Division 3 of Part 8.3.
- (2) For the purposes of section 49(f) of the Act, the operator of a licensed major hazard facility must consult with workers at the facility in relation to:
- (a) the conduct of a review under regulation 8.4.2; and
  - (b) the implementation and review of the safety management system for the facility under regulation 8.4.3; and
  - (c) a review of the safety case for the facility under regulation 8.4.4; and
  - (d) the testing and implementation of the emergency plan for the facility under regulation 8.4.5; and
  - (e) the testing and implementation of the security plan for the facility under regulation 8.4.6.

**Note**

See section 49 of the Act for other consultation duties of a person conducting a business or undertaking.



## **Part 8.6 Duties of Workers at Licensed Major Hazard Facilities**

### **8.6.1 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 risk 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) comply with any procedure in the security plan; and
  - (d) immediately inform the operator of any circumstance that the worker believes may cause a major incident; and
  - (e) inform his or her supervisor of any corrective action taken by the worker.
- (2) A worker is not required to comply with subregulation (1) if to do so would risk the health or safety of the worker or of another worker or other person.

## **Part 8.7 Registration of major hazard facility**

### **Division 1 Registration process**

#### **8.7.1 Who may apply for registration**

Only the operator of a major hazard facility or a proposed major hazard facility may apply for registration of the facility.

##### **Note**

A proposed facility can be registered under this Part, but cannot be licensed under Part 8.8.

#### **8.7.2 Notification taken to be application for registration**

The operator of a facility is taken to have applied for registration under this Part if:

- (a) the regulator has determined a facility or proposed facility to be a major hazard facility under regulation 8.2.9 following an inquiry under regulation 8.2.6; or
- (b) a notification by the operator under regulation 8.2.1 or 8.2.2 discloses that the Schedule 15 chemicals present or likely to be present at the facility exceed their threshold quantity.

#### **8.7.3 Application for registration**

- (1) An application for registration of a major hazard facility must be made in the manner and form required by the regulator.
- (2) The application must be accompanied by the relevant fee.

##### **Note**

See the jurisdictional note in the Appendix.

#### **8.7.4 Content of application—the facility**

An application under regulation 8.7.3 must include the following information about the facility:

- (a) the location of the facility, including:
  - (i) the street address and the nearest intersection; and
  - (ii) land title identification; and

**Note**

See the jurisdictional note in the Appendix.

- (b) 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;
- (c) the maximum number of persons, including workers, likely to be present at the facility on a normal working day;
- (d) a description of land use and activities in the surrounding area, including zoning information obtained from the local authority for the local authority area in which the facility and the surrounding area are located;
- (e) a scaled plan of the facility that includes the area outside the facility that is within 500 metres of the facility's perimeter;

**Note**

If necessary, the regulator may ask for a more detailed plan under regulation 8.7.8.

- (f) details of a contact person with whom the regulator may communicate for the purposes of this Part, including the person's full name, job title, business phone numbers (including

mobile number), fax number and email address.

#### **8.7.5 Content of application—operator of the facility**

- (1) An application under regulation 8.7.3 must include the following information about the operator if it is a body corporate:
  - (a) the operator's full corporate name; and
  - (b) the operator's Australian Company Number; and
  - (c) the nature of the operator's business; and
  - (d) if applicable, the registered business name of the operator's business; and
  - (e) the location and mailing address of the operator's registered office; and
  - (f) a declaration as to whether or not the operator, and any officer of the body corporate, has ever been convicted or found guilty of any offence under the Act or these Regulations or under any corresponding WHS law; and
  - (g) details of any conviction or finding of guilt declared under paragraph (f); and

**Note**

See the jurisdictional note in the Appendix.

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

- (j) if the operator or an officer of the body corporate has previously held a licence or other authorisation under a corresponding WHS law, details of any condition imposed on that licence or authorisation.
- (2) An application for registration of a major hazard facility must include the following information about the operator if he or she is an individual:
- (a) the operator's full name; and
  - (b) the nature of the operator's business; and
  - (c) if applicable, the registered business name of the operator's business; and
  - (d) the operator's postal and business address; and
  - (e) a declaration as to whether or not the operator has ever been convicted or found guilty of any offence under the Act or these Regulations or under any corresponding WHS law; and
  - (f) details of any conviction or finding of guilt declared under paragraph (e); and
  - (g) 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
  - (h) details of any enforceable undertaking declared under paragraph (g); and
  - (i) if the operator has previously held an equivalent licence or other authorisation under a corresponding WHS law, details of any condition imposed on that licence or authorisation.
-

**8.7.6 Content of application—hazardous chemicals at the facility**

- (1) An application under regulation 8.7.3 must include the following information about the Schedule 15 chemicals present or likely to be present at the facility:
  - (a) the name and quantity of each Schedule 15 chemical that is present or likely to be present in a quantity that exceeds 2% of its threshold quantity as determined under clause 3 of Schedule 15;
  - (b) the names and quantities of Schedule 15 chemicals that are present or likely to be present in a quantity that exceeds their threshold quantity in accordance with the aggregation rule in clause 4 of Schedule 15;
  - (c) the circumstances that have caused the quantity of Schedule 15 chemicals present or likely to be present to exceed 10% of their threshold quantity.
- (2) An application for registration of a major hazard facility must include the names and quantities of all hazardous chemicals that are not Schedule 15 chemicals that are present or likely to be present at the facility in quantities that may increase:
  - (a) the likelihood of a major incident occurring;  
or
  - (b) in the event of a major incident occurring, the severity of its potential health and safety consequences.

**8.7.7 Additional information from operator who is taken to have applied for registration**

- (1) An operator of a facility referred to in regulation 8.7.2, if required by the regulator, must give the following information to the regulator:
-

- (a) if the operator is a body corporate, the information specified in regulation 8.7.5(1)(f), (g), (h), (i) and (j);
  - (b) if the operator is an individual, the information specified in regulation 8.7.5(2)(e), (f), (g), (h) and (i).
- (2) The requirement must:
- (a) specify the date by which the information is to be given; and
  - (b) be confirmed in writing.

#### **8.7.8 Additional information generally**

- (1) If an application for registration, or the information given by an operator of a facility under regulation 8.7.7, 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 operator to provide additional information.
- (2) A request for additional information must:
  - (a) specify the date 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 specified, the application is taken to have been withdrawn.
- (4) The regulator may make more than one request for additional information under this regulation.

#### **8.7.9 Decision on application**

- (1) Subject to this, the regulator must grant the registration if satisfied that:
    - (a) the application has been made in accordance with this Division; and
-

- (b) the operator is able to ensure compliance with any conditions that will apply to the registration.
- (2) The regulator may refuse to register a major hazard facility if it becomes aware of circumstances that satisfy it that the following persons are not fit and proper persons to exercise management and control over the major hazard facility:
  - (a) if the operator is an individual—the operator;
  - (b) if the operator is a body corporate—each director of the body corporate.
- (3) The regulator must refuse to grant a registration if it is satisfied that in making the application, the operator 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 operator within 30 days after making the decision.

#### **8.7.10 Matters to be taken into account**

- (1) For the purposes of regulation 8.7.9(2), if the operator is an individual, the regulator may have regard to any matter it considers relevant, including:
    - (a) whether or not the operator has been convicted or found guilty of any offence under the Act or these Regulations or under a corresponding WHS law; and
-



- (b) any suspension or cancellation of an equivalent authorisation held by the operator under the Act or these Regulations or under a corresponding WHS law; and
  - (c) whether or not the operator has entered into an enforceable undertaking under the Act or under a corresponding WHS law; and
  - (d) whether or not the operator has had a condition imposed on an equivalent authorisation held under a corresponding WHS law, and the reason the condition was imposed; and
  - (e) the operator's record with respect to any matters arising under the Act or these Regulations or under a corresponding WHS law; and
  - (f) any advice or recommendations received from any agency of the Crown for responsibility in relation to national security.
- (2) For the purposes of regulation 8.7.9(2), if the operator is a body corporate, the regulator may have regard to any matter it considers relevant, including:
- (a) in relation to the body corporate, the matters specified in subregulation (1)(b), (c), (d), (e) and (f); and
  - (b) in relation to each officer of the body corporate, the matters specified in subregulation (1).

#### **8.7.11 Refusal of registration**

If the regulator refuses to grant a registration of a facility, the regulator must, as soon as practicable, give the operator written notice of the decision setting out the reasons for the decision.

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**Note**

A decision to refuse an application for registration is a reviewable decision (see regulation 10.1.1).

**8.7.12 Conditions of registration**

- (1) The regulator may impose on the registration of a facility any conditions it considers appropriate.
- (2) Without limiting subregulation (1), the regulator may impose conditions in relation to the following matters:
  - (a) the recording or keeping of information;
  - (b) 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 regulation 10.1.1).

**8.7.13 Expiry of registration**

The registration of a major hazard facility expires 30 months after the facility is registered.

**8.7.14 Extension of registration**

- (1) The regulator may extend the period of registration of the facility:
  - (a) on application by the operator; or
  - (b) on the regulator's initiative, if the regulator is unable to process an application for a major hazard facility licence before the registration would otherwise be due to expire in accordance with regulation 8.7.13.
- (2) Without limiting subregulation (1)(a), the operator of a proposed facility that is registered under this Part may apply for an extension of registration on the ground that:

- (a) the proposed major hazard facility is not yet a major hazard facility; or
- (b) there has not been sufficient time to comply with Part 8.3.

**8.7.15 Registration document**

- (1) If the regulator registers a facility, the regulator must issue to the applicant a registration document in the form determined by the regulator.
- (2) The registration 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 registration takes effect; and
  - (e) the date the registration expires.

**8.7.16 Registration document to be available**

The operator of a registered major hazard facility must, subject to regulation 8.7.22, keep the registration document available for inspection by an inspector under the Act.

**Division 2 Changes to registration and registration documents**

**8.7.17 Changes to information**

- (1) The operator of a registered 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 registration within 14 days after the operator becomes aware of the change.
-

- (2) Subregulation (1) applies whether the information was given in the application for grant of the registration or in any other circumstance.

**8.7.18 Amendment of registration imposed by regulator**

- (1) The regulator may, on its own initiative, amend a registration, including by amending the registration to:
- (a) vary or delete a condition of the registration; or
  - (b) impose a new condition on the registration.
- (2) Before amending a registration under this regulation, the regulator must give the operator written notice that:
- (a) sets out the proposed amendment and the reasons for it; and
  - (b) advises the operator of the major hazard facility that the operator may make a submission to the regulator in relation to the proposed amendment within a specified period.
- (3) If the operator makes a submission within the time specified in the notice, the regulator must consider that submission.
- (4) After the time specified in the notice, the regulator may make:
- (a) the proposed amendment; or
  - (b) a different amendment that results from consideration of any submission made by the operator.
- (5) If the regulator amends the registration, it must give the operator 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) specifies the date, being not less than the relevant prescribed time after the operator is given the notice, on which the amendment takes effect.

**Note**

A decision to amend a registration is a reviewable decision (see regulation 10.1.1).

**8.7.19 Amendment on application by operator**

- (1) The regulator may, on application by the operator of a major hazard facility, amend the registration of the facility, including by amending the registration to vary or delete a condition of the registration.
- (2) If the regulator proposes to refuse to amend the registration, it must give the operator a written notice that:
  - (a) states the intention to refuse to make the amendment and the reasons for that intention; and
  - (b) advises the operator that the operator may make a submission to the regulator in relation to the proposed refusal within a specified period.
- (3) If the operator makes a submission within the time specified in the notice, the regulator must consider that submission.
- (4) After the time specified 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 operator.
- (5) If the regulator makes the amendment, it must give the operator a written notice specifying 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 operator a written notice that:
  - (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) specifies the date, being not less than the relevant prescribed time after the operator 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 regulation 10.1).

**8.7.20 Minor corrections to registration**

The regulator may make minor amendments to the registration of a major hazard facility, 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.
-

**8.7.21 Regulator to provide amended registration document**

If the regulator amends the registration of a major hazard facility and considers that the registration document requires amendment, the regulator must give the operator an amended registration document.

**8.7.22 Operator to return registration document**

The operator of a registered major hazard facility must return the registration document to the regulator for amendment at the written request of the regulator within the time specified in the request.

**8.7.23 Replacement registration document**

- (1) An operator must give written notice to the regulator as soon as is reasonably practicable if the registration document is lost, stolen or destroyed.
- (2) If a registration document is lost, stolen or destroyed, the operator may apply to the regulator for a replacement document.
- (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 registration document, it must give the operator written notice of this decision, including the reasons for the decision.

**Division 3 Cancellation of registration**

**8.7.24 Cancellation of registration—on operator's application**

- (1) The operator of a registered major hazard facility may apply to the regulator to cancel the registration of the facility.
- (2) An application must be:
  - (a) made in the manner and form required by the regulator; and
  - (b) accompanied by the relevant fee.

**Note**

See the jurisdictional note in the Appendix.

- (3) The regulator must consider the inventory and operations of the facility before deciding on an application to cancel registration.
- (4) The regulator must cancel the registration of a major hazard facility 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) there is no potential for a major incident to occur at the facility.
- (5) If the regulator cancels the registration of a facility that was determined to be a major hazard facility under Part 8.2, the regulator must revoke the determination.

**Note**

A refusal to cancel registration is a reviewable decision (see regulation 10.1.1).



**8.7.25 Cancellation of registration—on regulator's initiative**

The regulator may cancel the registration of a major hazard facility if it is satisfied that the following persons are not fit and proper persons to exercise management and control over the major hazard facility:

- (a) if the operator is an individual—the operator;
- (b) if the operator is a body corporate—each officer of the body corporate.

**Note**

If the registration of a major hazard facility is cancelled under this regulation, the facility remains a major hazard facility.

A cancellation of registration is a reviewable decision (see regulation 10.1.1).

**8.7.26 Matters to be taken into account**

- (1) In making a decision under regulation 8.7.25, the regulator must take into account:
  - (a) any representations made by the operator under regulation 8.7.27; and
  - (b) any advice received from a corresponding regulator; and
  - (c) any advice or recommendations received from any agency of the Crown for responsibility in relation to national security.
- (2) For the purposes of regulation 8.7.25, the regulator may take into account any relevant matter, including:
  - (a) any offence under the Act or these Regulations or under a corresponding WHS law, of which the operator or officer of the operator has been convicted or found guilty; and

- (b) any suspension or cancellation of an equivalent authorisation held by the operator or officer of the operator under the Act or these Regulations or under a corresponding WHS law; and
- (c) any enforceable undertaking that has been entered into by the operator under this Act or a corresponding WHS law; and
- (d) the operator's record with respect to any matters arising under the Act or these Regulations or under a corresponding WHS law.

#### **8.7.27 Notice to and representations by operator**

Before cancelling the registration of a major hazard facility under regulation 8.7.25, the regulator must:

- (a) give the operator a written notice of the proposed cancellation that outlines all relevant allegations, facts and circumstances known to the regulator; and
- (b) give the operator a reasonable opportunity to make representations to the regulator in relation to the proposed cancellation.

**Note**

See the jurisdictional note in the Appendix.

#### **8.7.28 Notice of decision**

- (1) The regulator must give the operator of a major hazard facility written notice of a decision under regulation 8.7.25 to cancel the registration of the facility.

- (2) The notice must:
- (a) state that the registration is to be cancelled;  
and
  - (b) state:
    - (i) when the cancellation takes effect; and
    - (ii) the reasons for the cancellation; and
  - (c) when the registration document must be returned to the regulator.

**8.7.29 Operator to return registration document**

The operator of a major hazard facility, on receiving a notice under regulation 8.7.28, must return the registration document to the regulator in accordance with the notice.

## **Part 8.8 Licensing of major hazard facilities**

### **Division 1 Licensing process**

#### **8.8.1 Who may apply for a licence**

Only an operator of a registered major hazard facility may apply for a major hazard facility licence.

#### **8.8.2 Timing of application**

An operator of a registered major hazard facility who proposes to apply for a major hazard facility licence must apply no later than 6 months before the expiry of the registration of the facility under Part 8.7.

#### **8.8.3 Application for major hazard facility licence**

- (1) An application for a major hazard facility licence must be made in the manner and form required by the regulator.
  - (2) The application must include the following information:
    - (a) the operator's name;
    - (b) other 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;
    - (d) the safety case prepared under Division 3 of Part 8.3;
    - (e) if the operator holds an equivalent licence or registration under the Act or these Regulations or under a corresponding WHS law, details of any condition imposed on that licence or registration;
-

- (f) if the operator is a body corporate, the operator must provide the details required under paragraph (e) in relation to the body corporate and each officer of the body corporate;
- (g) a declaration as to whether or not the operator (and in the case of a body corporate, any officer of the body corporate) has ever been convicted or found guilty of any offence under the Act or these Regulations or under any corresponding WHS law;

**Note**

See the jurisdictional note in the Appendix.

- (h) details of any conviction or finding of guilt declared under paragraph (g);
  - (i) a declaration as to whether or not the operator (and in the case of a body corporate, any officer of the body corporate) has ever previously had an equivalent licence under the Act or these Regulations or under any corresponding WHS law refused, suspended or cancelled;
  - (j) details of any suspension or cancellation declared under paragraph (i), including any disqualification from applying for any further licence or authorisation;
  - (k) a declaration as to whether or not the operator (and in the case of a body corporate, any officer of the body corporate) has entered into an enforceable undertaking under the Act or under any corresponding WHS law;
  - (l) details of any enforceable undertaking declared under paragraph (k);
-

- (m) a declaration to the effect 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.

**Note**

See the jurisdictional note in the Appendix.

**8.8.4 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) specify the date 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 specified, the application is to be taken to have been withdrawn.
- (4) The regulator may make more than one request for additional information under this regulation.

**8.8.5 Decision on application**

- (1) The regulator must grant a major hazard facility licence if the regulator is satisfied in relation to the matters specified in subregulation (2).
  - (2) The regulator must be satisfied that:
    - (a) the application has been made in accordance with these Regulations; and
    - (b) the safety case for the facility has been prepared in accordance with Division 3 of Part 8.3; and
-

- (c) the operator is able to operate the major hazard facility safely and competently; and
  - (d) the operator is able 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 fit and proper persons to exercise management and 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 it is 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 30 days after making the decision.

#### **8.8.6 Matters to be taken into account**

- (1) For the purposes of regulation 8.8.5(3), if the operator is an individual, the regulator may have regard to any relevant matter including:
- (a) whether or not the operator has been convicted or found guilty of any offence under the Act or these Regulations or under a corresponding WHS law; and
  - (b) whether or not the operator has entered into an enforceable undertaking under the Act or under a corresponding WHS law; and
-

- (c) whether or not the operator has had a condition imposed on an equivalent licence or other authorisation held under a corresponding WHS law, and the reason the condition was imposed; and
  - (d) the operator's record with respect to any matters arising under the Act or these Regulations or under a corresponding WHS law; and
  - (e) any advice or recommendations received from any agency of the Crown for responsibility in relation to national security.
- (2) For the purposes of regulation 8.8.5(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 specified in subregulation (1)(b), (c), (d) and (e); and
  - (b) in relation to each officer of the body corporate, the matters specified in subregulation (1).

#### **8.8.7 When decision to be made**

The regulator must make a decision in relation to an application for a major hazard facility licence within 6 months after receiving the application, unless the registration of the major hazard facility has been extended under regulation 8.7.14.

#### **8.8.8 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 provide 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 make a submission to the regulator in relation to the proposed refusal and specifying the date by which the submission must be made.
- (2) Within the relevant prescribed time after the date specified under subregulation (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) give the operator written notice of the decision, including the reasons for the decision.

**Note**

A refusal to grant a major hazard facility licence is a reviewable decision (see regulation 10.1.1).

**8.8.9 Conditions of licence**

- (1) The regulator may impose conditions on a major hazard facility licence when granting or renewing the licence.
- (2) Without limiting subregulation (1), the regulator may impose conditions in relation to 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;
- (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 regulation 10.1.1).

**8.8.10 Duration of licence**

A major hazard facility licence takes effect on the day it is granted and, unless cancelled earlier, expires 5 years after that day.

**8.8.11 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 determined 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 regulation 8.8.9.

#### **8.8.12 Licence document to be available**

The operator of the major hazard facility must, subject to regulation 8.8.18, keep the licence document available for inspection by an inspector under the Act.

### **Division 2 Changes to licence and licence document**

#### **8.8.13 Changes to information**

- (1) The operator of a licensed major hazard facility must advise the regulator in writing 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.
- (2) Subregulation (1) applies whether the information was given in the application for grant or renewal of the licence or in any other circumstance.

#### **8.8.14 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) Before amending a licence under this regulation, the regulator must give the operator of the major hazard facility written notice that:
  - (a) sets out the proposed amendment and the reasons for it; and

- (b) advises the operator that the operator may make a submission to the regulator in relation to the proposed amendment within a specified period.
- (3) If the operator makes a submission within the time specified in the notice, the regulator must consider that submission.
- (4) After the time specified in the notice, the regulator may make:
  - (a) the proposed amendment; or
  - (b) a different amendment that results from consideration of any submission made by the operator.
- (5) If the regulator makes an amendment, it must give the operator 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) specifies the date, being not less than the relevant prescribed time after the operator is given the notice, on which the amendment takes effect.

**Note**

A decision to amend a licence is a reviewable decision (see regulation 10.1.1).

**8.8.15 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 make the amendment, it must give the operator written notice that:
  - (a) states the intention to refuse to make the amendment and the reasons for that intention; and
  - (b) advises the operator that the operator may make a submission to the regulator in relation to the proposed refusal within a specified period.
- (3) If the operator makes a submission within the time specified in the notice, the regulator must consider that submission.
- (4) After the time specified 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 operator.
- (5) If the regulator makes the amendment, it must give the operator a written notice specifying 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 operator a written notice that:
  - (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) specifies the date, being not less than the relevant prescribed time after the operator 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 regulation 10.1.1).

**8.8.16 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.

**8.8.17 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.

**8.8.18 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 within the time specified in the request.

### **8.8.19 Replacement licence document**

- (1) The operator of a licensed major hazard facility must give written notice to the regulator as soon as is reasonably practicable if the licence document is lost, stolen or destroyed.
- (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.
- (3) An application for a replacement licence 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 licence 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 operator written notice of this decision, including the reasons for the decision.

## **Division 3      Renewal of major hazard facility licence**

### **8.8.20 Regulator may renew licence**

The regulator may renew a major hazard facility licence on application by the operator.

### **8.8.21 Application for renewal**

- (1) The operator of a licensed major hazard facility may apply to the regulator to renew a major hazard facility licence.

- (2) The application must:
- (a) be made:
    - (i) in the manner and form required by the regulator; and
    - (ii) within the relevant prescribed time; and
  - (b) include a copy of the safety case for the major hazard facility as revised under regulation 8.4.4; and
  - (c) be accompanied by the relevant fee.

**Note**

See the jurisdictional note in the Appendix.

**8.8.22 Decision on application**

For the purposes of this Division:

- (a) regulation 8.8.4 applies as if a reference in that regulation to an application for a licence were a reference to an application to renew a licence; and
- (b) regulations 8.8.5 and 8.8.6 apply as if a reference in regulation 8.8.5 to the grant of a licence were a reference to the renewal of a licence; and
- (c) regulation 8.8.8 applies as if a reference in that regulation to a refusal to grant a licence were a reference to a refusal to renew a licence.

**Note**

A refusal to renew a licence is a reviewable decision (see regulation 10.1.1).



**8.8.23 Status of major hazard facility licence during review**

- (1) If, before a major hazard facility licence expires, the regulator gives the operator written notice that it proposes to refuse to renew the licence, the licence continues to have effect in accordance with this regulation.
- (2) If the operator does not apply for internal 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 time for applying for an external review.
- (3) If the operator applies for an internal review, the licence continues to have effect until the first of the following events:
  - (a) the operator withdraws the application for review;
  - (b) the regulator makes a decision on the review.
- (4) If the operator 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 operator applies for an external review, the licence continues to have effect until the first of the following events:
  - (a) the operator withdraws the application for review; or
  - (b) [the external review body] makes a decision on the review.
- (6) The licence continues to have effect under this regulation even if its expiry date passes.

**Division 4      Transfer of major hazard facility licence**

**8.8.24 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 the regulator is satisfied that the proposed operator will achieve a level of health and safety in the operation of the facility that is at least equivalent to that which the current operator has achieved.
- (2) An application must be:
  - (a) made in the manner and form required by the regulator; and
  - (b) accompanied by the relevant fee.

**Note**

See the jurisdictional note in the Appendix.

- (3) The transferred licence is to be subject to the same conditions.
- (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.

**Division 5      Suspension and cancellation of major hazard facility licence**

**8.8.25 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 manner and form required by the regulator; and
-

- (b) accompanied by the relevant fee.

**Note**

See the jurisdictional note in the Appendix.

- (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) there is no potential for a major incident to occur at the facility.
- (5) If the regulator cancels the licence of a facility that was determined to be a major hazard facility under Part 8.2, the regulator must revoke the determination.

**8.8.26 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 it is satisfied that:
  - (a) the operator has failed to ensure that the facility is operated safely and competently; or
  - (b) the operator has failed to ensure compliance with a condition of the licence; or
  - (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 regulation 10.1.1).

**8.8.27 Matters to be taken into account**

- (1) In making a decision under regulation 8.8.26, the regulator must take into account:
- (a) any representations made by the operator under regulation 8.8.28; and
  - (b) any advice received from a corresponding regulator; and
  - (c) any advice or recommendations received from any agency of the Crown for responsibility in relation to national security.
- (2) For the purposes of regulation 8.8.26(1)(a) and (b), the regulator may take into account any relevant matter, including:
- (a) any offence under the Act or these Regulations or under a corresponding WHS law, of which the operator has been convicted or found guilty; and
  - (b) any suspension or cancellation of an equivalent licence or other authorisation held by the operator under the Act or these Regulations or under a corresponding WHS law; and
-

- (c) any enforceable undertaking that has been entered into by the operator under this Act or a corresponding WHS law; and
- (d) the operator's record with respect to any matters arising under the Act or these Regulations or under a corresponding WHS law.

#### **8.8.28 Notice to and representations by operator**

- (1) 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
  - (b) give the operator a reasonable opportunity to make representations to the regulator in relation to the proposed suspension or cancellation and any proposed disqualification.

**Note**

See the jurisdictional note in the Appendix.

#### **8.8.29 Notice of decision**

- (1) The regulator must give the operator of a major hazard facility written notice of a decision under regulation 8.8.26 to cancel or suspend the major hazard facility licence.
- (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) whether or not the suspension ending is conditional upon the operator obtaining retraining or reassessment or taking any other action; and
  - (iii) the reasons for the suspension; and
  - (iv) any licence or other authorisation under these Regulations that the operator must not apply for during the period of suspension or disqualification; 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 licence; and
- (d) if the operator is disqualified from obtaining a further licence or authorisation, state:
  - (i) when the disqualification ends; and
  - (ii) whether or not the disqualification ending is conditional upon the operator obtaining retraining or reassessment or taking any other action; and
  - (iii) the reasons for the disqualification; and
  - (iv) any licence or authorisation under these Regulations that the operator must not apply for during the period of disqualification; and
- (e) when the licence document must be returned to the regulator.

### **8.8.30 Immediate suspension**

- (1) The regulator may suspend a major hazard facility licence on a ground referred to in regulation 8.8.26 without giving notice under regulation 8.8.28 if satisfied that, in circumstances which create an imminent risk to health and safety:
  - (a) it is necessary that work carried out under the major hazard facility licence cease; or
  - (b) a corresponding regulator has suspended an equivalent licence held by the operator under this regulation as applying in the corresponding jurisdiction.
- (2) If the regulator decides to suspend a licence under this regulation:
  - (a) the regulator must give the 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 give notice under regulation 8.8.28 within 14 days after giving the notice under subregulation (2) and must make its decision under regulation 8.8.26 as soon as is reasonably practicable.

**Note**

See the jurisdictional note in the Appendix.

- (4) If the regulator does not give notice in accordance with subregulation (3), the suspension ends at the end of the 14 day period.
- (5) If the regulator gives the notice under regulation 8.8.28, the licence remains suspended until the decision is made under regulation 8.8.26.

**8.8.31 Operator to return licence document**

An operator, on receiving a notice under regulation 8.8.29, must return the licence document to the regulator in accordance with the notice.

**8.8.32 Regulator to return licence after suspension**

When the period of suspension of a licence ends, the regulator must return the licence document to the operator.

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**CHAPTER 9 MINES**

(to be circulated separately)

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## CHAPTER 10 GENERAL

### Part 10.1 Review of Decisions

#### Division 1 Reviewable decisions

##### 10.1.1 Which decisions are reviewable

(1) The following table sets out:

- (a) decisions made under these Regulations that are reviewable in accordance with this Part (*reviewable decisions*); and
- (b) who is eligible to apply for review of a reviewable decision (the *eligible person*).

Item	Provision under which reviewable decision is made	Eligible applicant in relation to reviewable decision
<b>Determinations</b>		
1	1.1.6(a)—Determination of RTO for the purposes of the definition of <i>certification</i>	The RTO that is determined
2	1.1.6(b)—Determination of RTO as an <i>excluded RTO</i>	The RTO that is determined
<b>High risk work licences</b>		
3	4.5.7(3)—Refusal to grant licence	Applicant
4	4.5.7(3)—Refusal to renew licence (see regulation 4.5.19)	Applicant
5	4.5.15—Refusal to issue replacement licence document	Licence holder
6	4.5.23—Suspension of licence	Licence holder
7	4.5.23—Cancellation of licence	Licence holder
8	4.5.23—Disqualification of licence holder from applying for another licence.	Licence holder

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<b>Item</b>	<b>Provision under which reviewable decision is made</b>	<b>Eligible applicant in relation to reviewable decision</b>
<b>Accreditation of assessors</b>		
9	4.5.35—Refusal to grant accreditation	Applicant An RTO that engages the applicant
10	4.5.35—Refusal to renew accreditation (see regulation 4.5.49)	Applicant An RTO that engages the applicant
11	4.5.38—Imposition of a condition when granting accreditation	Applicant An RTO that engages the applicant
12	4.5.38—Imposition of a condition when renewing accreditation	Applicant An RTO that engages the applicant
13	4.5.43—Refusal to issue replacement accreditation document	Accredited assessor
14	4.5.50—Suspension of accreditation	Accredited assessor An RTO that engages the accredited assessor
15	4.5.50—Cancellation of accreditation	Accredited assessor An RTO that engages the accredited assessor
16	4.5.50—Disqualification of assessor from applying for a further accreditation	Accredited assessor An RTO that engages the accredited assessor
<b>Registration of Plant Designs</b>		
17	5.2.17—Refusal to register plant design	Applicant
18	5.2.19—Imposition of a condition when granting registration of plant design	Applicant

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Part 10.1 Review of Decisions

<b>Item</b>	<b>Provision under which reviewable decision is made</b>	<b>Eligible applicant in relation to reviewable decision</b>
<b>Registration of Plant</b>		
19	5.2.29—Refusal to register item of plant	Applicant A person conducting a business or undertaking with management or control of the item of plant
20	5.2.31—Imposition of a condition when granting registration of item of plant	Applicant A person conducting a business or undertaking with management or control of the item of plant
21	5.2.36(3)—Cancellation of registration of item of plant	Registration holder A person conducting a business or undertaking with management or control of the item of plant
22	5.2.37(5)—Amendment of registration of item of plant	Registration holder A person conducting a business or undertaking with management or control of the item of plant
23	5.2.40—Amendment of registration, on regulator's initiative	Registration holder A person conducting a business or undertaking with management or control of the item of plant
24	5.2.41—Refusal to amend registration on application (or a decision to make a different amendment)	Registration holder A person conducting a business or undertaking with management or control of the item of plant

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Part 10.1 Review of Decisions

<b>Item</b>	<b>Provision under which reviewable decision is made</b>	<b>Eligible applicant in relation to reviewable decision</b>
25	5.2.45—Refusal to issue replacement registration document	Registration holder
<b>General Induction Training (Construction)</b>		
26	6.5.6—Refusal to issue general induction training card	Applicant
27	6.5.6—Refusal to issue replacement general induction training card	Applicant
28	6.5.7—Cancellation of general induction training card	Card holder
<b>Hazardous chemicals and lead</b>		
29	7.1.61—Refusal to grant authorisation to use, handle or store a prohibited or restricted carcinogen	Applicant
30	7.1.64—Cancellation of authorisation to use, handle or store a prohibited or restricted carcinogen	Authorisation holder
31	7.2.2—Deciding a process to be a lead process	A person conducting a business or undertaking that carries out the lead process A worker whose health or safety may be affected by the carrying out of the lead process
32	7.2.12—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 health or safety may be affected by the carrying out of the lead risk work

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Part 10.1 Review of Decisions

<b>Item</b>	<b>Provision under which reviewable decision is made</b>	<b>Eligible applicant in relation to reviewable decision</b>
<b>Asbestos removal licences and asbestos assessor licences</b>		
33	7.3.61—Refusal to grant licence	Applicant
34	7.3.61—Refusal to renew licence (see regulation 7.3.81)	Applicant
35	7.3.66—Imposition of a condition when granting licence	Applicant
36	7.3.66—Imposition of a condition when renewing licence	Applicant
37	7.3.72—Amendment of licence, on regulator's initiative	Licence holder
38	7.3.73—Refusal to amend licence on application (or a decision to make a different amendment)	Licence holder
39	7.3.77—Refusal to issue replacement licence document	Licence holder
40	7.3.84—Suspension of licence	Licence holder
41	7.3.84—Cancellation of licence	Licence holder
42	7.3.84—Disqualification of licence holder from applying for another licence	Licence holder
<b>Major hazard facilities</b>		
<i>Determination of facility to be major hazard facility</i>		
43	8.2.9—Determination of facility to be a major hazard facility, on making inquiry	Operator of facility
44	8.2.9—Decision not to determine proposed facility to be a major hazard facility	Operator of facility
<i>Registration of major hazard facility</i>		
45	8.7.9—Refusal to grant registration	Operator of facility
46	8.7.12—Imposition of a condition when granting registration	Operator of facility

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Part 10.1 Review of Decisions

<b>Item</b>	<b>Provision under which reviewable decision is made</b>	<b>Eligible applicant in relation to reviewable decision</b>
47	8.7.18—Amendment of registration, on regulator's initiative	Operator of facility
48	8.7.19—Refusal to amend registration on application (or decision to make a different amendment)	Operator of facility
49	8.7.23—Refusal to issue replacement registration document	Operator of facility
50	8.7.24—Refusal to cancel registration, on application	Operator of facility
51	8.7.25—Cancellation of registration, on regulator's initiative <i>Licensing of major hazard facility</i>	Operator of facility
52	8.8.5—Refusal to grant licence	Operator of facility
53	8.8.5—Refusal to renew licence (see regulation 8.8.22)	Operator of facility
54	8.8.9—Imposition of a condition when granting licence	Operator of facility
55	8.8.9—Imposition of a condition when renewing licence	Operator of facility
56	8.8.14—Amendment of licence, on regulator's initiative	Operator of facility
57	8.8.15—Refusal to amend licence, on application (or a decision to make a different amendment)	Operator of facility
58	8.8.19—Refusal to issue replacement licence document	Operator of facility
59	8.8.24—Refusal to transfer licence, on application	Operator of facility
60	8.8.25—Refusal to cancel licence, on application	Operator of facility
61	8.8.26—Suspension of licence	Operator of facility
62	8.8.26—Cancellation of licence	Operator of facility

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Part 10.1 Review of Decisions

<b>Item</b>	<b>Provision under which reviewable decision is made</b>	<b>Eligible applicant in relation to reviewable decision</b>
63	8.8.26—Disqualification of licence holder from applying for another licence	Operator of facility
<b>Exemptions</b>		
64	10.3.1—Refusal to exempt person (or a class of persons) from compliance with any of these Regulations	Applicant
65	10.3.3—Refusal to exempt person from requirement to hold a high risk work licence	Applicant
66	10.3.5—Refusal to exempt operator of MHF from compliance with any of these Regulations, on application	Operator of facility
67	10.3.8—Imposing condition on an exemption granted on application under Part 10.3	Applicant
68	10.3.14—Amendment or cancellation of an exemption granted on application under Part 10.3	Applicant

- (2) Unless the contrary intention appears, a reference in this Part to a decision includes a reference to:
- (a) making, suspending, revoking or refusing to make an order, determination or decision; or
  - (b) giving, suspending, revoking or refusing to give a direction, approval, consent or permission; or
  - (c) issuing, suspending, revoking or refusing to issue an authorisation; or
  - (d) imposing a condition; or
  - (e) making a declaration, demand or requirement; or



- (f) retaining, or refusing to deliver up, an article;  
or
- (g) doing or refusing to do any other act or  
thing.

## **Division 2 Internal review**

### **10.1.2 Application**

This Division does not apply to a reviewable decision made under:

- (a) Chapter 8; or
- (b) Part 10.3.

### **10.1.3 Application for internal review**

- (1) 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) such longer period as the regulator allows.
- (2) The application must be made in the manner and form required by the regulator.

### **10.1.4 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 decision cannot be an internal reviewer in relation to that decision.

### **10.1.5 Decision of internal reviewer**

- (1) The internal reviewer must review the reviewable decision and make a decision as soon as is reasonably practicable and within 14 days after the application for internal review 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) If the internal reviewer seeks further information from the applicant, the 14-day period ceases to run until the applicant provides the information to the internal reviewer.
- (4) The applicant must provide the further information within the time (being not less than 7 days) specified by the internal reviewer in the request for information.
- (5) If the applicant does not provide the further information within the required time, the 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, the decision is taken to have been confirmed by the internal reviewer.

#### **10.1.6 Decision on internal review**

As soon as practicable after reviewing the decision, the internal reviewer must give the applicant in writing:

- (a) the decision on the internal review; and
- (b) the reasons for the decision.

**Division 3 External review**

**10.1.7 Application for external review**

- (1) An eligible person may apply to [the external review body] for review (an *external review*) of:
  - (a) a reviewable decision made by the regulator under:
    - (i) Chapter 8; or
    - (ii) Part 10.3; 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) such longer period as the [the external review body] allows.

**Note**

See the jurisdictional notes in the Appendix.

**Division 4 Status of reviewable decision during review**

**10.1.8 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.

## **Part 10.2 Compliance**

### **10.2.1 Inspectors' identity cards**

For the purposes of 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 of the size, and in the form, specified by the regulator;
- (b) the inspector's signature;
- (c) the date (if any) on which the inspector's appointment expires;
- (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.

## **Part 10.3 Exemptions**

### **10.3.1 General power to grant exemptions**

- (1) The regulator may exempt a person or class of persons from compliance with any of these Regulations.
- (2) The exemption may be granted on the regulator's own initiative or on the written application of one or more persons.
- (3) This regulation is subject to the limitations set out in this Part.
- (4) This regulation does not apply to an exemption from:
  - (a) a provision requiring a person to hold a high risk work licence; or
  - (b) a provision of Chapter 8 relating to a major hazard facility or proposed major hazard facility.

### **10.3.2 Matters to be considered in granting exemptions**

- (1) The regulator must consider the following before granting an exemption under regulation 10.3.1:
    - (a) whether the granting of the exemption will result in a level of health and safety at the relevant workplace, or with respect to the relevant undertaking, that is at least equivalent to that which would be achieved by compliance with the relevant provision or provisions;
    - (b) whether the requirements of paragraph (a) will be met if the regulator imposes certain conditions in granting the exemption and those conditions are complied with;
    - (c) whether exceptional circumstances justify the grant of the exemption;
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- (d) if the proposed exemption relates to a particular thing, whether the regulator is satisfied that the risk associated with the thing is not significant if the exemption is granted;
  - (e) whether the applicant has carried out consultation in relation to the proposed exemption in accordance with Divisions 1 and 2 of Part 5 of the Act.
- (2) Subregulation (1) does limit any other matters that the regulator may consider.

**10.3.3 High risk work licence—exemption**

- (1) The regulator may exempt a person or class of persons from compliance with a provision of these Regulations requiring the person or class of persons to hold a high risk work licence.
- (2) The exemption may be granted on the written application of any person concerned.

**10.3.4 High risk work licence—regulator to be satisfied of certain matters**

- (1) Before granting an exemption under regulation 10.3.3, the regulator must be satisfied that granting the exemption will result in a level of health and safety that is at least equivalent to the level that would have been achieved without that exemption.
  - (2) For the purposes of subregulation (1), the regulator may have regard to any matter it considers relevant, including whether or not:
    - (a) the obtaining of the high risk work licence would be impractical; and
    - (b) the person's competencies 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.

**10.3.5 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 these Regulations 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.

**10.3.6 Major hazard facility—regulator to be satisfied of certain matters**

- (1) The regulator must be satisfied of the following before granting an exemption under regulation 10.3.5:
    - (a) one or more Schedule 15 chemicals are present or likely to be present at the facility; and
    - (b) the quantity of the Schedule 15 chemical or chemicals exceeds the threshold quantity of the chemical or chemicals periodically because:
      - (i) the chemical or chemicals are solely the subject of intermediate temporary storage, while in transit by road or rail; and
      - (ii) the chemical or chemicals are in one or more containers with the capacity to contain no more than a total of 500 kilograms of the chemical; and
    - (c) granting the exemption will result in a level of health and safety in relation to the operation of the facility that is at least equivalent to that which would be achieved
-

by compliance with the relevant provision or provisions.

- (2) For the purposes of subregulation (1)(c), the regulator may have regard to any matter it considers relevant, including whether or not:
  - (a) the applicant is complying with the Act and these Regulations, including Part 7.1 (Hazardous Chemicals); 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 chemical or chemicals as often as practicable; and
  - (c) the applicant has adequate controls in place to minimise the risk of a major incident occurring.

#### **10.3.7 Application for exemption**

An application for an exemption must be made in the manner and form required by the regulator.

#### **10.3.8 Conditions of exemption**

- (1) The regulator may impose any conditions it considers appropriate on an exemption granted under this Part.
- (2) Without limiting subregulation (1), the conditions on an exemption may include conditions requiring the applicant to:
  - (a) monitor risks;
  - (b) monitor the health of persons at the workplace who may be affected by the exemption;
  - (c) keep certain records;
  - (d) use a stated system of work;



- (e) report certain matters to the regulator;
- (f) give notice of the exemption to persons who may be affected by the exemption.

**Note**

A decision to impose a condition is a reviewable decision (see regulation 10.1.1).

**10.3.9 Form of exemption**

An exemption must be in writing and must specify the following:

- (a) the name of the applicant for the exemption (if any);
- (b) the person or class of persons to whom the exemption will apply;
- (c) the work or thing to which the exemption relates, if applicable;
- (d) the circumstances in which the exemption will apply;
- (e) the provisions of these Regulations to which the exemption applies;
- (f) any conditions on the exemption;
- (g) the duration of the exemption.

**10.3.10 Compliance with conditions of exemption**

A person to whom the exemption is granted must:

- (a) comply with the conditions of the exemption; and
- (b) ensure that any person under the management or control of that person complies with the conditions of the exemption.

**10.3.11 Notice of exemption to applicant**

The regulator must give a copy of an exemption to the applicant for the exemption.

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### **10.3.12 Publication of notice of exemption**

- (1) This regulation applies to an exemption that relates to a class of persons.
- (2) The regulator must publish a copy of the exemption in the [Government Gazette].

**Note**

See the jurisdictional note in the Appendix.

### **10.3.13 Notice of refusal of exemption**

If the regulator refuses to grant an exemption, the regulator must give written notice to the person who applied for the exemption of the refusal and the reasons for the refusal.

**Note**

A refusal to grant an exemption is a reviewable decision (see regulation 10.1.1).

### **10.3.14 Amendment or cancellation of exemption**

The regulator may at any time amend or cancel an exemption.

**Note**

A decision to amend or cancel an exemption is a reviewable decision (see regulation 10.1.1).

### **10.3.15 Notice of amendment or cancellation**

- (1) The regulator must give written notice to the applicant of the amendment or cancellation of the exemption.
  - (2) If the exemption affects a class of persons, the regulator must publish notice of the amendment or cancellation of the exemption in the [Government Gazette].
  - (3) The notice must specify the regulator's reasons for the amendment or cancellation.
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Part 10.3 Exemptions

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- (4) The amendment or cancellation takes effect:
- (a) on the publication of the notice in the [Government Gazette], or on a later date specified in the notice; or
  - (b) if the notice is not required to be published in the [Government Gazette], on the giving of the notice to the applicant under subregulation (1) or on a later date specified in the notice.

**Note**

See the jurisdictional note in the Appendix.

**Part 10.4 Miscellaneous**

*[Provisions to be developed]*

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Part 10.5 Transitional and saving provisions

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**Part 10.5 Transitional and saving provisions**

*[Provisions to be developed]*

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## **SCHEDULES**

### **Schedule 1**

*[Existing regulations to be revoked or repealed can be listed here]*

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## **Schedule 2 Fees**

**Table 2.1**

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<i>Regulation No.</i>	<i>Nature of fee</i>	<i>Fee</i>
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### Schedule 3 Relevant prescribed times

**Table 3.1**

<b>Regulation</b>	<b>Action to be taken</b>	<b>Prescribed time</b>
4.5.9(2), 7.3.65(2)	Refusal to grant licence: decision on application after notifying applicant of proposed refusal and specifying date by which the applicant must make a submission	30 days after the specified date
4.5.37(2)	Refusal to grant assessor accreditation: decision on application after notifying applicant of proposed refusal and specifying date by which the applicant must make a submission	30 days after the specified date
5.2.40(5)(c), 5.2.41(6)(b)(ii)	Effective date of amendment of registration of plant design or item of plant imposed by regulator, or of an amendment that is different from the amendment applied for	If there is an imminent risk to health and safety, when the registration holder is given notice of the amendment that has been made  In any other case, 30 days after the registration holder is given notice of the amendment that has been made
7.3.72(5)(c), 7.3.73(6)(b)(ii)	Effective date of amendment of asbestos removal licence imposed by regulator, or of an amendment that is different from the amendment applied for	If there is an imminent risk to health and safety, when the licence holder is given notice of the amendment that has been made  In any other case, 30 days after the licence holder is given notice of the amendment that has been made

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<b>Regulation</b>	<b>Action to be taken</b>	<b>Prescribed time</b>
7.3.80(2)(a)(ii)	When application for renewal of asbestos assessor licence must be made	Before the current licence expires under regulation 7.3.65
8.7.18(5)(c), 8.7.19(6)(b)(ii), 8.8.14(5)(c), 8.8.15(6)(b)(ii)	Effective date of amendment of registration of major hazard facility or of major hazard facility imposed by regulator, or of an amendment that is different from the amendment applied for	If there is an imminent risk to health and safety, when the operator is given notice of the amendment that has been made  In any other case, 30 days after the operator is given notice of the amendment that has been made
8.8.21(2)(a)(ii)	When application for renewal of major hazard facility licence must be made	Not less than 6 months before the current licence expires under regulation 8.8.10

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## Schedule 4 Classes of high risk work

### Part 1 Scaffolding work—classes of high risk work

#### 1 Meaning of *scaffolding work*

In this Part:

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

Table 4.1

Item	Class of high risk work	Description of class
1	Basic scaffolding	Scaffolding work involving: <ul style="list-style-type: none"> <li>(a) modular or pre-fabricated scaffolds; or</li> <li>(b) cantilevered materials hoists with a maximum working load of 500 kilograms; or</li> <li>(c) ropes; or</li> <li>(d) gin wheels; or</li> <li>(e) safety nets and static lines; or</li> <li>(f) bracket scaffolds (tank and formwork)</li> </ul>
2	Intermediate scaffolding	<ul style="list-style-type: none"> <li>(1) Scaffolding work included in the class of Basic scaffolding.</li> <li>(2) Scaffolding work involving:                             <ul style="list-style-type: none"> <li>(a) cantilevered crane loading platforms; or</li> <li>(b) cantilevered scaffolds; or</li> <li>(c) spur scaffolds; or</li> </ul> </li> </ul>

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<b>Item</b>	<b>Class of high risk work</b>	<b>Description of class</b>
		(d) barrow ramps and sloping platforms; or
		(e) scaffolding associated with perimeter safety screens and shutters; or
		(f) mast climbing work platforms; or
		(g) tube and coupler scaffolds (including tube and coupler covered ways and gantries)
3	Advanced scaffolding	(1) Scaffolding work included in the class of Intermediate scaffolding
		(2) Scaffolding work involving:
		(a) hung scaffolds, including scaffolds hung from tubes, wire ropes or chains; or
		(b) suspended scaffolds

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## **Part 2 Dogging and rigging work—classes of high risk work**

### **2 Definitions**

In this Part:

***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.

***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 building or structure to ensure the stability of those members; or
- (b) the setting up or dismantling of cranes or hoists.

**Table 4.2**

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<b>Item</b>	<b>Class of high risk work</b>	<b>Description of class</b>
1	Dogging	Dogging work
2	Basic rigging	(1) Dogging work (2) Rigging work involving: (a) steel erection; or (b) hoists; or (c) pre-cast concrete members of a structure; or (d) safety nets and static lines; or

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Item	Class of high risk work	Description of class
3	Intermediate rigging	<p>(e) mast climbing work platforms; or</p> <p>(f) perimeter safety screens and shutters; or</p> <p>(g) cantilevered crane loading platforms,</p> <p>but excluding rigging work involving equipment, loads or tasks listed in item 3(a) to (e) and item 4(a) to (d)</p> <p>Rigging work involving:</p> <p>(a) rigging work in the class Basic Rigging; or</p> <p>(b) hoists with jibs and self-climbing hoists; or</p> <p>(c) cranes, conveyors, dredges and excavators; or</p> <p>(d) tilt slabs; or</p> <p>(e) demolition of structures or plant; or</p> <p>(f) dual lifts,</p>
4	Advanced rigging	<p>but excluding rigging work involving equipment listed in item 4(a) to (d)</p> <p>Rigging work involving:</p> <p>(a) rigging work in the class Intermediate Rigging; or</p> <p>(b) gin poles and shear legs; or</p> <p>(c) flying foxes and cable ways; or</p> <p>(d) guyed derricks and structures; or</p> <p>(e) suspended scaffolds and fabricated hung scaffolds</p>

## **Part 3 Crane and hoist operation—classes of high risk work**

### **3 Definitions**

In this Part:

***boom-type elevating work platform*** has the meaning given in regulation 1.1.5.

***bridge crane*** has the meaning given in regulation 1.1.5.

***concrete placing boom*** means plant incorporating a knuckle 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.

***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.

***gantry crane***—see regulation 1.1.5.

***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.

***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
  - (b) a locomotive crane,
- but does not include vehicle tow trucks.

***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.

***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.

***self-erecting tower crane*** means a crane:

- (a) that cannot be disassembled into a tower element and a boom or jib element; and
- (b) that is transported between sites as a complete unit; and
- (c) where the erection and dismantling processes are an inherent part of the crane's function.

***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
  - (b) a backhoe; or
  - (c) an excavator; or
  - (d) other earth moving equipment,
- when configured for crane operation.

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***tower crane*** means a boom crane or a jib crane mounted on a tower structure and:

- (a) the crane, if a jib crane, may be a horizontal or luffing jib type; and
- (b) the tower structure may be demountable or permanent,

but does not include a self-erecting tower crane.

***vehicle loading crane*** means a crane mounted on a vehicle for the principal purpose of loading and unloading the vehicle.

#### **4 Crane and hoist operation, classes of high risk work**

For the purposes of table 4.3 item 14, 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.

**Table 4.3**

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<b>Item</b>	<b>Class of high risk work</b>	<b>Description of class</b>
1	Tower crane	The use of a tower crane
2	Self-erecting tower crane	The use of a self-erecting tower crane
3	Derrick crane	The use of a derrick crane
4	Portal boom crane	The use of a portal boom crane

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<b>Item</b>	<b>Class of high risk work</b>	<b>Description of class</b>
5	Bridge and gantry crane	The use of a bridge crane or gantry crane that is: <ul style="list-style-type: none"> <li>(a) controlled from a permanent cabin or control station on the crane; or</li> <li>(b) remotely controlled and having more than 3 powered operations</li> </ul>
6	Vehicle loading crane	The use of a vehicle loading crane with a capacity of 10 metre tonnes or more
7	Non-slewing mobile crane	The use of a non-slewing mobile crane with a capacity of more than 3 tonnes
8	Slewing mobile crane—with a capacity up to 20 tonnes	The use of a slewing mobile crane with a capacity of 20 tonnes or less
9	Slewing mobile crane—with a capacity up to 60 tonnes	The use of a slewing mobile crane with a capacity of 60 tonnes or less
10	Slewing mobile crane—with a capacity up to 100 tonnes	The use of a slewing mobile crane with a capacity of 100 tonnes or less
11	Slewing mobile crane with a capacity over 100 tonnes	The use of a slewing mobile crane with a capacity of more than 100 tonnes
12	Materials hoist	The use of a materials hoist
13	Personnel and materials hoist	The use of a personnel and materials hoist
14	Boom-type elevating work platform	The use of a boom-type elevating work platform where the length of the boom is 11 metres or more
15	Concrete placing boom	The use of a concrete placing boom

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## Part 4 Reach stackers

### 5 Meaning of reach stacker

In this Part:

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

Table 4.4

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Item	Class of high risk work	Description of class
1	Reach stacker	The use of a reach stacker of greater than 3 tonnes capacity that incorporates an attachment for lifting and moving a shipping container.

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## **Part 5 Forklift operation—classes of high risk work**

### **6 Definitions**

In this Part:

*forklift truck* 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 forkarms or other arms.

*order-picking forklift truck* means a forklift truck where the operator's controls are incorporated with the lifting media and elevate with the lifting media.

### **7 Forklift operation, classes of high risk work**

**Table 4.5**

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<b>Item</b>	<b>Class of high risk work</b>	<b>Description of class</b>
1	Forklift truck	The use of a forklift truck other than an order-picking forklift truck
2	Order-picking forklift truck	The use of an order-picking forklift truck

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## **Part 6 Pressure equipment operation—classes of high risk work**

### **8 Definitions**

In this Part:

*boiler* means:

- (a) a vessel, or an arrangement of vessels and interconnecting parts, in which steam or liquid is heated, at a pressure above that of the atmosphere, by the application of fire, the products of combustion, electrical power or similar means; and
- (b) the valves, gauges, fittings, controls, boiler setting and other equipment directly associated with those vessels,

but does not include:

- (c) a vessel that is able to operate deprived of all liquid and vapour that is intended to be heated without affecting the structure or operation of the vessel but not greater than 500 kW output; or
- (d) a direct fired process heater; or
- (e) boilers designed or manufactured to the Australian Miniature Boiler Safety Committee (AMBSC) codes; or
- (f) boilers with less than 5 square metres heating surface or 150 kilowatt output; or
- (g) unattended boilers certified in compliance with AS 2593, Boilers—unattended and limited attendance.

***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 process of the process fluid, whether that fluid is liquid or gas, or a combination of liquid and gas.

***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.

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

**Table 4.6**

<b>Item</b>	<b>Class of high risk work</b>	<b>Description of class</b>
1	Basic boiler	The use of a boiler with the following features: (a) single fixed combination air supply; or (b) non-modulating heat source; or (c) fixed firing rate
2	Intermediate boiler	The use of a boiler with the following features: (a) modulating combustion air supply; or (b) modulating heat source; or (c) superheaters; or (d) economisers

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<b>Item</b>	<b>Class of high risk work</b>	<b>Description of class</b>
3	Advanced boiler	The use of a boiler with: (a) the features listed in Intermediate Boiler licence class; or (b) multiple fuel type boilers that may be fired simultaneously, but not boilers that change fuel types during start sequences
4	Turbine operation	The use of a turbine that has an output of 500 kilowatts or more and: (a) is multi-wheeled; or (b) is capable of a speed greater than 3600 revolutions per minute; or (c) has attached condensers; or (d) has a multi-staged heat exchange extraction process
5	Reciprocating steam engine	The use of a reciprocating steam engine where the diameter of any piston is more than 250 millimetres

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## Schedule 5—High risk work licences—competency requirements

The following table sets out the qualifications for high risk work licences:

**Table 5.1**

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Licence Class	National Training Information Service competency unit	Title
Basic scaffolding	CPCCLSF2001A	Licence to erect, alter and dismantle scaffolding basic level
Intermediate scaffolding	CPCCLSF3001A	Licence to erect, alter and dismantle scaffolding intermediate level
Advanced scaffolding	CPCCLSF4001A	Licence to erect, alter and dismantle scaffolding advanced level
Dogging	CPCCLDG3001A	Licence to perform dogging
Basic rigging	CPCCLRG3001A	Licence to perform rigging basic level
Intermediate rigging	CPCCLRG3002A	Licence to perform rigging intermediate level
Advanced rigging	CPCCLRG4001A	Licence to perform rigging advanced level
Tower crane	CPCCLTC4001A	Licence to operate a tower crane
Self-erecting tower crane	CPCCLTC4002A	Licence to operate a self-erecting tower crane
Derrick crane	TLILIC408A	Licence to operate a derrick crane
Portal boom crane	TLILIC708A	Licence to operate a portal boom crane
Bridge and gantry crane	TLILIC308A	Licence to operate a bridge and gantry crane

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<b>Licence Class</b>	<b>National Training Information Service competency unit</b>	<b>Title</b>
Vehicle loading crane	TLILIC1208A	Licence to operate a vehicle loading crane (capacity 10 metre tonnes and above)
Non-slewing mobile crane	TLILIC608A	Licence to operate a non-slewing mobile crane (greater than 3 tonnes capacity)
Slewing mobile crane —with a capacity up to 20 tonnes	TLILIC808A	Licence to operate a slewing mobile crane (up to 20 tonnes)
Slewing mobile crane —with a capacity up to 60 tonnes	TLILIC908A	Licence to operate a slewing mobile crane (up to 60 tonnes)
Slewing mobile crane —with a capacity up to 100 tonnes	TLILIC1008A	Licence to operate a slewing mobile crane (up to 100 tonnes)
Slewing mobile crane —with a capacity over 100 tonnes	TLILIC1108A	Licence to operate a slewing mobile crane (over 100 tonnes)
Materials hoist	CPCCLHS3002A	License to operate a materials hoist
Personnel and materials hoist	CPCCLHS3001A	Licence to operate a personnel and materials hoist
Boom-type elevating work platform	TLILIC508A	Licence to operate a boom-type elevating work platform (boom length 11 metres or more)
Concrete placing boom	CPCCCO3012A	Conduct concrete boom delivery operations
Reach stacker	to be advised	to be advised
Forklift truck	TLILIC108A	Licence to operate a forklift truck



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<b>Licence Class</b>	<b>National Training Information Service competency unit</b>	<b>Title</b>
Order-picking forklift truck	TLILIC208A	Licence to operate an order picking forklift truck
Basic boiler operation	to be advised	to be advised
Intermediate boiler operation	to be advised	to be advised
Advanced boiler operation	to be advised	to be advised
Turbine operation	to be advised	to be advised
Reciprocating steam engine operation	to be advised	to be advised

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## **Schedule 6**

### **Part 1 Plant Requiring Registration of Design**

#### **1 List of plant items requiring registration of design**

- 1.1 Boilers categorised as hazard level A, B or C according to criteria in the relevant technical standard identified in the *Plant Code of Practice*.
- 1.2 Pressure equipment, other than pressure piping, and categorised as hazard level A, B, C or D according to the criteria in the relevant technical standard identified in the *Plant Code of Practice*.
- 1.3 Gas cylinders covered by the relevant technical standard identified in the *Plant Code of Practice*.
- 1.4 Tower cranes including self-erecting tower cranes.
- 1.5 Lifts, including escalators and moving walkways.
- 1.6 Building maintenance units.
- 1.7 Hoists with a platform movement exceeding 2·4 metres, designed to lift people.
- 1.8 Work boxes designed to be suspended from cranes.
- 1.9 Amusement devices covered by the relevant technical standard identified in the *Plant Code of Practice* with the exception of [class 1] structures.
- 1.10 Concrete placement units with delivery booms.
- 1.11 Prefabricated scaffolding and prefabricated formwork.
- 1.12 Boom-type elevating work platforms.
- 1.13 Gantry cranes with a safe working load greater than 5 tonnes or bridge cranes with a safe working load of greater than 10 tonnes, and any gantry

crane or bridge crane which is designed to handle molten metal or dangerous goods.

**Note**

*Dangerous goods* is defined in the ADG Code.

1.14 Vehicle hoists.

1.15 Mast climbing work platforms.

1.16 Mobile cranes with a safe working load of greater than 10 tonnes.

**2 Exceptions**

The plant listed in clause 1 do not include:

- (a) a crane or hoist that is manually powered; or
- (b) an elevating work platform that is a scissor lift or a vertically moving platform; or
- (c) a tow truck.

## **Part 2 Plant Items Requiring Registration**

### **3 List of plant items requiring registration**

- 3.1 Boilers categorised as hazard level A, B or C according to criteria in the relevant technical standard identified in the *Plant Code of Practice*.
- 3.2 Pressure vessels categorised as hazard level A, B or C according to the criteria in the relevant technical standard identified in the *Plant Code of Practice*, with the exception of:
  - (a) gas cylinders;
  - (b) LP Gas fuel vessels for automotive use, and
  - (c) serially produced vessels.
- 3.3 Gas cylinders covered by the relevant technical standard identified in the *Plant Code of Practice*.
- 3.4 Tower cranes including self-erecting tower cranes.
- 3.5 Lifts, including escalators and moving walkways.
- 3.6 Building maintenance units.
- 3.7 Amusement devices covered by the relevant technical standard identified in the *Plant Code of Practice*, with the exception of [class 1] structures.
- 3.8 Concrete placement units with delivery booms.
- 3.9 Mobile cranes with a safe working load of greater than 10 tonnes.

### **4 Exceptions**

The plant items listed in clause 3 do not include a crane or hoist that is manually powered.

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## Schedule 7—Classification of mixtures

(see reg 7.1.3)

**Table 7.1 Classification of mixtures containing respiratory or skin sensitisers**

Cut-off values/concentration limits of ingredients of a mixture classified as either respiratory sensitisers or skin sensitisers that would trigger classification of the mixture.

Column 1 Item	Column 2 Ingredient classification	Column 3 Mixture classification		
		Skin sensitiser	Respiratory sensitiser	
		All physical states	Solid/liquid	Gas
1	Skin sensitiser Sub-category A	≥ 0.1%		
2	Skin sensitiser Sub-category B	≥ 1.0%		
3	Respiratory sensitiser Sub-category 1A		≥ 0.1%	≥ 0.1%
4	Respiratory sensitiser Sub-category 1B		≥ 1.0%	≥ 0.2%

**Note**

Table 7.1 replaces table 3.4.5 in the GHS, p. 151.

**Table 7.2 Classification of mixtures containing carcinogens**

Cut-off values/concentration limits of ingredients of a mixture classified as carcinogen that would trigger classification of the mixture.

Column 1 Item	Column 2 Ingredient classification	Column 3 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 7.2 apply to solids and liquids (w/w units) and gases (v/v units).
- 2 Table 7.2 replaces table 3.6.1 in the GHS, p. 166.

**Table 7.3 Classification of mixtures containing reproductive toxicants**

Cut-off values/concentration limits of ingredients of a mixture classified as reproductive toxicants or for effects on or via lactation that would trigger classification of the mixtures.

Column 1 Item	Column 2 Ingredient classification	Column 3 Mixture classification		
		Category 1 reproductive toxicant	Category 2 reproductive toxicant	Additional category for effects on or via lactation
1	Category 1 reproductive toxicant	≥ 0.3%		
2	Category 2 reproductive toxicant		≥ 3.0%	
3	Additional category for effects on or via lactation			≥ 0.3%

**Notes**

- 1 The concentration limits in table 7.3 apply to solids and liquids (w/w units) and gases (v/v units).
- 2 Table 7.3 replaces table 3.7.1 in the GHS), p. 180.

**Table 7.4 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.

Column 1 Item	Column 2 Ingredient classification	Column 3 mixture classification	
		Category 1	Category 2
1	Category 1 specific target organ toxicant	Concentration $\geq 10\%$	$1.0\% \leq$ concentration $< 10\%$
2	Category 2 specific target organ toxicant		Concentration $\geq 10\%$

**Note**

Table 7.4 replaces table 3.8.2 in the GHS, p. 192.

**Table 7.5 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.

Column 1 Item	Column 2 Ingredient classification	Column 3 Mixture classification	
		Category 1	Category 2
1	Category 1 specific target organ toxicant	Concentration $\geq 10\%$	$1.0\% \leq$ concentration $< 10\%$
2	Category 2 specific target organ toxicant		Concentration $\geq 10\%$

**Note**

Table 7.5 replaces table 3.9.3 in the GHS, p. 203.



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## Schedule 8—Disclosure of ingredients

(see regs 7.1.3, 7.1.13 and clause 1(1)(d) of Schedule 9)

### 1 Identity of ingredients to be disclosed

- (1) This clause applies if an ingredient in a hazardous chemical causes the correct classification of the chemical to include a hazard class or hazard category referred to in table 8.1.
- (2) The identity of the ingredient must be disclosed on the label and safety data sheet of the hazardous chemical.

**Table 8.1**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>GHS hazard class</b>	<b>GHS hazard category, type or division</b>
1	Acute toxicity—oral	Category 1 Category 2 Category 3 Category 4
2	Acute toxicity—dermal	Category 1 Category 2 Category 3 Category 4
3	Acute toxicity—inhaleation	Category 1 Category 2 Category 3 Category 4
4	Respiratory sensitiser	Category 1
5	Skin sensitiser	Category 1

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>GHS hazard class</b>	<b>GHS hazard category, type or division</b>
6	Mutagenicity	Category 1A Category 1B Category 2
7	Carcinogenicity	Category 1A Category 1B Category 2
8	Toxic to reproduction	Category 1A Category 1B Category 2 Additional category for effects on or via lactation
9	Target organ toxicity—single exposure	Category 1 Category 2 Category 3
10	Target organ toxicity—repeat exposure	Category 1 Category 2
11	Aspiration hazards	Category 1
12	Skin corrosion or irritation	Category 1A Category 1B Category 1C Category 2
13	Serious eye damage or eye irritation	Category 1 Category 2A

**2 Generic names used to disclose identity of ingredients**

- (1) This clause applies if an ingredient of a hazardous chemical must be disclosed under clause 1.

- 
- (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 or hazard category referred to in table 8.2; and
    - (ii) the ingredient does not cause the correct classification of the hazardous chemical to include any other hazard class or hazard category in table 8.1; and
    - (iii) the identity of the ingredient is commercially confidential; and
    - (iv) an exposure standard for the ingredient has not been established; or
  - (b) in any other case—must be disclosed by its chemical identity.

**Table 8.2**

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<b>Column 1 Item</b>	<b>Column 2 Hazard class and hazard category</b>
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)

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### **3 Disclosing proportions of ingredients**

- (1) This clause applies if an ingredient of a hazardous chemical must be disclosed under clause 1.

- (2) The proportion of the ingredient to the hazardous chemical must be disclosed:
- (a) if the ingredient can be described as an exact proportion of the hazardous chemical—as the exact proportion of the chemical, expressed as a percentage by weight or volume; or
  - (b) if the ingredient cannot be described as an exact proportion of the hazardous chemical because the exact proportion 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).

## Schedule 9—Labelling requirements

### Note

More than one clause of this Schedule may apply to a hazardous chemical depending on the nature of the hazardous chemical, its container and other matters.

### 1 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) if the chemical is dangerous goods, and the ADG code requires the label to include the proper shipping name and UN number—the proper shipping name and UN number;
  - (c) the name, and the Australian address and business telephone number of:
    - (i) the manufacturer; or
    - (ii) the importer, who must be resident in Australia;
  - (d) for each ingredient of the chemical—the identity and proportion disclosed in accordance with Schedule 8;
  - (e) any hazard pictogram consistent with the correct classification of the chemical or a class label that complies with the ADG Code for the chemical;
  - (f) any hazard statement, signal word and precautionary statement consistent with the correct classification of the chemical;

- (g) any information about the hazards, first aid and emergency procedures relevant to the chemical, not otherwise included in the hazard statement or precautionary statement referred to in paragraph (e);
  - (h) if the chemical has an expiry date—the expiry date.
- (2) The label may include any other information that does not contradict or cast doubt on the matters referred to in subclause (1).
  - (3) This clause is subject to clauses 2 to 9 of this Schedule.

## **2 Labelling hazardous chemicals—small container**

- (1) This clause applies if a hazardous chemical is packed in a container that is too small for a label attached to it to include all the information referred to in clause 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 be resident in Australia;
  - (c) a hazard pictogram and hazard statement consistent with the correct classification of the chemical;
  - (d) the other information referred to in clause 1 that is reasonably practicable to include.

**3 Labelling hazardous chemicals—research chemicals or samples for analysis**

- (1) This clause applies to a hazardous chemical that is a research chemical or sample for analysis.
- (2) The hazardous chemical is *correctly labelled* if the chemical is packed in a container that has a label in English including the following:
  - (a) the product identifier;
  - (b) a hazard pictogram and hazard statement consistent with the correct classification of the chemical.

**4 Labelling hazardous chemicals—decanted or transferred chemicals**

- (1) This clause applies if:
  - (a) a hazardous chemical is decanted or transferred from the container in which it is packed; and
  - (b) either:
    - (i) will not be used immediately; or
    - (ii) is supplied to someone else.
- (2) The hazardous chemical is *correctly labelled* if the chemical is packed in a container that has a label in English including the following:
  - (a) the product identifier;
  - (b) a hazard pictogram and hazard statement consistent with the correct classification of the chemical.

### **5 Labelling hazardous chemicals—known hazards**

- (1) This clause applies to a hazardous chemical if:
  - (a) the chemical is not being supplied to another workplace; and
  - (b) the hazards associated with 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 and hazard statement consistent with the correct classification of the chemical.

### **6 Labelling hazardous chemicals—C1 combustible liquids**

- (1) This clause applies to a hazardous chemical if the chemical is a C1 combustible liquid.
- (2) The hazardous chemical is *correctly labelled* if the chemical is labelled in accordance with the GHS requirements for flammable liquids (category 4).

### **7 Labelling hazardous chemicals—waste products**

- (1) This clause applies to a waste product if it is reasonably likely that the waste product is a hazardous chemical.
- (2) The waste product is *correctly labelled* if it is packed in a container that has a label in English including the following for the hazardous chemical:
  - (a) the product identifier;



- (b) the name, and the Australian address and business telephone number of:
  - (i) the manufacturer; or
  - (ii) the supplier; or
  - (iii) the importer, who must be resident in Australia;
- (c) a hazard pictogram and hazard statement consistent with the correct classification of the chemical.

#### **8 Labelling hazardous chemicals—explosives**

- (1) This clause applies to a hazardous chemical that:
  - (a) may be classified in the explosives hazard class; and
  - (b) is not an explosive article.
- (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.

**9 Labelling hazardous chemicals—agricultural and veterinary chemicals**

- (1) A hazardous chemical that is an agricultural or veterinary chemical is *correctly labelled* if:
- (a) the chemical is labelled in accordance with the requirements of the Australian Pesticides and Veterinary Medicines Authority; and
  - (b) the label includes the following:
    - (i) any hazard statement consistent with the correct classification of the chemical;
    - (ii) any precautionary statement consistent with the correct classification of the chemical.

- (2) In this clause:

*agricultural or veterinary chemical* means an agricultural chemical product or veterinary chemical product under the *Agricultural and Veterinary Chemicals Code Act 1994* of the Commonwealth.

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## Schedule 10—Prohibited and restricted hazardous chemicals

(see regs 7.1.20, 7.1.57, 7.1.58, 7.1.59, 7.1.60, 7.1.61)

### Note

The restricted uses of carcinogenic substances 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 Restricted carcinogenic substance [CAS number]
1	2-Acetylaminofluorene [53-96-3]
2	Aflatoxins
3	4-Aminodiphenyl [92-67-1]
4	Benzidine [92-87-5] and its salts (including benzidine dihydrochloride [531-85-1])
5	bis(Chloromethyl) ether [542-88-1]
6	Chloromethyl methyl ether [107-30-2] (technical grade which contains bis(chloromethyl) ether)
7	4-Dimethylaminoazobenzene [60-11-7] (Dimethyl Yellow)
8	2-Naphthylamine [91-59-8] and its salts
9	4-Nitrodiphenyl [92-93-3]

**Table 10.2 Restricted carcinogens**

Column 1 Item	Column 2 Restricted hazardous chemical [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

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>Restricted hazardous chemical [CAS Number]</b>	<b>Restricted use</b>
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
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**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>Restricted hazardous chemical [CAS number]</b>	<b>Restricted use</b>
1	Antimony	For abrasive blasting at a concentration of greater than 0.1 per cent

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>Restricted hazardous chemical [CAS number]</b>	<b>Restricted use</b>
2	Arsenic	For abrasive blasting at a concentration of greater than 0·1 per cent For spray painting
3	Arsenic compounds	For spray painting
4	Benzene (benzol), if the substance contains more than 1% by volume	For spray painting
5	Beryllium	For abrasive blasting at a concentration of greater than 0·1 per cent
6	Cadmium	For abrasive blasting at a concentration of greater than 0·1 per cent
7	Carbon disulphide (carbon bisulphide)	For spray painting
8	Chromate	For wet abrasive blasting
9	Chromium	For abrasive blasting at a concentration of greater than 0·5 per cent (except as specified for wet blasting)
10	Cobalt	For abrasive blasting at a concentration of greater than 0·1 per cent
11	Free silica (crystalline silicon dioxide)	For abrasive blasting at a concentration of greater than 0·1 per cent. For spray painting
12	Lead	For abrasive blasting at a concentration of greater than 0·1 per cent or which would expose the operator to levels in excess of those set in the regulations covering lead
13	Lead carbonate	For spray painting

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>Restricted hazardous chemical [CAS number]</b>	<b>Restricted use</b>
14	Methanol (methyl alcohol), if the substance contains more than 1% by volume	For spray painting
15	Nickel	For abrasive blasting at a concentration of greater than 0.1 per cent
16	Nitrate	For wet abrasive blasting
17	Nitrite	For wet abrasive blasting
18	Radioactive substance of any kind where the level of radiation exceeds 1 Bq/g	For abrasive blasting, so far as is reasonably practicable
19	Tetrachloroethane	For spray painting
20	Tetrachloromethane (carbon tetrachloride)	For spray painting
21	Tin	For abrasive blasting at a concentration of greater than 0.1 per cent
22	Tributyl tin	For spray painting

**Note**

Regulation 7.1.59(2) deals with polychlorinated biphenyls (PCBs).

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## Schedule 11—Placard and manifest quantities

(see reg 7.1.25 and 7.1.28)

**Table 11.1**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Item</b>	<b>Description of hazardous chemicals</b>	<b>Packing group</b>	<b>Placard quantity</b>	<b>Manifest quantity</b>
1	Division 2.1 dangerous goods excluding aerosols	N/A	200L	5 000L
2	Division 2.2 dangerous goods excluding aerosols	N/A	1 000L	10 000L
3	Division 2.3 dangerous goods	N/A	50L	500L
4	Division 2.1 or 2.2 aerosol dangerous goods of	N/A	5 000L	10 000L
5	Class 3, Division 4.1, 4.2, 4.3, 5.1, 5.2, 6.1, Class 8 or 9 dangerous goods	I	50kg or 50L	500kg or 500L
		II	250kg or 250L	2 500kg or 2 500L
		III	1 000kg or 1 000L	10 000kg or 10 000L

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Item</b>	<b>Description of hazardous chemicals</b>	<b>Packing group</b>	<b>Placard quantity</b>	<b>Manifest quantity</b>
		Mixed Packing Groups in a single Class or Division of dangerous goods if none of the Packing Groups present exceeds the quantities stated in this item	1 000kg or 1 000L	10 000kg or 10 000L
6	Goods too dangerous to transport	N/A	5kg or 5L	50kg or 50L
7	C1 combustible liquids only	N/A	10 000L	100 000L

### **1 Substances taken to be assigned to packing groups**

- (1) All Type B Division 4.1 Self Reactive Substances that do not have an assigned packing group are taken to be assigned to Packing Group I.
- (2) All Type C to F Division 4.1 Self Reactive Substances that do not have an assigned packing group are taken to be assigned to Packing Group II.
- (3) All Type B Division 5.2 Organic Peroxides that do not have an assigned packing group are taken to be assigned to Packing Group I.
- (4) All Type C to F Division 5.2 Organic Peroxides that do not have an assigned packing group are taken to be assigned to Packing Group II.



- (5) Class 9 dangerous goods that do not have an assigned packing group are taken to be assigned to Packing Group III.
- (6) All other articles and thing that do not have an assigned packing group are taken to be assigned to Packing Group II.
- (7) If a C1 combustible liquid is stored or used, handled or stored in the same spill compound as 1 or more flammable liquids, the C1 combustible liquid assumes the packing group designation of the flammable liquid with the lowest flash point.

## **Schedule 12—Manifest requirements**

(see reg 7.1.26)

### **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 clause 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 dangerous goods—the diameter of the tank.

### **3 Manifest—identification of hazardous chemical**

The manifest of hazardous chemicals must include:

- (a) for a hazardous chemical, other than a C1 combustible liquid or goods too dangerous to be transported:
  - (i) the proper shipping name; and
  - (ii) the UN number; and
  - (iii) the class and division of the dangerous goods; and
- (b) for a C1 combustible liquid:
  - (i) the product identifier; and
  - (ii) the words 'combustible liquid'; and
- (c) for dangerous goods too dangerous to be transported:
  - (i) the name of the goods 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 clause applies if:
  - (a) a storage area:
    - (i) contains, or is likely to contain, a packaged hazardous chemical, or a hazardous chemical in an intermediate bulk container; and
    - (ii) is required under these regulations to have a placard; and
  - (b) the hazardous chemicals are dangerous goods.

- (2) The manifest of hazardous chemicals must include:
- (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 Packing Group I or Division 2.3 dangerous goods that are likely to be kept in the storage area:
    - (i) the proper shipping name of the dangerous goods; and
    - (ii) the class to which the goods are assigned; and
    - (iii) the largest quantity of the goods likely to be kept in the storage area; and
  - (d) for goods too dangerous to be transported that are likely to be kept in the storage area:
    - (i) the name of the goods stated in the ADG Code, appendix A; and
    - (ii) the words 'goods too dangerous to be transported'; and
    - (iii) the largest quantity of the goods likely to be kept in the storage area; and
  - (e) for dangerous goods with an assigned class—the class to which the goods are assigned; and
  - (f) for C1 combustible liquids—the words 'combustible liquid'.

**5 Manifest—hazardous chemicals being manufactured**

- (1) 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; and

**6 Manifest—hazardous chemicals in transit**

- (1) This clause applies to hazardous chemicals at a workplace if the chemicals are:
  - (a) dangerous goods in transit at the workplace; and
  - (b) accompanied by dangerous goods transport documents (the *transport documents*) in relation to the 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.

**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 intermediate bulk containers; and
  - (iii) each area where hazardous chemicals are manufactured; and
- (b) includes a description in words of the location of:
  - (i) the things referred to 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 referred to in paragraph (a); and
- (d) shows the location of:
  - (i) the main entrance and other places of entry to 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.

## **Schedule 13—Placard requirements**

(see reg 7.1.29(2) and 7.1.30(2))

### **1 Displaying placards**

- (1) This clause 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 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 clause 3 (Outer warning placards—requirements) applies—located at each entrance to the workplace where an emergency services authority may enter the workplace; and

- (f) for a placard to which clause 4 (Placards for particular classes or divisions of dangerous goods stored in bulk) applies—located on or next to each container or storage area in which the goods are stored; and
- (g) for a placard to which clause 6 (Placards for packaged dangerous goods (other than C1 combustible liquids) and IBCs) applies—located at each entrance to a storage area in which the goods are stored.

## **2 Maintaining placards**

A person who is required to display a placard must:

- (a) amend the placard as soon as reasonably 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) is not covered or obscured.

## **3 Outer warning placards—requirements**

- (1) This clause 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**

Regulation 7.1.29 sets out when an outer warning placard is required, and states that it is not required for retail fuel outlets.

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- (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.



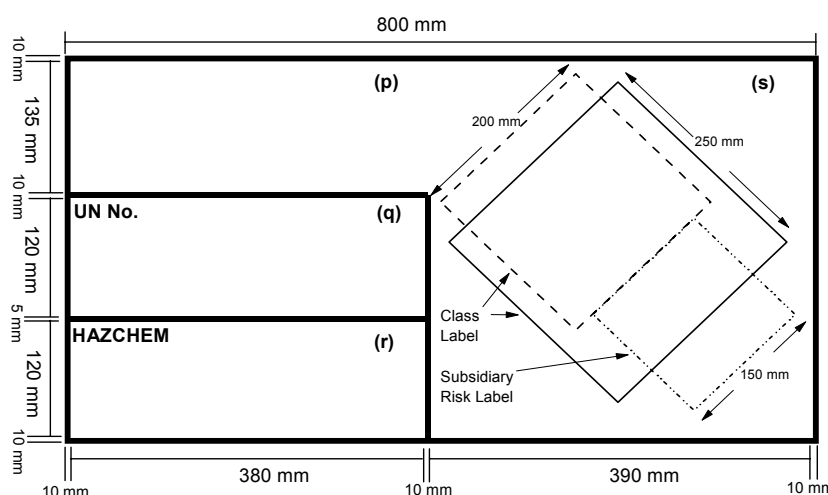
**Figure 13.1 Form and dimensions of outer warning placard**

- (3) In this clause:
- red* means the colour 'signal red' in accordance with AS 2007S–1996 (R13) (Colour standards for general purposes—signal red).

#### **4 Placards for particular classes or divisions of dangerous goods stored in bulk**

- (1) This clause applies if a person conducting a business or undertaking at a workplace must display a dangerous goods placard at the workplace in relation to the storage in bulk of dangerous goods assigned to any of the following:
- (a) division 2.1, 2.2 or 2.3;
  - (b) class 3;
  - (c) division 4.1, 4.2 or 4.3;
  - (d) division 5.1 or 5.2;
  - (e) division 6.1;
  - (f) class 8;
  - (g) class 9.

- (2) The placard must:
  - (a) comply with the template in figure 13.2; and
  - (b) subject to subclause (4)(b), 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;
  - (b) in space (q)—the UN Number;
  - (c) in space (r)—the Hazchem Code stated in the ADG Code for the dangerous goods;
  - (d) in space (s)—the class label and subsidiary risk label (if any).



**Figure 13.2** Template for a placard for a hazardous chemical stored in bulk

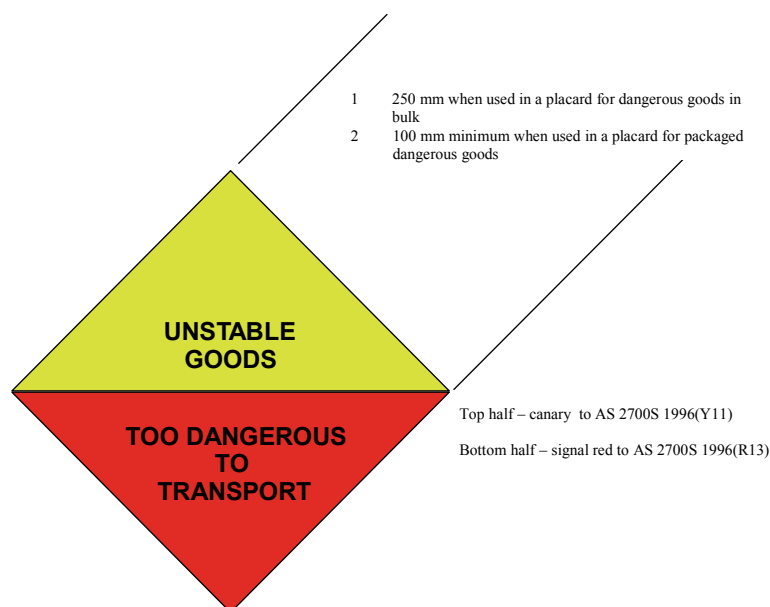
- (4) For subclause (3)(a) to (c), the numerals and letters used for showing the proper shipping name, UN number and Hazchem Code must be:
  - (a) black on a white background, unless a letter of the Hazchem Code is white on a black background; and

- (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 subclause (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 dangerous goods; and
  - (b) the class label must have:
    - (i) if there is a subsidiary risk label—sides not less than 200mm; or
    - (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 dangerous goods stored in bulk and too dangerous to be transported**

- (1) This clause applies if a person conducting a business or undertaking at a workplace must display a dangerous goods placard at the workplace in relation to dangerous goods that are:
    - (a) stored in bulk; and
    - (b) goods too dangerous to be transported.
  - (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 in figure 13.2 for the dangerous goods:
- (a) in space (p)—the name stated in the ADG Code for the dangerous goods;
  - (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.

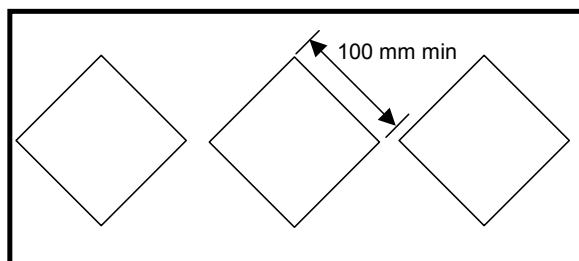


**Figure 13.3** Label for dangerous goods too dangerous to be transported

- (4) For subclause (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 subclause (3)(d), the label must have sides of not less than 250mm.

## **6 Placards for packaged dangerous goods (other than C1 combustible liquids) and IBCs**

- (1) This clause applies if a person conducting a business or undertaking at a workplace must display a dangerous goods placard at the workplace in relation to the storage of:
  - (a) packaged dangerous goods (other than a C1 combustible liquid); or
  - (b) dangerous goods in an intermediate bulk container.
- (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 dangerous goods; and
    - (ii) with sides not less than 100mm.
- (3) The placard must include the following:
  - (a) for dangerous goods, other than goods too dangerous to be transported, present in a storage area at the workplace—the class label for each class of dangerous goods present in at least the placard quantity;
  - (b) for a C1 combustible liquid stored with flammable liquids in a storage area at the workplace—a class 3 class label; or
  - (c) for goods too dangerous to be transported—the label in figure 13.3.



**Figure 13.4 General form of placard for packaged dangerous goods**

- (4) If dangerous goods in an intermediate bulk container at the workplace are dangerous goods intended for transport, and not intended for use at the workplace:
- (a) the intermediate bulk container must display a placard in accordance with the ADG Code; and
  - (b) the storage area at the workplace must display a placard in accordance with this clause.

#### **7 Placards for C1 combustible liquids packaged or in bulk**

- (1) This clause applies if a person conducting a business or undertaking at a workplace must display a dangerous goods placard at the workplace in relation to the storage of:
- (a) a packaged C1 combustible liquid; or
  - (b) a C1 combustible liquid 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 C1 combustible liquids**

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## Schedule 14—Hazardous chemicals requiring health surveillance

(see reg 7.1.53 and 7.3.16)

**Table 14.1 Hazardous chemicals requiring health surveillance**

Column 1 Item	Column 2 Hazardous chemical	Column 3 Type of health surveillance
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 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 <sub>1</sub> , FVC and FEV <sub>1</sub> /FVC

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<b>Column 1 Item</b>	<b>Column 2 Hazardous chemical</b>	<b>Column 3 Type of health surveillance</b>
5	Chromium (inorganic)	<p>Urinary cadmium and <math>\beta_2</math>-microglobulin</p> <p>Health advice, including counselling on the effect of smoking on cadmium exposure</p> <p>Demographic, medical and occupational history</p> <p>Physical examination with emphasis on the respiratory system and skin</p> <p>Weekly skin inspection of hands and forearms by a competent person</p>
6	Creosote	<p>Demographic, medical and occupational history</p> <p>Health advice, including recognition of photosensitivity and skin changes</p> <p>Physical examination with emphasis on the neurological system and skin, noting any abnormal lesions and evidence of skin sensitisation</p> <p>Records of personal exposure, including photosensitivity</p>
7	Crystalline silica	<p>Demographic, medical and occupational history</p> <p>Records of personal exposure</p> <p>Completion of a standardised respiratory questionnaire</p> <p>Standardised respiratory function test, for example, FEV<sub>1</sub>, FVC and FEV<sub>1</sub>/FVC</p> <p>Chest X-ray full size PA view</p>
8	Isocyanates	<p>Demographic, medical and occupational history</p> <p>Completion of a standardised respiratory questionnaire</p> <p>Physical examination of the respiratory system and skin</p> <p>Standardised respiratory function tests, FEV<sub>1</sub>, FVC and FEV<sub>1</sub>/FVC</p>

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<b>Column 1 Item</b>	<b>Column 2 Hazardous chemical</b>	<b>Column 3 Type of health surveillance</b>
9	Lead (inorganic)	Demographic, medical and occupational history Physical examination Blood lead levels
10	Mercury (inorganic)	Demographic, medical and occupational history Physical examination with emphasis on dermatological, gastrointestinal, neurological and renal systems Urinary inorganic mercury
11	4,4' methylene bis (2-chloroaniline) (MOCA)	Demographic, medical and occupational history Physical examination Urinary total MOCA Dipstick analysis of urine for haematuria Urine cytology
12	Organophosphate pesticides	Demographic, medical and occupational history including pattern of use Physical examination Baseline estimation of red cell and plasma cholinesterase activity towards the end of the working day on which organophosphate pesticides have been used Baseline estimation of red cell and plasma chlorinesterase activity levels by the Ellman or equivalent method

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>Hazardous chemical</b>	<b>Type of health surveillance</b>
13	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
14	Polycyclic aromatic hydrocarbons (PAH)	Demographic, medical and occupational history Physical examination Records of personal exposure, including photosensitivity Health advice, including recognition of photosensitivity and skin changes
15	Thallium	Demographic, medical and occupational history Physical examination Urinary thallium
16	Vinyl chloride	Demographic, medical and occupational history Physical examination Records of personal exposure

## **Schedule 15—Hazardous Chemicals at Major Hazard Facilities (and their Threshold Quantity)**

### **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.

**explosives** means [.....].

**LD<sub>50</sub> (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 per cent of young adult albino rats when administered by the oral route. The LD<sub>50</sub> value is expressed in terms of mass of test substance per mass of test animal (mg/kg).

**LD<sub>50</sub> 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 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.

**LC<sub>50</sub> 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 more than 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.

**Packing Group** has the same meaning as in the ADG Code.

**UN number** means [.....].

## **2 Relevant hazardous chemicals**

The hazardous chemicals that characterise a workplace as a facility for the purposes of these Regulations are the chemicals specifically referred to in table 1 and chemicals that belong to the types, classes and categories referred to in table 2.

## **3 Threshold quantity of one hazardous chemical**

- (1) In relation to each hazardous chemical referred to in clause 2, the third column of each table provides a quantity that is described as the **threshold quantity** of that chemical.
- (2) If a hazardous chemical is referred to in table 1, the threshold quantity of the chemical is that described in table 1, whether or not the chemical also belongs to a type, class or category referred to in table 2.

- (3) If a hazardous chemical is not referred to in table 1, and the chemical belongs to a type, class or category referred to in table 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 1, and the chemical appears to belong to more than one of the types, classes or categories referred to in table 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 one hazardous chemical, a threshold quantity of chemicals exists where, if a number of chemicals are present, the result of the following aggregation formula exceeds 1:

$$qx/Qx + qy/Qy + [...] + qn/Qn$$

Where—

- (a) x, y, [...] and n are the hazardous chemicals present or likely to be present;
- (b) qx, qy, [...] and qn is the quantity of hazardous chemicals x, y, [...] and n present or likely to be present, other than:
  - (i) a chemical that is present or likely to be present in an isolated quantity less than 2% of its individual threshold quantity;
  - (ii) chemicals that are solely the subject of intermediate temporary storage, while in transit by road or rail;

- 
- (c) Q<sub>x</sub>, Q<sub>y</sub>, [...] Q<sub>n</sub> 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*, if its location at the facility is such that it cannot, on its own, act as an initiator of a major incident.

**TABLE 1**

The UN number listed against the named hazardous chemical is given for information only. It does not restrict the meaning of the name, which also applies to hazardous chemicals that fall outside the UN number, for example, because they are too dangerous to transport or are part of mixtures covered by another UN number. However, any hazardous chemicals that are covered by the listed UN numbers must be included in the quantity of the chemical named.

HAZARDOUS CHEMICAL	UN Nos INCLUDED UNDER NAME	THRESHOLD QUANTITY (tonnes)
ACETONE CYANOHYDRIN	1541	20
ACETYLENE	1001	50
ACROLEIN	1092	200
ACRYLONITRILE	1093	200
ALLYL ALCOHOL	1098	20
ALLYLAMINE	2334	200
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
AMMONIUM NITRATE FERTILISERS	2067 2068 2069 2070	5000

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HAZARDOUS CHEMICAL	UN Nos INCLUDED UNDER NAME	THRESHOLD QUANTITY (tonnes)
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	2500
ARSENIC PENTOXIDE, Arsenic (V) Acid and other salts	1559	10
ARSENIC TRIOXIDE, Arsenious (III) Acid and other salts	1561	0.1
ARSINE	2188	1.0
BROMINE or BROMINE SOLUTIONS	1744	100
CARBON DISULFIDE	1131	200
CHLORINE	1017	25
DIOXINS	—	0.1
ETHYL NITRATE	—	50
ETHYLENE DIBROMIDE	1605	50
ETHYLENE OXIDE	1040	50
ETHYLENEIMINE	1185	50
FLUORINE	1045	25
FORMALDEHYDE (greater than 90%)	1198 2209	50
HYDROFLUORIC ACID SOLUTION (greater than 50%)	1790	50
HYDROGEN	1049	50
HYDROGEN CHLORIDE — Anhydrous — Refrigerated Liquid	1050 2186	250 250
HYDROGEN CYANIDE	1051 1614	20
HYDROGEN FLUORIDE	1052	50



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HAZARDOUS CHEMICAL	UN Nos INCLUDED UNDER NAME	THRESHOLD QUANTITY (tonnes)
HYDROGEN SULFIDE	1053	50
LP GASES	1011 1012 1075 1077 1978	200
METHYL BROMIDE	1062	200
METHANE or NATURAL GAS	1971 1972	200
METHYL ISOCYANATE	2480	0.15
OXIDES OF NITROGEN, including nitrous oxide, nitrogen dioxide and nitrogen trioxide	1067 1070 1660 1975 2201 2421	50
OXYGEN	1072 1073	2000
PHOSGENE	1076	0.75
PROPYLENEIMINE	1921	200
PROPYLENE OXIDE	1280	50
SODIUM CHLORATE, solid	1495	200
SULFURIC ANHYDRIDE (Alt. SULFUR TRIOXIDE)	1829	75
SULFUR DICHLORIDE	1828	1
SULFUR DIOXIDE, LIQUEFIED	1079	200
TITANIUM TETRACHLORIDE		500
TOLUENE DIISOCYANATE	2078	200

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**TABLE 2**

**Note**

- 1 The quantities specified for explosives relate to the weight of explosive exclusive of packing, casings and non-explosive components.
- 2 If explosives of different hazard divisions are present in the same area or storage, all of the explosives must be classified in accordance with the following table:

Div.	1.1	1.2	1.3	1.4	1.5	1.6
1.1A	1.1A	1.1A	1.1A	1.1A	1.1A	
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

HAZARDOUS CHEMICAL	DESCRIPTION	THRESHOLD QUANTITY (tonnes)
Explosive materials	Explosive of Class 1.1A	10
	All other explosives of Class 1.1	50
	Explosive of Class 1.2	200
	Explosive of Class 1.3	200
Compressed and liquefied gases	Compressed or liquefied gases of Class 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 3	20

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HAZARDOUS CHEMICAL	DESCRIPTION	THRESHOLD QUANTITY (tonnes)
	Compressed or liquefied gases that meet the criteria for Toxic in table 3	200
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	2000
	Liquids that meet the criteria for Class 3 Packing Group II or III	50000
	Liquids with flashpoints <61°C kept above their boiling points at ambient conditions	200
	Materials that meet the criteria for Class 4.1 Packing Group I	200
	Spontaneously combustible materials that meet the criteria for Class 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 Class 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

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HAZARDOUS CHEMICAL	DESCRIPTION	THRESHOLD QUANTITY (tonnes)
Oxidising materials	Oxidising material listed in Appendix A of the ADG Code	50
	Oxidising materials that meet the criteria for Class 5.1 Packing Group I or II	200
Peroxides	Peroxides that are listed in Appendix 5 to the ADG Code	50
	Organic Peroxides that meet the criteria for Class 5.2	200
Toxic solids and liquids	Materials that meet the criteria for Very Toxic in table 3 except materials that are classified as Infectious Substances (Class 6.2) or as Radioactive (Class 7)	20
	Materials that meet the criteria for Toxic in table 3	200

**TABLE 3**  
**CRITERIA FOR TOXICITY**

**Note**

These criteria are in accordance with the ADG Code

Description	Oral Toxicity <sup>1</sup> LD50 (mg/kg)	Dermal Toxicity <sup>2</sup> LD50 (mg/kg)	Inhalation Toxicity <sup>3</sup> LC50 (mg/L)
Very Toxic	LD50<5	LD50<50	LC50<0.2
Toxic	5<LD50<50	50<LD50<200	0.2<LC50<2

- 1 In rats
- 2 In rats or rabbits
- 3 Four hours in rats

## **Schedule 16—Matters to be included in Emergency Plan for Major Hazard Facility**

### **1 Site and hazard detail**

- 1.1 The location of the facility, including its street address and the nearest intersection.

**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 services.
- 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.
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- 1.8 The emergency response procedures.
- 1.9 The infrastructure likely to be affected by a major incident.

## **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 services.
- 2.4 A list of 24 hour emergency contacts.
- 2.5 Arrangements for assisting emergency services 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 services with which the emergency plan was prepared in accordance with regulation 8.4.5.
- 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 in accordance with regulation 8.4.9.
- 3.3 On-site and off-site warning systems.

3.4 Contact details for emergency services 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.

#### **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, 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.

## **Schedule 17—Additional Matters to be Included in Safety Management System of Major Hazard Facility**

### **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
  - (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 Division 2 of Part 8.3, Part 8.4 and Part 8.5 of these Regulations.
- 4.2 In relation to each part of the documented safety management system that describes the means of compliance with a provision of Chapter 8, 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 risk control measures implemented, including:
- (a) tests of the effectiveness of the risk control measures; and
  - (b) indicators of the failure of any risk 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.

## **Schedule 18—Additional Matters to be Included in Safety Case for a Major Hazard Facility**

### **A 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:
- (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 risk 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 risk control measures and safety management systems are capable of maintaining the safe operation of the major hazard facility.

## **2 The surrounding area**

- 2.1 A scaled 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.

## **B SAFETY INFORMATION**

### **3 Risk 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 risk control measures to be implemented by the operator; and
- (b) the critical operating parameters for those risk 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 these plans 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 clause 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 risk control measure is a positive action or event, the non-occurrence or the defective occurrence of that action or event; or
- (b) if the risk control measure consists of a limitation on an operational activity, process or procedure, the breach of that limitation.

**4 Performance monitoring**

A detailed description of the performance standards and performance indicators required by clause 7 of Schedule 17 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 Security—unauthorised persons and control of access**

A summary of the security plan prepared for the facility under regulation 8.3.8, including a detailed description of the precautions taken to control

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unauthorised entry of persons and the means of controlling authorised entry of persons to the facility.

**7 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.

**8 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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**APPENDIX**

**JURISDICTIONAL NOTES**

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<b>Regulation</b>	<b>Jurisdictional Note</b>
1.1.1	Appropriate local provisions to be inserted. However, a uniform form of citation is suggested, for example, the <i>Work Health and Safety Regulations 2011</i> .
1.1.4	Jurisdictions will list in Schedule 1 any existing regulations that are to be repealed or revoked.
1.1.5 (Definitions)	
<i>asbestos waste disposal site</i>	Jurisdictions will insert a reference to local legislation that provides for the licensing of sites for receiving and processing asbestos.
<i>competent person</i>	Jurisdictions will insert into paragraph (a) a reference to the licence or other authorisation required under local electricity safety legislation for a person to carry out electrical work on energised electrical equipment.
<i>electricity supply authority</i>	Jurisdictions will insert a definition that identifies the relevant person or body engaged in the distribution of electricity to the public or in the generation of electricity for supply, directly or indirectly, to the public.
<i>emergency service organisation</i>	Appropriate local provisions to be inserted. However, a uniform approach to the types of emergency service included is suggested.
<i>emergency service worker</i>	Appropriate local provisions to be inserted. However, a uniform approach to the types of workers included is suggested.
<i>general induction training card</i>	Jurisdictions in which the scheme of general induction training cards is administered by RTOs rather than the regulator should alter this definition so that it refers to a general induction training card issued by an RTO. (See the jurisdictional note for Part 6.5 below.)

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Appendix

<b>Regulation</b>	<b>Jurisdictional Note</b>
<i>goods too dangerous to be transported</i>	Jurisdictions will specify the authority appointed to give effect to the ADG Code.
<i>pressure piping</i>	Jurisdictions may insert a reference to legislation that regulates pressure piping.
<i>primary emergency services authority</i>	Jurisdictions may determine the relevant primary emergency services authorities.
<i>registered training organisation (or RTO)</i>	Reference to appropriate local legislation to be inserted in paragraph (a). Some jurisdictions (NSW and ACT) may use the following definition for the purposes of general induction training: <b>registered training organisation</b> (or RTO) means an organisation: (a) that is registered by [the relevant training recognition authority under the relevant law of a State jurisdiction] as an organisation that is qualified: (i) to deliver training and conduct assessments; and (ii) to issue nationally recognised qualifications in accordance with the AQTF; and (b) that has entered an agreement with the regulator to deliver training and conduct assessments; and (c) that is not an excluded RTO.
1.1.7(3)	Jurisdictions will insert the relevant meaning for its jurisdiction.
1.2.1	Schedule 1 is optional for jurisdictions. A jurisdiction may choose to regulate high risk plant or dangerous goods or both.
2.3.1	Jurisdictions may insert a reference to relevant industrial law. The Commonwealth may omit this reference to <b>relevant State or Territory industrial law</b> .
2.4.7	Jurisdictions may use <b>regulator</b> rather than <b>authorising authority</b> for this provision. See Part 7 of the Act.

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### Appendix

<b>Regulation</b>	<b>Jurisdictional Note</b>
Part 4.5 heading	<ol style="list-style-type: none"> <li>1. Jurisdictions that rely solely on the national vocational education and training scheme in relation to the authorisation of training assessors may omit Division 2 of this Part.</li> <li>2. The Commonwealth may omit this Part as it does not license high risk work, but relies on State authorisations.</li> </ol>
4.5.5(2)(g) and (h), 4.5.8(a), 4.5.24(2)(a), 4.5.33(2)(e) and (f), 4.5.36(a), 4.5.52(a), 7.3.56(1)(g) and (h), 8.7.5(2)(f) and (g), 8.8.3(2)(g) and (h)	These provisions may be subject to separate legislation in jurisdictions that prohibits, or does not require, the disclosure of spent convictions.
4.5.5(3), 4.5.18(2)(b), 4.5.33(3), 4.5.46(2)(b), 5.2.11(4), 5.2.26(3), 6.5.3(2)(e), 6.5.5(2)(b), 7.3.56(2), 7.3.80(2)(c), 8.7.3(2), 8.7.24(2)(b), 8.8.3(3), 8.8.21(2)(c), 8.8.24(2)(b), 8.8.25(2)(b)	<p>For application processes in relation to all matters except the registration and licensing of major hazard facilities, jurisdictions will set fees using current methods.</p> <p>For processes relating to major hazard facilities, [<i>a fee structure is to be developed</i>].</p>
4.5.25(b), 4.5.27(3), 4.5.55(3), 7.3.86, 7.3.88(3), 8.7.27(b), 8.8.28, 8.8.30(3)	Some jurisdictions may specify a different timeline if this provision does not comply with local requirements.
4.6.4	Jurisdictions may insert a relevant law relating to the disposal of waste material.
4.7.4(2)(g) and (h)	Jurisdictions will insert a reference to local legislation under which a person is licensed, registered or otherwise authorised to carry out electrical work.

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<b>Regulation</b>	<b>Jurisdictional Note</b>
4.7.23(2)(b)	<p>Jurisdiction may insert a reference to local electricity safety legislation that applies to work being carried out inside an unsafe distance of an overhead electric line.</p> <p>A jurisdiction that does not have appropriate legislation to refer to may omit regulation 4.7.23(2)(b).</p> <p>The Commonwealth may insert an additional note explaining how electricity safety laws apply in that jurisdiction.</p>
6.3.9(2)(f)	<p>Jurisdictions will insert reference to legislation under which licences or other authorisations for the use of explosives are granted.</p>
6.3.9(3)(b)	<p>Jurisdictions will insert reference to relevant water management legislation.</p>
<p>Part 6.5 heading</p> <p>Division 2—General Induction Training Cards</p>	<p>Jurisdictions in which the scheme of general induction training cards is administered by RTOs rather than the regulator should omit Division 2 of this Part. In these jurisdictions, the regulator will enter an agreement of the kind contemplated by regulation 6.5.9(1) and (2).</p> <p>Jurisdictions that choose to omit Division 2 will omit regulation 6.5.9 itself, but should retain regulations 6.5.7 and 6.5.8, altered as necessary to apply in relation to a general induction training card issued by an RTO.</p>
6.5.9 (RTO may enter agreement to issue cards)	<p>Jurisdictions may choose to omit this regulation, if they decide to rely entirely on the regulator to administer the general induction training card scheme.</p>
7.1.2	<p>Some jurisdictions will insert a relevant law here.</p>
Division 10 of Part 7.1 (Heading)	<p>This Division applies to jurisdictions that choose to adopt Schedule 1 to the Act.</p>

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<b>Regulation</b>	<b>Jurisdictional Note</b>
7.3.46	<p>Each jurisdiction will be responsible for regulating sites authorised to accept asbestos waste. The Commonwealth may rely on the regulation of sites by the States and Territories.</p> <p>Each jurisdiction will be responsible for regulating laundries authorised to launder asbestos contaminated clothing. The Commonwealth may rely on the regulation of laundries by the States and Territories.</p>
8.1.1(1)	Jurisdictions other than the Commonwealth will include this provision.
8.1.1(2)	<p>Jurisdictions will complete this Appendix with information that clearly identifies facilities the safe operation of which is regulated under legislation relating to mining, port operations and pipelines. The information is to include the names of the relevant local Acts.</p> <p><i>For example:</i></p> <p><b>New South Wales</b></p> <p>1 A port operational area under the control of a port authority.</p> <p>Note:</p> <p><b><i>port authority</i></b> means a body established under Part 2 or 4 of the <b>Ports and Maritime Administration Act 1995</b>.</p> <p><b><i>port operational area</i></b> means the land and sea, including the fixed facilities and vessels, located in any area defined in Schedule 1 to the Ports and Maritime Administration Regulation 2007 and includes any berths adjacent to such an area including container terminals and bulk liquid berths. It does not include any long-term storage areas where dangerous goods are usually kept for more than five days.</p> <p>2 A pipeline to which the <b>Gas Supply Act 1996</b>, <b>Pipelines Act 1967</b>, repealed <b>Dangerous Goods Act 1975</b> and the Dangerous Goods (General) Regulation 1999 apply.</p>

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Regulation	Jurisdictional Note
8.2.1	<p>3 A mine that is a coal workplace to which the <b>Coal Mine Health and Safety Act 2002</b> applies or a mining workplace to which the <b>Mine Health and Safety Act 2004</b> applies or at which activities under the <b>Petroleum (Onshore) Act 1991</b> or the <b>Petroleum (Offshore) Act 1982</b> are carried out.</p> <p>The Commonwealth may insert a further subregulation as follows:</p> <p>(3) If the information that is required to be included in a notification is national security information, the operator of the facility complies with the requirement by giving the regulator a summary, in a form approved by the regulator, of that information.</p> <p>This provision should be supported by the following definition:</p> <p><b><i>national security information</i></b> means information the disclosure of which is likely to prejudice Australia's national security.</p>
8.2.3(a)(ii), 8.7.4(a)(ii)	Jurisdictions will cite legislation under which land titles are identified.
8.2.3(d)	Jurisdictions will cite legislation under which municipal councils are established.
8.2.4(2)	Jurisdictions will insert references to appropriate local legislation.
8.3.7(2)(a)(i)	Jurisdictions will insert appropriate local provisions establishing emergency services. A uniform approach to the types of emergency service included is necessary.
8.3.8	Jurisdictions will insert a reference to the head of [the police force] of the jurisdiction.
8.4.6	Jurisdictions will insert a reference to the head of [the police force] of the jurisdiction.

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<b>Regulation</b>	<b>Jurisdictional Note</b>
8.7.3	<p>The Commonwealth may insert a further subregulation as follows:</p> <p>(3) If the information that is required to be included in an application for registration is national security information, the operator of the facility complies with the requirement by giving the regulator a summary, in a form approved by the regulator, of that information.</p> <p>This provision should be supported by the following definition:</p> <p><b><i>national security information</i></b> means information the disclosure of which is likely to prejudice Australia's national security.</p>
10.1.6	<p>Jurisdictions will insert references to the relevant external review body.</p>
10.3.12(2), 10.3.15	<p>Jurisdictions may need to adjust the references to the <b><i>Government Gazette</i></b> as relevant to the jurisdiction.</p>

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