



Queensland

# Work Health and Safety Regulation 2011

## Subordinate Legislation 2011 No. 240

made under the

*Building Act 1975*

*Child Employment Act 2006*

*Coal Mining Safety and Health Act 1999*

*Explosives Act 1999*

*Forensic Disability Act 2011*

*Health Act 1937*

*Mining and Quarrying Safety and Health Act 1999*

*Petroleum and Gas (Production and Safety) Act 2004*

*Public Health Act 2005*

*Queensland Building Services Authority Act 1991*

*Queensland Civil and Administrative Tribunal Act 2009*

*Sustainable Planning Act 2009*

*Transport Operations (Road Use Management) Act 1995*

*Work Health and Safety Act 2011*

## Volume 1

### Contents

---

	Page
<b>Volume 1</b>	
<b>Chapter 1</b>	<b>Preliminary</b>
<b>Part 1.1</b>	<b>Introductory matters</b>
1	Short title . . . . . 37
2	Commencement . . . . . 37
3	Section number not used . . . . . 38
4	Section number not used . . . . . 38
5	Definitions . . . . . 38

Contents

---

6	Determination of safety management system . . . . .	38
7	Meaning of person conducting a business or undertaking—persons excluded. . . . .	38
8	Meaning of supply . . . . .	39
9	Provisions linked to health and safety duties in Act . . . . .	39
<b>Part 1.2</b>	<b>Application</b>	
10	Application of the Act to dangerous goods and high risk plant. . .	39
11	Application of this regulation . . . . .	40
12	Assessment of risk in relation to a class of hazards, tasks, circumstances or things . . . . .	40
<b>Part 1.3</b>	<b>Incorporated documents</b>	
13	Documents incorporated as in force when incorporated . . . . .	40
14	Inconsistencies between provisions. . . . .	41
15	References to standards . . . . .	41
<b>Chapter 2</b>	<b>Representation and participation</b>	
<b>Part 2.1</b>	<b>Representation</b>	
<b>Division 1</b>	<b>Work groups</b>	
16	Negotiations for and determination of work groups . . . . .	42
17	Matters to be taken into account in negotiations . . . . .	42
<b>Division 2</b>	<b>Health and safety representatives</b>	
18	Procedures for election of health and safety representatives. . .	43
19	Person conducting business or undertaking must not delay election . . . . .	44
20	Removal of health and safety representatives . . . . .	44
21	Training for health and safety representatives . . . . .	45
<b>Part 2.2</b>	<b>Issue resolution</b>	
22	Agreed procedure—minimum requirements. . . . .	46
23	Default procedure. . . . .	46
<b>Part 2.3</b>	<b>Cessation of unsafe work</b>	
24	Continuity of engagement of worker. . . . .	48
<b>Part 2.4</b>	<b>Workplace entry by WHS entry permit holders</b>	
25	Training requirements for WHS entry permits . . . . .	48
26	Form of WHS entry permit . . . . .	49
27	Notice of entry—general. . . . .	50
28	Additional requirements—entry under section 117 . . . . .	50
29	Additional requirements—entry under section 120 . . . . .	51
30	Additional requirements—entry under section 121 . . . . .	52

31	Register of WHS entry permit holders . . . . .	52
<b>Chapter 3</b>	<b>General risk and workplace management</b>	
<b>Part 3.1</b>	<b>Managing risks to health and safety</b>	
32	Application of pt 3.1 . . . . .	53
33	Specific requirements must be complied with . . . . .	53
34	Duty to identify hazards . . . . .	53
35	Management of risk . . . . .	53
36	Hierarchy of control measures . . . . .	54
37	Maintenance of control measures . . . . .	54
38	Review of control measures . . . . .	55
<b>Part 3.2</b>	<b>General workplace management</b>	
<b>Division 1</b>	<b>Information, training and instruction</b>	
39	Provision of information, training and instruction . . . . .	56
<b>Division 2</b>	<b>General working environment</b>	
40	Duty in relation to general workplace facilities . . . . .	57
41	Duty to provide and maintain adequate and accessible facilities .	58
<b>Division 3</b>	<b>First aid</b>	
42	Duty to provide first aid. . . . .	59
<b>Division 4</b>	<b>Emergency plans</b>	
43	Duty to prepare, maintain and implement emergency plan . . . . .	60
<b>Division 5</b>	<b>Personal protective equipment</b>	
44	Provision to workers and use of personal protective equipment .	61
45	Personal protective equipment used by other persons. . . . .	62
46	Duties of worker . . . . .	63
47	Duty of person other than worker . . . . .	63
<b>Division 6</b>	<b>Remote or isolated work</b>	
48	Remote or isolated work. . . . .	63
<b>Division 7</b>	<b>Managing risks from airborne contaminants</b>	
49	Ensuring exposure standards for substances etc not exceeded .	64
50	Monitoring airborne contaminant levels . . . . .	64
<b>Division 8</b>	<b>Hazardous atmospheres</b>	
51	Managing risks to health and safety. . . . .	65
52	Ignition sources . . . . .	66
<b>Division 9</b>	<b>Storage of flammable or combustible substances</b>	
53	Flammable and combustible material not to be accumulated . . .	66

Contents

---

<b>Division 10</b>	<b>Falling objects</b>	
54	Management of risk of falling objects . . . . .	67
55	Minimising risk associated with falling objects . . . . .	67
<b>Chapter 4</b>	<b>Hazardous work</b>	
<b>Part 4.1</b>	<b>Noise</b>	
56	Meaning of exposure standard for noise . . . . .	68
57	Managing risk of hearing loss from noise . . . . .	69
58	Audiometric testing . . . . .	69
59	Duties of designers, manufacturers, importers and suppliers of plant . . . . .	70
<b>Part 4.2</b>	<b>Hazardous manual tasks</b>	
60	Managing risks to health and safety . . . . .	71
61	Duties of designers, manufacturers, importers and suppliers of plant or structures . . . . .	72
<b>Part 4.3</b>	<b>Confined spaces</b>	
<b>Division 1</b>	<b>Preliminary</b>	
62	Confined spaces to which this part applies . . . . .	74
63	Application to emergency service workers . . . . .	74
<b>Division 2</b>	<b>Duties of designer, manufacturer, importer, supplier, installer and constructor of plant or structure</b>	
64	Duty to eliminate or minimise risk . . . . .	74
<b>Division 3</b>	<b>Duties of person conducting business or undertaking</b>	
65	Entry into confined space must comply with this division . . . . .	75
66	Managing risks to health and safety . . . . .	76
67	Confined space entry permit . . . . .	77
68	Signage . . . . .	78
69	Communication and safety monitoring . . . . .	79
70	Specific control—connected plant and services . . . . .	79
71	Specific control—atmosphere . . . . .	79
72	Specific control—flammable gases and vapours . . . . .	80
73	Specific control—fire and explosion . . . . .	81
74	Emergency procedures . . . . .	81
75	Personal protective equipment in emergencies . . . . .	82
76	Information, training and instruction for workers . . . . .	83
77	Confined space entry permit and risk assessment must be kept . . . . .	84
<b>Part 4.4</b>	<b>Falls</b>	
78	Management of risk of fall . . . . .	86

79	Specific requirements to minimise risk of fall . . . . .	87
80	Emergency and rescue procedures . . . . .	88
<b>Part 4.5</b>	<b>High risk work</b>	
<b>Division 1</b>	<b>Licensing of high risk work</b>	
<b>Subdivision 1</b>	<b>Requirement to be licensed</b>	
81	Licence required to carry out high risk work . . . . .	89
82	Exceptions . . . . .	90
83	Recognition of high risk work licences in other jurisdictions. . . . .	91
84	Duty of person conducting business or undertaking to ensure direct supervision . . . . .	91
85	Evidence of licence—duty of person conducting business or undertaking . . . . .	92
<b>Subdivision 2</b>	<b>Licensing process</b>	
86	Who may apply for a licence . . . . .	93
87	Application for high risk work licence . . . . .	93
88	Additional information. . . . .	95
89	Decision on application . . . . .	95
90	Matters to be taken into account . . . . .	97
91	Refusal to grant high risk work licence—process. . . . .	97
92	Duration of licence . . . . .	98
93	Licence document . . . . .	98
94	Licence document to be available . . . . .	99
95	Reassessment of competency of licence holder . . . . .	99
<b>Subdivision 3</b>	<b>Amendment of licence document</b>	
96	Notice of change of address. . . . .	100
97	Licence holder to return licence . . . . .	100
98	Replacement licence document . . . . .	100
99	Voluntary surrender of licence . . . . .	101
<b>Subdivision 4</b>	<b>Renewal of high risk work licence</b>	
100	Regulator may renew licence . . . . .	101
101	Application for renewal . . . . .	101
102	Licence continues in force until application is decided . . . . .	102
103	Renewal of expired licence. . . . .	102
104	Provisions relating to renewal of licence . . . . .	103
105	Status of licence during review. . . . .	103

Contents

---

<b>Subdivision 5</b>	<b>Suspension and cancellation of high risk work licence</b>	
106	Suspension or cancellation of licence . . . . .	104
107	Notice to and submissions by licence holder . . . . .	105
108	Matters taken into account . . . . .	105
109	Notice of decision . . . . .	106
110	Immediate suspension . . . . .	107
111	Licence holder to return licence document. . . . .	108
112	Regulator to return licence document after suspension. . . . .	108
<b>Division 2</b>	<b>Accreditation of assessors</b>	
<b>Subdivision 1</b>	<b>Requirement to be accredited</b>	
113	Accreditation required to assess competency for high risk work licence . . . . .	108
114	Accredited assessor must act in accordance with accreditation . . . . .	109
<b>Subdivision 2</b>	<b>Accreditation process</b>	
115	Regulator may accredit assessors . . . . .	110
116	Application for accreditation . . . . .	110
117	Additional information. . . . .	111
118	Decision on application . . . . .	112
119	Matters to be taken into account . . . . .	113
120	Refusal to grant accreditation—process. . . . .	113
121	Conditions of accreditation . . . . .	114
122	Duration of accreditation . . . . .	115
123	Accreditation document . . . . .	115
124	Accreditation document to be available . . . . .	116
<b>Subdivision 3</b>	<b>Amendment of accreditation document</b>	
125	Changes to information . . . . .	116
126	Accredited assessor to return accreditation document . . . . .	117
127	Replacement accreditation document . . . . .	117
128	Voluntary surrender of accreditation . . . . .	118
<b>Subdivision 4</b>	<b>Renewal of accreditation</b>	
129	Regulator may renew accreditation . . . . .	118
130	Application for renewal . . . . .	118
131	Accreditation continues in force until application is decided. . . . .	119
132	Provisions relating to application . . . . .	119
<b>Subdivision 5</b>	<b>Suspension and cancellation</b>	
133	Regulator may suspend or cancel accreditation. . . . .	119

134	Suspension or cancellation of accreditation . . . . .	120
135	Notice to and submissions by accredited assessor . . . . .	121
136	Matters to be taken into account . . . . .	121
137	Notice of decision . . . . .	122
138	Immediate suspension . . . . .	123
139	Accredited assessor to return accreditation document . . . . .	123
140	Regulator to return accreditation document after suspension . . .	123
<b>Subdivision 5</b>		
141	Subdivision and section number not used . . . . .	124
<b>Part 4.6 Demolition work</b>		
<b>Division 1 Notice of demolition work</b>		
142	Notice of demolition work . . . . .	124
<b>Division 2 Licence to carry out demolition work</b>		
143	Requirement to hold a licence to carry out demolition work . . . . .	125
144	Nominated competent person must be present or readily available . . . . .	126
144A	Recognition of licences to carry out demolition work issued in other jurisdictions . . . . .	126
<b>Division 3 Licensing process</b>		
144B	Who may apply for a licence . . . . .	127
144C	Application for licence to carry out demolition work . . . . .	127
144D	Content of application . . . . .	129
144E	Additional information . . . . .	129
144F	Decision on application . . . . .	130
144G	Regulator to be satisfied about additional matters . . . . .	131
144H	Matters to be taken into account . . . . .	132
144I	Refusal to grant licence—process . . . . .	133
144J	Conditions of licence . . . . .	133
144K	Duration of licence . . . . .	134
144L	Licence document . . . . .	134
144M	Licence document to be available . . . . .	135
<b>Division 4 Amendment of licence document</b>		
144N	Changes to information . . . . .	135
144O	Change to nominated supervisor . . . . .	136
144P	Amendment imposed by regulator . . . . .	136
144Q	Amendment on application by licence holder . . . . .	138

Contents

---

144R	Minor corrections to licence . . . . .	139
144S	Regulator to provide amended licence . . . . .	139
144T	Licence holder to return licence . . . . .	139
144U	Replacement licence document . . . . .	140
144V	Voluntary surrender of licence . . . . .	141
<b>Division 5</b>	<b>Suspension and cancellation of licence</b>	
144W	Suspension or cancellation of licence . . . . .	141
144X	Matters taken into account . . . . .	143
144Y	Notice to and submissions by licence holder . . . . .	143
144Z	Notice of decision . . . . .	144
144ZA	Immediate suspension . . . . .	145
144ZB	Licence holder to return licence document . . . . .	146
144ZC	Regulator to return licence document after suspension . . . . .	146
<b>Part 4.7</b>		
145	Part number and section numbers 145–166 not used . . . . .	146
<b>Part 4.8</b>	<b>Diving work</b>	
<b>Division 1</b>	<b>Preliminary</b>	
167	Purpose of part 4.8 . . . . .	147
<b>Division 2</b>	<b>General diving work—fitness and competence of worker</b>	
168	Person conducting business or undertaking must ensure fitness of workers . . . . .	147
169	Certificate of medical fitness . . . . .	148
170	Duty to keep certificate of medical fitness . . . . .	148
171	Competence of worker—general diving work . . . . .	149
172	Competence of worker—incidental diving work . . . . .	150
173	Competence of worker—limited scientific diving work . . . . .	150
174	Competence of competent person supervising general diving work . . . . .	151
175	Evidence of competence—duty of person conducting business or undertaking . . . . .	151
<b>Division 3</b>	<b>Managing risks—general diving work</b>	
176	Management of risks to health and safety . . . . .	152
177	Appointment of competent person to supervise diving work . . . . .	153
178	Additional control—dive plan . . . . .	153
179	Dive plan must be complied with . . . . .	154
180	Additional control—dive safety log to be kept . . . . .	154
181	Use of dive safety log . . . . .	156



182	Record keeping . . . . .	157
<b>Division 4</b>	<b>High risk diving work</b>	
183	Duties of person conducting business or undertaking . . . . .	159
184	Duty of worker—competence . . . . .	159
<b>Chapter 5</b>	<b>Plant and structures</b>	
<b>Part 5.1</b>	<b>General duties for plant and structures</b>	
<b>Division 1</b>	<b>Preliminary</b>	
185	Application of part 5.1 to plant . . . . .	160
186	Application of part 5.1 to structures . . . . .	160
<b>Division 2</b>	<b>Duties of persons conducting businesses or undertakings that design plant</b>	
187	Provision of information to manufacturer . . . . .	161
188	Hazard identified in design during manufacture . . . . .	161
189	Guarding. . . . .	162
190	Operational controls . . . . .	164
191	Emergency stop controls . . . . .	165
192	Warning devices . . . . .	165
<b>Division 3</b>	<b>Duties of persons conducting businesses or undertakings that manufacture plant</b>	
193	Control of risk . . . . .	166
194	Guarding. . . . .	167
195	Information must be obtained and provided . . . . .	168
<b>Division 4</b>	<b>Duties of persons conducting businesses or undertakings that import plant</b>	
196	Information to be obtained and provided by importer. . . . .	168
197	Control of risk . . . . .	169
<b>Division 5</b>	<b>Duties of persons conducting businesses or undertakings that supply plant</b>	
198	Information to be obtained and provided by supplier . . . . .	169
199	Supply of second-hand plant—duties of supplier. . . . .	170
200	Second-hand plant to be used for scrap or spare parts . . . . .	170
<b>Division 6</b>	<b>Duties of persons conducting businesses or undertakings that install, construct or commission plant or structures</b>	
201	Duties of persons conducting businesses or undertakings that install, construct or commission plant. . . . .	171
202	Duties of persons conducting businesses or undertakings that install, construct or commission structures. . . . .	171

Contents

---

<b>Division 7</b>	<b>General duties of a person conducting a business or undertaking involving the management or control of plant</b>	
<b>Subdivision 1</b>	<b>Management of risks</b>	
203	Management of risks to health and safety . . . . .	172
<b>Subdivision 2</b>	<b>Additional control measures for general plant</b>	
204	Control of risks arising from installation or commissioning. . . . .	172
205	Preventing unauthorised alterations to or interference with plant. . . . .	173
206	Proper use of plant and controls . . . . .	174
207	Plant not in use. . . . .	174
208	Guarding. . . . .	175
209	Guarding and insulation from heat and cold. . . . .	176
210	Operational controls. . . . .	176
211	Emergency stops . . . . .	178
212	Warning devices . . . . .	178
213	Maintenance and inspection of plant . . . . .	179
<b>Subdivision 3</b>	<b>Additional control measures for particular plant</b>	
214	Powered mobile plant—general control of risk . . . . .	180
215	Powered mobile plant—specific control measures. . . . .	180
216	Roll-over protection on tractors . . . . .	181
217	Protective structures on earthmoving machinery . . . . .	182
218	Industrial lift trucks . . . . .	182
219	Plant that lifts or suspends loads . . . . .	183
220	Exception—Plant not specifically designed to lift or suspend a person . . . . .	184
221	Plant used in connection with tree lopping. . . . .	185
222	Industrial robots . . . . .	186
223	Lasers. . . . .	187
224	Pressure equipment. . . . .	188
225	Scaffolds. . . . .	188
226	Plant with presence-sensing safeguarding system—records. . . . .	189
<b>Part 5.2</b>	<b>Additional duties relating to registered plant and plant designs</b>	
<b>Division 1</b>	<b>Application of part 5.2</b>	
227	Application of pt 5.2 . . . . .	191
<b>Division 2</b>	<b>Duty of person conducting a business or undertaking who designs plant to record plant design</b>	
228	Records and information . . . . .	192

229	Record of standards or engineering principles used . . . . .	192
230	Records to be available for inspection . . . . .	193
<b>Division 3</b>	<b>Duties of a person conducting a business or undertaking</b>	
231	Duty of persons conducting businesses or undertakings that manufacture plant . . . . .	194
232	Duty of persons conducting businesses or undertakings that import plant . . . . .	194
233	Duty of persons conducting businesses or undertakings that supply plant . . . . .	195
234	Duty of persons conducting businesses or undertakings that commission plant . . . . .	195
<b>Division 4</b>	<b>Duties of a person conducting a business or undertaking involving the management or control of plant</b>	
<b>Subdivision 1</b>	<b>Control measures for registered plant</b>	
235	Major inspection of registered mobile cranes and tower cranes . . . . .	195
236	Lifts . . . . .	196
237	Records of plant . . . . .	197
<b>Subdivision 2</b>	<b>Control measures for amusement devices</b>	
238	Operation of amusement devices . . . . .	198
239	Storage of amusement devices . . . . .	199
240	Maintenance, inspection and testing of amusement device . . . . .	199
241	Annual inspection of amusement device . . . . .	200
242	Log book and manuals for amusement device . . . . .	201
<b>Part 5.3</b>	<b>Registration of plant designs and items of plant</b>	
<b>Division 1</b>	<b>Plant designs to be registered</b>	
243	Plant design to be registered . . . . .	203
244	Altered plant designs to be registered . . . . .	203
245	Recognition of designs registered by corresponding regulator . . . . .	203
<b>Division 2</b>	<b>Items of plant to be registered</b>	
246	Items of plant to be registered . . . . .	204
247	Recognition of plant registered by corresponding regulator . . . . .	204
<b>Division 3</b>	<b>Registration process for plant designs</b>	
248	Application of division 3 . . . . .	204
249	Who can apply to register a plant design . . . . .	204
250	Application for registration . . . . .	205
251	Design verification statement . . . . .	206
252	Who can be the design verifier . . . . .	206

Contents

---

253	Duty of design verifier . . . . .	206
254	Design verification statements not to be made in particular circumstances . . . . .	207
255	Additional information . . . . .	207
256	Decision on application . . . . .	208
257	Refusal of registration—process . . . . .	209
258	Conditions of registration . . . . .	210
259	Registration of plant design granted for unlimited duration . . . . .	210
260	Plant design registration number . . . . .	210
261	Registration document . . . . .	212
262	Registration document to be available . . . . .	212
263	Disclosure of design information . . . . .	213
<b>Division 4</b>	<b>Registration process for an item of plant</b>	
264	Application of division 4 . . . . .	214
265	Who can apply to register an item of plant . . . . .	214
266	Application for registration . . . . .	214
267	When is a person competent to inspect plant . . . . .	215
268	Additional information . . . . .	215
269	Decision on application . . . . .	216
270	Refusal of registration—process . . . . .	217
271	Conditions of registration . . . . .	218
272	Duration of registration . . . . .	218
272A	Duration of registration on commencement . . . . .	218
273	Plant registration number . . . . .	219
274	Registration document . . . . .	219
275	Registration document to be available . . . . .	220
276	Regulator may renew registration . . . . .	220
277	Application for renewal . . . . .	220
278	Registration continues in force until application is decided . . . . .	221
279	Decision on application . . . . .	221
279A	Duration of renewal on commencement . . . . .	222
280	Status of registration during review . . . . .	222
<b>Division 5</b>	<b>Changes to registration and registration documents</b>	
281	Application of division . . . . .	223
282	Changes to information . . . . .	223
283	Amendment of registration imposed by regulator . . . . .	224

284	Amendment on application by registration holder . . . . .	225
285	Minor corrections to registration . . . . .	227
286	Regulator to provide amended registration document . . . . .	227
287	Registration holder to return registration document . . . . .	227
288	Replacement registration document . . . . .	228
<b>Chapter 6</b>	<b>Construction work</b>	
<b>Part 6.1</b>	<b>Preliminary</b>	
289	Meaning of construction work . . . . .	229
290	Meaning of structure . . . . .	230
291	Meaning of high risk construction work . . . . .	231
292	Meaning of construction project . . . . .	232
293	Meaning of principal contractor . . . . .	232
<b>Part 6.2</b>	<b>Duties of designer of structure and person who commissions construction work</b>	
294	Person who commissions work must consult with designer . . . . .	233
295	Designer must give safety report to person who commissions design . . . . .	234
296	Person who commissions project must give information to principal contractor . . . . .	235
<b>Part 6.3</b>	<b>Duties of person conducting business or undertaking</b>	
<b>Division 1</b>	<b>General</b>	
297	Management of risks to health and safety . . . . .	236
298	Security of workplace . . . . .	236
<b>Division 2</b>	<b>High risk construction work—safe work method statements</b>	
299	Safe work method statement required for high risk construction work . . . . .	237
300	Compliance with safe work method statement . . . . .	238
301	Safe work method statement—copy to be given to principal contractor . . . . .	239
302	Review of safe work method statement . . . . .	239
303	Safe work method statement must be kept . . . . .	239
<b>Division 3</b>	<b>Excavation work</b>	
304	Excavation work—underground essential services information . . . . .	240
305	Management of risks to health and safety associated with excavation work . . . . .	242
305A	Additional controls—barricade or hoarding . . . . .	243
305B	Additional controls—ladders to trenches more than 1.5m deep . . . . .	244
306	Additional controls—trenches . . . . .	244

Contents

---

<b>Division 4</b>	<b>Additional controls—construction work</b>	
<b>Subdivision 1</b>	<b>Definitions</b>	
306A	Definitions . . . . .	245
<b>Subdivision 2</b>	<b>Falls</b>	
306B	Definition for sdiv 2 . . . . .	249
306C	Risk of fall of less than 3m in housing construction work or less than 2m in other construction work or construction work on roof with slope not over 26° . . . . .	249
306D	Risk of fall of at least 3m in housing construction work or at least 2m in other construction work or construction work on roof with a slope over 26° . . . . .	250
306E	Edge protection as control measure . . . . .	251
306F	Fall protection cover as control measure . . . . .	252
306G	Travel restraint system as control measure . . . . .	253
306H	Fall arresting platform as control measure . . . . .	254
306I	Fall arrest harness system as control measure . . . . .	254
306J	Safety net as control measure . . . . .	258
<b>Subdivision 3</b>	<b>Ladders and platforms supported by ladders</b>	
306K	What work may be done from single or extension ladder . . . . .	259
306L	Work on a ladder . . . . .	259
306M	Ladders generally . . . . .	261
306N	Work on platform supported by trestle ladders . . . . .	263
306O	Platform supported by trestle ladders . . . . .	264
<b>Subdivision 4</b>	<b>Scaffolding</b>	
306P	Erecting scaffolding . . . . .	266
306Q	Dismantling scaffolding . . . . .	267
<b>Part 6.4</b>	<b>Additional duties of principal contractor</b>	
<b>Division 1</b>	<b>Application</b>	
307	Application of pt 6.4 . . . . .	269
<b>Division 2</b>	<b>General duties</b>	
308	Specific control measure—signage identifying principal contractor . . . . .	269
309	WHS management plan—preparation . . . . .	270
310	WHS management plan—duty to inform . . . . .	270
311	WHS management plan—review . . . . .	271
312	High risk construction work—safe work method statements . . . . .	271
313	Copy of WHS management plan must be kept . . . . .	271

314	Further health and safety duties—specific sections . . . . .	273
315	Further health and safety duties—specific risks . . . . .	273
315A	Amenities . . . . .	274
<b>Division 3</b>	<b>Duties relating to falling objects</b>	
315B	Application of div 3 . . . . .	274
315C	Definitions for div 3 . . . . .	274
315D	What is mesh for div 3 . . . . .	276
315E	Risk assessment and control measures for civil construction work and housing construction work . . . . .	277
315F	Control measures for construction work that is not civil construction work or housing construction work . . . . .	278
315G	Additional control measures if measured angle is 75° or more, other than for demolition work or work erecting or dismantling formwork . . . . .	280
315H	Control measures for demolition work or work erecting or dismantling formwork . . . . .	281
315I	Perimeter containment screening as control measure . . . . .	282
315J	Catch platform as control measure . . . . .	283
315K	Gantry as control measure . . . . .	283
315L	Load lifted over adjoining area . . . . .	284
315M	Closure of part or all of adjoining area . . . . .	285
<b>Part 6.5</b>	<b>General construction induction training</b>	
<b>Division 1</b>	<b>General construction induction training requirements</b>	
316	Duty to provide general construction induction training . . . . .	286
317	Duty to ensure worker has been trained . . . . .	286
318	Recognition of general construction induction training cards issued in other jurisdictions . . . . .	287
<b>Division 2</b>	<b>General construction induction training cards</b>	
319	Issue of card . . . . .	287
320	Content of card . . . . .	288
321	Replacement card . . . . .	289
322	Refusal to issue or replace card . . . . .	289
323	Cancellation of card—grounds . . . . .	290
324	Cancellation of card—process . . . . .	290
325	RTO may enter agreement to issue cards . . . . .	291
<b>Division 3</b>	<b>Duties of workers</b>	
326	Duties of workers . . . . .	291
327	Alteration of general construction induction training card . . . . .	292

Contents

---

<b>Chapter 7</b>	<b>Hazardous chemicals</b>	
<b>Part 7.1</b>	<b>Hazardous chemicals</b>	
<b>Division 1</b>	<b>Application of part 7.1</b>	
328	Application of pt 7.1 . . . . .	293
<b>Division 2</b>	<b>Obligations relating to safety data sheets and other matters</b>	
<b>Subdivision 1</b>	<b>Obligations of manufacturers and importers</b>	
329	Classification of hazardous chemicals . . . . .	296
330	Manufacturer or importer to prepare and provide safety data sheets . . . . .	297
331	Safety data sheets—research chemical, waste product or sample for analysis. . . . .	298
332	Emergency disclosure of chemical identities to registered medical practitioner . . . . .	298
333	Emergency disclosure of chemical identities to emergency service worker . . . . .	299
334	Packing hazardous chemicals . . . . .	299
335	Labelling hazardous chemicals . . . . .	299
<b>Subdivision 2</b>	<b>Obligations of suppliers</b>	
336	Restriction on age of person who can supply hazardous chemicals . . . . .	301
337	Retailer or supplier packing hazardous chemicals . . . . .	301
338	Supplier labelling hazardous chemicals . . . . .	301
339	Supplier to provide safety data sheets . . . . .	302
340	Supply of prohibited and restricted carcinogens . . . . .	303
<b>Subdivision 3</b>	<b>Obligations of persons conducting businesses or undertakings</b>	
341	Labelling hazardous chemicals—general requirement . . . . .	304
342	Labelling hazardous chemicals—containers . . . . .	304
343	Labelling hazardous chemicals—pipe work. . . . .	305
344	Person conducting business or undertaking to obtain and give access to safety data sheets . . . . .	305
345	Changes to safety data sheets . . . . .	307
<b>Division 3</b>	<b>Register and manifest of hazardous chemicals</b>	
<b>Subdivision 1</b>	<b>Hazardous chemicals register</b>	
346	Hazardous chemicals register . . . . .	308
<b>Subdivision 2</b>	<b>Manifest of schedule 11 hazardous chemicals</b>	
347	Manifest of hazardous chemicals . . . . .	310
348	Regulator must be notified if manifest quantities to be exceeded . . . . .	310



<b>Division 4</b>	<b>Placards</b>	
349	Outer warning placards—requirement to display . . . . .	312
350	Placard—requirement to display . . . . .	313
<b>Division 5</b>	<b>Control of risk—obligations of persons conducting businesses or undertakings</b>	
<b>Subdivision 1</b>	<b>General obligations relating to management of risk</b>	
351	Management of risks to health or safety . . . . .	314
352	Review of control measures . . . . .	315
353	Safety signs . . . . .	316
354	Identification of risk of physical or chemical reaction . . . . .	316
355	Specific control—fire and explosion . . . . .	317
356	Keeping hazardous chemicals stable . . . . .	317
<b>Subdivision 2</b>	<b>Spills and damage</b>	
357	Containing and managing spills . . . . .	318
358	Protecting hazardous chemicals from damage . . . . .	319
<b>Subdivision 3</b>	<b>Emergency plans and safety equipment</b>	
359	Fire protection and firefighting equipment . . . . .	319
360	Emergency equipment . . . . .	320
361	Emergency plans . . . . .	321
362	Safety equipment . . . . .	321
<b>Subdivision 4</b>	<b>Storage and handling systems</b>	
363	Control of risks from storage or handling systems . . . . .	321
364	Containers for hazardous chemicals used, handled or stored in bulk . . . . .	322
365	Stopping use and disposing of handling systems . . . . .	323
366	Stopping use of underground storage and handling systems . . . . .	323
367	Notification of abandoned tank . . . . .	324
<b>Subdivision 5</b>	<b>Spray painting</b>	
367A	Definitions for sdiv 5 . . . . .	325
367B	Manufacturing or importing a spray painting booth . . . . .	325
367C	Supplying a spray painting booth . . . . .	327
367D	Protecting persons from spray painting . . . . .	327
367E	Spray painting to be done in spray painting booth . . . . .	328
367F	Controlling exposure from spray painting . . . . .	329
367G	Maintaining a spray painting booth . . . . .	329
367H	Minimum air movement for booths . . . . .	330

Contents

---

<b>Division 6</b>	<b>Health monitoring</b>	
368	Duty to provide health monitoring . . . . .	331
369	Duty to inform of health monitoring . . . . .	332
370	Duty to ensure that appropriate health monitoring is provided . . . . .	332
371	Duty to ensure health monitoring is supervised by registered medical practitioner with experience . . . . .	332
372	Duty to pay costs of health monitoring . . . . .	333
373	Information that must be provided to registered medical practitioner . . . . .	333
374	Duty to obtain health monitoring report . . . . .	334
375	Duty to provide health monitoring report to worker . . . . .	335
376	Duty to provide health monitoring report to regulator . . . . .	335
377	Duty to provide health monitoring report to relevant persons conducting business or undertakings . . . . .	335
378	Health monitoring records . . . . .	336
<b>Division 7</b>	<b>Induction, information, training and supervision</b>	
379	Duty to provide supervision . . . . .	337
<b>Division 8</b>	<b>Prohibition, authorisation and restricted use</b>	
380	Using, handling and storing prohibited carcinogens . . . . .	337
381	Using, handling and storing restricted carcinogens . . . . .	338
382	Using, handling and storing restricted hazardous chemicals . . . . .	338
383	Application for authorisation to use, handle or store prohibited and restricted carcinogens . . . . .	339
384	Authorisation to use, handle or store prohibited carcinogens and restricted carcinogens . . . . .	340
385	Changes to information in application to be reported . . . . .	340
386	Regulator may cancel authorisation . . . . .	341
387	Statement of exposure to be provided to workers . . . . .	341
388	Records to be kept . . . . .	342
<b>Division 9</b>	<b>Pipelines</b>	
389	Management of risk by pipeline owner . . . . .	342
390	Pipeline builder's duties . . . . .	343
391	Management of risks to health and safety by pipeline operator . . . . .	344
<b>Part 7.2</b>	<b>Lead</b>	
<b>Division 1</b>	<b>Lead process</b>	
392	Meaning of lead process . . . . .	345
393	Regulator may decide lead process . . . . .	347

394	Meaning of lead risk work. . . . .	348
395	Duty to give information about health risks of lead process. . . . .	348
<b>Division 2</b>	<b>Control of risk</b>	
396	Containment of lead contamination . . . . .	349
397	Cleaning methods . . . . .	349
398	Prohibition on eating, drinking and smoking. . . . .	350
399	Provision of changing and washing facilities . . . . .	350
400	Laundering, disposal and removal of personal protective equipment . . . . .	351
401	Review of control measures. . . . .	352
<b>Division 3</b>	<b>Lead risk work</b>	
402	Identifying lead risk work . . . . .	354
403	Notification of lead risk work. . . . .	354
404	Changes to information in notification of lead risk work . . . . .	355
<b>Division 4</b>	<b>Health monitoring</b>	
405	Duty to provide health monitoring before first commencing lead risk work . . . . .	356
406	Duty to ensure that appropriate health monitoring is provided. . . . .	357
407	Frequency of biological monitoring. . . . .	357
408	Duty to ensure health monitoring is supervised by registered medical practitioner with relevant experience. . . . .	359
409	Duty to pay costs of health monitoring . . . . .	359
410	Information that must be provided to registered medical practitioner . . . . .	359
411	Duty to obtain health monitoring report . . . . .	360
412	Duty to provide health monitoring report to worker . . . . .	361
413	Duty to provide health monitoring report to regulator. . . . .	361
414	Duty to provide health monitoring report to relevant persons conducting business or undertakings. . . . .	362
415	Removal of worker from lead risk work . . . . .	362
416	Duty to ensure medical examination if worker removed from lead risk work . . . . .	363
417	Return to lead risk work after removal . . . . .	364
418	Health monitoring records . . . . .	364
<b>Chapter 8</b>	<b>Asbestos</b>	
<b>Part 8.1</b>	<b>Prohibitions and authorised conduct</b>	
419	Work involving asbestos or ACM—prohibitions and exceptions. . . . .	365

Contents

---

<b>Part 8.2</b>	<b>General duty</b>	
420	Exposure to airborne asbestos at workplace . . . . .	367

**Volume 2**

<b>Part 8.3</b>	<b>Management of asbestos and associated risks</b>	
421	Application of pt 8.3 . . . . .	369
422	Asbestos to be identified or assumed at workplace . . . . .	369
423	Analysis of sample . . . . .	369
424	Presence and location of asbestos to be indicated . . . . .	370
425	Asbestos register . . . . .	370
426	Review of asbestos register . . . . .	371
427	Access to asbestos register . . . . .	372
428	Transfer of asbestos register by person relinquishing management or control . . . . .	373
429	Asbestos management plan . . . . .	373
430	Review of asbestos management plan . . . . .	374
<b>Part 8.4</b>	<b>Management of naturally occurring asbestos</b>	
431	Naturally occurring asbestos . . . . .	375
432	Asbestos management plan . . . . .	375
433	Review of asbestos management plan . . . . .	377
434	Training in relation to naturally occurring asbestos . . . . .	377
<b>Part 8.5</b>	<b>Asbestos at the workplace</b>	
<b>Division 1</b>	<b>Health monitoring</b>	
435	Duty to provide health monitoring . . . . .	378
436	Duty to ensure that appropriate health monitoring is provided . . . . .	378
437	Duty to ensure health monitoring is supervised by registered medical practitioner with relevant experience . . . . .	379
438	Duty to pay costs of health monitoring . . . . .	379
439	Information that must be provided to registered medical practitioner . . . . .	380
440	Duty to obtain health monitoring report . . . . .	380
441	Duty to provide health monitoring report to worker . . . . .	381
442	Duty to provide health monitoring report to regulator . . . . .	381
443	Duty to provide health monitoring report to relevant persons conducting business or undertakings . . . . .	382
444	Health monitoring records . . . . .	382

<b>Division 2</b>	<b>Training</b>	
445	Duty to train workers about asbestos . . . . .	383
<b>Division 3</b>	<b>Control on use of particular equipment</b>	
446	Duty to limit use of equipment . . . . .	384
<b>Part 8.6</b>	<b>Demolition and refurbishment</b>	
447	Application of pt 8.6 . . . . .	385
448	Review of asbestos register . . . . .	385
449	Duty to provide asbestos register . . . . .	386
450	Duty to obtain asbestos register . . . . .	386
451	Determining presence of asbestos or ACM . . . . .	386
452	Identification and removal of asbestos before demolition . . . . .	387
453	Identification and removal of asbestos before demolition of domestic premises . . . . .	388
454	Emergency procedure . . . . .	388
455	Emergency procedure—domestic premises . . . . .	389
456	Identification and removal of asbestos before refurbishment . . . . .	390
457	Refurbishment of domestic premises . . . . .	390
<b>Part 8.7</b>	<b>Asbestos removal work</b>	
458	Duty to ensure asbestos removalist is licensed . . . . .	391
459	Asbestos removal supervisor must be present or readily available . . . . .	392
460	Asbestos removal worker must be trained . . . . .	392
461	Licensed asbestos removalist must keep training records . . . . .	393
462	Duty to give information about health risks of licensed asbestos removal work . . . . .	394
463	Asbestos removalist must obtain register . . . . .	394
464	Asbestos removal control plan . . . . .	394
465	Asbestos removal control plan to be kept and available . . . . .	395
466	Regulator must be notified of asbestos removal . . . . .	396
467	Licensed asbestos removalist must tell particular persons about intended asbestos removal work . . . . .	397
468	Person with management or control of workplace must tell persons about asbestos removal work . . . . .	398
469	Signage and barricades for asbestos removal work . . . . .	399
470	Limiting access to asbestos removal area . . . . .	399
471	Decontamination facilities . . . . .	400
472	Disposing of asbestos waste and contaminated personal protective equipment . . . . .	401

Contents

---

473	Clearance inspection . . . . .	402
474	Clearance certificates. . . . .	403
<b>Part 8.8</b>	<b>Asbestos removal requiring class A licence</b>	
475	Air monitoring—asbestos removal requiring class A licence . . . .	404
476	Action if respirable asbestos fibre level too high. . . . .	406
477	Removing friable asbestos. . . . .	407
<b>Part 8.9</b>	<b>Asbestos-related work</b>	
478	Application of pt 8.9 . . . . .	409
479	Uncertainty as to presence of asbestos . . . . .	409
480	Duty to give information about health risks of asbestos-related work . . . . .	409
481	Asbestos-related work to be in separate area . . . . .	410
482	Air monitoring . . . . .	410
483	Decontamination facilities. . . . .	411
484	Disposing of asbestos waste and contaminated personal protective equipment . . . . .	412
<b>Part 8.10</b>	<b>Licensing of asbestos removalists and asbestos assessors</b>	
<b>Division 1</b>	<b>Asbestos removalists—requirement to be licensed</b>	
485	Requirement to hold class A asbestos removal licence . . . . .	413
486	Exception to requirement to hold class A asbestos removal licence . . . . .	414
487	Requirement to hold class B asbestos removal licence . . . . .	414
488	Recognition of asbestos removal licences in other jurisdictions. . . . .	415
<b>Division 2</b>	<b>Asbestos assessors—requirement to be licensed</b>	
489	Requirement to hold asbestos assessor licence . . . . .	415
490	Recognition of asbestos assessor licences in other jurisdictions. . . . .	416
<b>Division 3</b>	<b>Licensing process</b>	
491	Who may apply for a licence . . . . .	416
492	Application for asbestos removal licence or asbestos assessor licence . . . . .	417
493	Content of application—class A asbestos removal licence . . . . .	419
494	Content of application—class B asbestos removal licence . . . . .	419
495	Content of application—asbestos assessor licence. . . . .	420
496	Additional information. . . . .	420
497	Decision on application . . . . .	421
498	Class A asbestos removal licence—regulator to be satisfied about additional matters . . . . .	422

499	Class B asbestos removal licence—regulator to be satisfied about additional matters . . . . .	423
500	Matters to be taken into account . . . . .	423
501	Refusal to grant licence—process . . . . .	424
502	Conditions of licence . . . . .	425
503	Duration of licence . . . . .	426
504	Licence document . . . . .	426
505	Licence document to be available . . . . .	427
<b>Division 4</b>	<b>Amendment of licence document</b>	
506	Changes to information . . . . .	427
507	Change to nominated supervisor . . . . .	428
508	Amendment imposed by regulator . . . . .	428
509	Amendment on application by licence holder . . . . .	430
510	Minor corrections to licence . . . . .	431
511	Regulator to provide amended licence . . . . .	431
512	Licence holder to return licence . . . . .	431
513	Replacement licence document . . . . .	432
514	Voluntary surrender of licence . . . . .	433
<b>Division 5</b>	<b>Renewal of licence</b>	
515	Regulator may renew licence . . . . .	433
516	Application for renewal . . . . .	433
517	Provisions relating to renewal of licence . . . . .	434
518	Renewal of asbestos removal licence—regulator to be satisfied about particular matters . . . . .	435
519	Status of licence during review . . . . .	435
<b>Division 6</b>	<b>Suspension and cancellation of licence</b>	
520	Suspension or cancellation of licence . . . . .	436
521	Matters taken into account . . . . .	438
522	Notice to and submissions by licence holder . . . . .	438
523	Notice of decision . . . . .	439
524	Immediate suspension . . . . .	440
525	Licence holder to return licence document . . . . .	441
526	Regulator to return licence document after suspension . . . . .	441
<b>Division 7</b>	<b>General</b>	
527	Asbestos removal licence register . . . . .	441
528	Asbestos assessors register . . . . .	442

Contents

---

529	Work must be supervised by named supervisor . . . . .	442
<b>Chapter 9</b>	<b>Major hazard facilities</b>	
<b>Part 9.1</b>	<b>Preliminary</b>	
<b>Division 1</b>	<b>Application and interpretation</b>	
530	This chapter does not apply to particular facilities . . . . .	442
531	Meaning of major incident . . . . .	443
532	Meaning of hazardous chemicals that are present or likely to be present . . . . .	443
533	Meaning of operator of a facility or proposed facility . . . . .	444
534	Meaning of modification of a facility . . . . .	445
<b>Division 2</b>	<b>Requirement to be licensed</b>	
535	A major hazard facility must be licensed . . . . .	446
<b>Part 9.2</b>	<b>Determinations about major hazard facilities</b>	
536	Operators of particular facilities must notify regulator . . . . .	448
537	Notification—proposed facilities . . . . .	448
538	Content of notification. . . . .	449
539	When regulator may conduct inquiry . . . . .	450
540	Inquiry procedure . . . . .	450
541	Determination in relation to facility, on inquiry . . . . .	452
542	Determination in relation to over-threshold facility . . . . .	452
543	Suitability of facility operator. . . . .	453
544	Conditions on determination of major hazard facility . . . . .	453
545	Notice and effect of determinations . . . . .	454
546	When regulator may revoke a determination . . . . .	455
547	Re-notification if quantity of schedule 15 chemicals increases . . . . .	455
548	Notification by new operator. . . . .	455
549	Time in which major hazard facility licence must be applied for. . . . .	456
<b>Part 9.3</b>	<b>Duties of operators of determined major hazard facilities</b>	
<b>Division 1</b>	<b>Application of part 9.3</b>	
550	Application of pt 9.3 . . . . .	457
<b>Division 2</b>	<b>Safety case outline</b>	
551	Safety case outline must be provided . . . . .	457
552	Content. . . . .	457
553	Alteration . . . . .	458
<b>Division 3</b>	<b>Management of risk</b>	
554	Identification of major incidents and major incident hazards . . . . .	460



555	Safety assessment . . . . .	461
556	Control of risk . . . . .	462
557	Emergency plan . . . . .	462
558	Safety management system . . . . .	464
559	Review of risk management . . . . .	465
<b>Division 4</b>	<b>Safety case</b>	
560	Safety case must be provided . . . . .	466
561	Content . . . . .	466
562	Coordination for multiple facilities . . . . .	468
563	Review . . . . .	469
<b>Part 9.4</b>	<b>Licensed major hazard facilities—risk management</b>	
564	Identification of major incidents and major incident hazards . . . . .	469
565	Safety assessment . . . . .	470
566	Control of risk . . . . .	470
567	Emergency plan . . . . .	471
568	Safety management system . . . . .	472
569	Review of risk management . . . . .	472
570	Safety case—review . . . . .	474
571	Information for visitors . . . . .	474
572	Information for local community—general . . . . .	474
573	Information for local community—major incident . . . . .	476
<b>Part 9.5</b>	<b>Consultation and workers' safety role</b>	
574	Safety role for workers . . . . .	476
575	Operator of major hazard facility must consult with workers . . . . .	477
<b>Part 9.6</b>	<b>Duties of workers at licensed major hazard facilities</b>	
576	Duties . . . . .	478
<b>Part 9.7</b>	<b>Licensing of major hazard facilities</b>	
<b>Division 1</b>	<b>Licensing process</b>	
577	Who may apply for a licence . . . . .	479
578	Application for major hazard facility licence . . . . .	479
579	Additional information . . . . .	481
580	Decision on application . . . . .	481
581	Matters to be taken into account . . . . .	482
582	When decision is to be made . . . . .	483
583	Refusal to grant major hazard facility licence—process . . . . .	483
583A	Conditions of licence—payment of relevant fee . . . . .	484

Contents

---

584	Conditions of licence . . . . .	485
585	Duration of licence . . . . .	485
586	Licence document . . . . .	485
587	Licence document to be available . . . . .	486
<b>Division 2</b>	<b>Amendment of licence and licence document</b>	
588	Changes to information . . . . .	487
589	Amendment imposed by regulator . . . . .	487
590	Amendment on application by operator . . . . .	489
591	Minor corrections to major hazard facility licence . . . . .	490
592	Regulator to provide amended licence document . . . . .	490
593	Operator to return licence . . . . .	490
594	Replacement licence document . . . . .	491
<b>Division 3</b>	<b>Renewal of major hazard facility licence</b>	
595	Regulator may renew licence . . . . .	492
596	Application for renewal . . . . .	492
597	Licence continues in force until application is decided . . . . .	493
598	Provisions relating to renewal of licence . . . . .	493
599	Status of major hazard facility licence during review . . . . .	493
<b>Division 4</b>	<b>Transfer of major hazard facility licence</b>	
600	Transfer of major hazard facility licence . . . . .	494
<b>Division 5</b>	<b>Suspension and cancellation of major hazard facility licence</b>	
601	Cancellation of major hazard facility licence—on operator's application . . . . .	495
602	Suspension or cancellation of licence—on regulator's initiative . . . . .	496
603	Matters to be taken into account . . . . .	496
604	Notice to and submissions by operator . . . . .	497
605	Notice of decision . . . . .	497
606	Immediate suspension . . . . .	499
607	Operator to return licence document . . . . .	499
608	Regulator to return licence document after suspension . . . . .	500
<b>Chapter 10</b>		
609	Chapter number and section numbers 609–675 not used . . . . .	500

<b>Chapter 11</b>	<b>General</b>	
<b>Part 11.1</b>	<b>Review of decisions</b>	
<b>Division 1</b>	<b>Reviewable decisions</b>	
676	Which decisions are reviewable . . . . .	500
<b>Division 2</b>	<b>Internal review</b>	
677	Application . . . . .	512
678	Application for internal review. . . . .	512
679	Internal reviewer. . . . .	513
680	Decision of internal reviewer . . . . .	513
681	Decision on internal review. . . . .	514
682	Internal review—reviewable decision continues . . . . .	514
<b>Division 3</b>	<b>External review</b>	
683	Application for external review . . . . .	514
<b>Part 11.2</b>	<b>Exemptions</b>	
<b>Division 1</b>	<b>General</b>	
684	General power to grant exemptions . . . . .	515
685	Matters to be considered in granting exemptions. . . . .	515
<b>Division 2</b>	<b>High risk work licences</b>	
686	High risk work licence—exemption. . . . .	516
687	High risk work licence—regulator to be satisfied about particular matters . . . . .	517
<b>Division 3</b>	<b>Major hazard facilities</b>	
688	Major hazard facility—exemption . . . . .	517
689	Major hazard facility—regulator to be satisfied about particular matters . . . . .	518
<b>Division 4</b>	<b>Exemption process</b>	
690	Application for exemption . . . . .	519
691	Conditions of exemption . . . . .	519
692	Form of exemption documents . . . . .	519
693	Compliance with conditions of exemption . . . . .	520
694	Notice of decision in relation to exemption. . . . .	520
695	Publication of notice of exemption . . . . .	521
696	Notice of refusal of exemption . . . . .	521
697	Amendment or cancellation of exemption . . . . .	521
698	Notice of amendment or cancellation. . . . .	521

Contents

---

<b>Part 11.3</b>	<b>Miscellaneous</b>	
699	Incident notification—prescribed serious illnesses . . . . .	522
700	Inspectors' identity cards . . . . .	523
701	Review of decisions under the Act—stay of decision . . . . .	523
<b>Chapter 12</b>	<b>Public health and safety—schedule 1, part 1 of Act</b>	
<b>Part 12.1</b>	<b>Preliminary</b>	
702	Definitions for ch 12 . . . . .	524
<b>Part 12.2</b>	<b>Primary duty</b>	
703	Primary duty of care . . . . .	526
704	Duty of officers . . . . .	526
705	Duties of other persons at relevant premises . . . . .	527
706	Reckless conduct . . . . .	528
707	Failure to comply with health and safety duty . . . . .	528
708	Failure to comply with health and safety duty . . . . .	528
<b>Part 12.3</b>	<b>Applied provisions</b>	
709	Application of provisions . . . . .	529
710	Modification of applied provisions . . . . .	529
<b>Part 12.4</b>	<b>Incident notification</b>	
711	Duty to notify of notifiable incidents . . . . .	530
712	Duty to preserve incident sites . . . . .	531
<b>Part 12.5</b>	<b>Authorisations</b>	
713	Meaning of authorised . . . . .	532
714	Requirements for authorisation of plant or substance . . . . .	532
715	Requirement to comply with conditions of authorisation . . . . .	532
<b>Chapter 13</b>	<b>Transitional provisions</b>	
<b>Part 13.1</b>	<b>Transitional provisions for Work Health and Safety Regulation 2011</b>	
<b>Division 1</b>	<b>Emergency plans</b>	
716	Lead in time for s 43 emergency plan . . . . .	533
<b>Division 2</b>	<b>Falls</b>	
717	Staged introduction of s 80 emergency and rescue procedures . . . . .	533
<b>Division 3</b>	<b>Plant and plant design</b>	
718	Existing registration—plant and plant design . . . . .	533
719	Pending applications—plant and plant design . . . . .	535
720	Provision for plant that on the commencement is not required to be registered under pt 5.3 . . . . .	537

<b>Division 4</b>	<b>High risk work</b>	
721	Definition for div 4. . . . .	538
722	Existing licence—high risk work. . . . .	538
723	Pending applications—high risk work. . . . .	540
724	Applications for high risk work licence until 31 December 2012 if no VET course available. . . . .	542
725	Applications for high risk work licence if statement of attainment and assessment summary held under repealed WHS regulation	543
726	Particular licence classes to include other licence classes until 31 December 2012 . . . . .	544
727	Existing exemption—high risk work . . . . .	545
728	Pending exemption applications—high risk work . . . . .	546
729	Revival of authority—applications under s 43 of the repealed WHS regulation . . . . .	547
730	Existing licence issued before 1 July 2008—high risk work . . . . .	547
<b>Division 5</b>	<b>Earthmoving and particular crane work</b>	
731	Cancellation of earthmoving or particular crane work certificate and withdrawal of applications . . . . .	549
<b>Division 6</b>	<b>Certificate for prescribed activity that is demolition work</b>	
732	Existing certificate to perform demolition work continues as a transitional demolition work licence . . . . .	550
733	Transitional demolition work licence and requirement for nominated supervisor. . . . .	551
734	Transitional demolition work licence and requirement to train worker . . . . .	551
735	Existing provisions about certificate process continue to apply for a transitional demolition work licence. . . . .	552
736	Conditions for transitional demolition work licence. . . . .	553
<b>Division 7</b>	<b>Accredited providers and approvals</b>	
737	Cancellation of certificate of appointment as accredited provider and withdrawal of applications . . . . .	553
738	Training and assessment in high risk work under repealed WHS regulation . . . . .	554
739	Existing approval—providing training and assessment for high risk work . . . . .	555
740	Pending applications—providing training and assessment for high risk work . . . . .	555
741	Cancellation of approval to provide training and assessment for earthmoving and particular crane occupation and withdrawal of applications . . . . .	556

Contents

---

<b>Division 8</b>	<b>Certificates and licences</b>	
742	Replacement of existing certificates and licences . . . . .	556
743	Suspension and cancellation of existing certificates and licences	557
<b>Division 9</b>	<b>Asbestos related provisions</b>	
744	Definitions for div 9 . . . . .	558
745	Existing friable asbestos certificate continues as a transitional class A asbestos removal licence . . . . .	559
746	Transitional class A asbestos removal licence and requirement for nominated asbestos removal supervisor . . . . .	561
747	Transitional class A asbestos removal licence and requirement to train worker . . . . .	561
748	Existing provisions about certificate process continue to apply for a transitional class A asbestos removal licence . . . . .	561
749	Conditions for transitional class A asbestos removal licence . . . . .	563
750	Existing bonded asbestos removal certificate continues as transitional class B asbestos removal licence . . . . .	563
751	Holder of transitional class B asbestos removal licence to notify change of address . . . . .	565
752	Existing provisions about certificate process continue to apply for a transitional class B asbestos removal licence . . . . .	565
753	Conditions for transitional class B asbestos removal licence . . . . .	566
754	Application of references to nominated asbestos removal supervisor to transitional class B asbestos removal licence holders for particular sections . . . . .	567
755	Training requirement for worker under section 460(1) satisfied by alternative to certification . . . . .	567
756	Application for class A asbestos removal licence when specified VET course unavailable for named supervisors . . . . .	569
757	Application for class B asbestos removal licence when specified VET course unavailable for named supervisors . . . . .	569
758	No need for asbestos register in particular transitional circumstances . . . . .	570
759	No need for asbestos management plan in particular transitional circumstances . . . . .	570
760	Transitional licensed asbestos assessor . . . . .	571
761	Transitional competent person for ss 473 and 474 clearance inspection and certificates . . . . .	571
<b>Division 10</b>	<b>Lead</b>	
762	Results of health surveillance . . . . .	572
<b>Division 11</b>	<b>Construction work</b>	
763	General induction card . . . . .	572

764	Work method statement taken to be safe work method statement	573
765	Construction safety plan taken to be WHS management plan . . .	573
<b>Division 12</b>	<b>Miscellaneous</b>	
766	Keeping of documents . . . . .	574
767	References to repealed WHS regulation . . . . .	574
<b>Part 13.2</b>	<b>Transitional provisions for Dangerous Goods Safety Management Regulation 2001</b>	
<b>Division 1</b>	<b>Preliminary</b>	
768	Definitions for pt 13.2 . . . . .	574
<b>Division 2</b>	<b>Major hazard facilities</b>	
769	Existing major hazard facility . . . . .	575
770	Existing notification of facility awaiting chief executive decision . .	575
771	Existing major hazard facility with validated safety report . . . . .	575
772	Existing major hazard facility with safety report not yet validated	577
773	Operator must provide information within 3 months . . . . .	578
774	Existing major hazard facility with directive not yet satisfied . . . .	579
775	Operator given 12 months to be fully compliant . . . . .	580
<b>Division 3</b>	<b>Large dangerous goods location</b>	
776	Existing notification of large dangerous goods location . . . . .	580
<b>Part 13.3</b>	<b>Other transitional provisions</b>	
777	Particular provision for audiometric testing . . . . .	582
778	Requirements for dive supervisors of high risk diving work until 31 December 2012 . . . . .	582
779	Registration of design of particular item of plant not needed until end of 31 December 2012 . . . . .	582
780	Introductory period for registration of domestic lifts . . . . .	583
781	Introductory period for GHS . . . . .	583
782	Existing abandoned tank used to store flammable gases and flammable liquids . . . . .	583
783	Existing use, handling or storing of prohibited or restricted carcinogens . . . . .	584
784	Existing pipeline builder's duties . . . . .	584
785	Existing facility with schedule 15 chemicals exceeding 10% of threshold quantity—additional 3 months to give notice (section 536) . . . . .	585
786	Postponed commencement of uncommenced provisions . . . . .	586

<b>Chapter 14</b>	<b>Amendment of other regulations</b>	
<b>Part 14.1</b>	<b>Amendment of Building Fire Safety Regulation 2008</b>	
787	Regulation amended . . . . .	586
788	Amendment of sch 3 (Dictionary) . . . . .	587
<b>Part 14.2</b>	<b>Amendment of Child Employment Regulation 2006</b>	
789	Regulation amended . . . . .	587
790	Amendment of s 22 (Employer's duty about facilities for dressing and undressing) . . . . .	588
<b>Part 14.1</b>	<b>Amendment of Coal Mining Safety and Health Regulation 2001</b>	
791	Regulation amended . . . . .	588
792	Amendment of s 55 (Hazardous substance register) . . . . .	588
<b>Part 14.3</b>	<b>Amendment of Explosives Regulation 2003</b>	
793	Regulation amended . . . . .	589
794	Amendment of s 11 (Definitions for pt 2) . . . . .	589
795	Amendment of s 49 (Condition of explosives) . . . . .	589
796	Amendment of s 72 (Documents to be kept) . . . . .	589
797	Amendment of sch 3 (Matters to be included in safety management system) . . . . .	589
798	Amendment of sch 7 (Dictionary) . . . . .	590
<b>Part 14.4</b>	<b>Amendment of Forensic Disability Regulation 2011</b>	
799	Regulation amended . . . . .	590
800	Amendment of s 3 (Register of use of regulated behaviour controls—Act, s 74) . . . . .	590
<b>Part 14.5</b>	<b>Amendment of Health Regulation 1996</b>	
801	Regulation amended . . . . .	591
802	Amendment of s 170 (Specifications for places) . . . . .	591
<b>Part 14.6</b>	<b>Amendment of Mining and Quarrying Safety and Health Regulation 2001</b>	
803	Regulation amended . . . . .	591
804	Amendment of s 52 (MSDS and NICNAS summary report) . . . . .	591
805	Amendment of s 53 (Marking, labelling and giving information about hazardous substances and dangerous goods) . . . . .	592
806	Amendment of s 55 (Standard work instructions for storing, handling and using hazardous substances and dangerous goods) . . . . .	592
807	Amendment of s 60 (Meaning of major hazard facility) . . . . .	593
808	Amendment of s 62 (Resources for complying with MSDS) . . . . .	593



809	Amendment of sch 7 (Dictionary) . . . . .	594
<b>Part 14.7</b>	<b>Amendment of Petroleum and Gas (Production and Safety) Regulation 2004</b>	
810	Regulation amended . . . . .	594
811	Amendment of sch 2 (Prescribed incidents) . . . . .	594
<b>Part 14.8</b>	<b>Amendment of Public Health Regulation 2005</b>	
812	Regulation amended . . . . .	595
813	Amendment of s 2B (Definitions for div 1) . . . . .	595
814	Replacement of ss 2D and 2E . . . . .	595
	2D Removal of friable asbestos . . . . .	595
	2E Removal of bonded ACM . . . . .	596
815	Insertion of new pt 8 . . . . .	596
	Part 8 Transitional provisions	
	21 Transitional asbestos removal licence or certificate . .	596
<b>Part 14.9</b>	<b>Amendment of Queensland Building Services Authority Regulation 2003</b>	
816	Regulation amended . . . . .	597
817	Amendment of s 5 (Work that is not building work) . . . . .	597
<b>Part 14.10</b>	<b>Amendment of Queensland Civil and Administrative Tribunal Regulation 2009</b>	
818	Regulation amended . . . . .	598
819	Amendment of sch 1 (Enabling Acts and provisions) . . . . .	598
<b>Part 14.11</b>	<b>Amendment of the Sustainable Planning Regulation 2009</b>	
820	Regulation amended . . . . .	598
821	Amendment of sch 3 (Assessable development, self-assessable development and type of assessment) . . . . .	598
822	Amendment of sch 6 (Assessment manager for development applications) . . . . .	599
823	Amendment of sch 7 (Referral agencies and their jurisdictions) .	599
824	Amendment of sch 26 (Dictionary) . . . . .	600
<b>Part 14.12</b>	<b>Amendment of Transport Operations (Road Use Management—Driver Licensing) Regulation 2010</b>	
825	Regulation amended . . . . .	600
826	Amendment of s 10 (Tests) . . . . .	600
827	Amendment of sch 9 (Dictionary) . . . . .	601
<b>Schedule 1</b>	<b>Schedule number not used</b> . . . . .	603
<b>Schedule 2</b>	<b>Fees</b> . . . . .	604
1	Purpose of this schedule . . . . .	604

Contents

---

<b>Schedule 3</b>	<b>High risk work licences and classes of high risk work</b> . . . . .	608
1	Boom-type elevating work platform . . . . .	613
<b>Schedule 4</b>	<b>High risk work licences—competency requirements</b> . . . . .	614
<b>Schedule 5</b>	<b>Registration of plant and plant designs</b> . . . . .	617
1	Items of plant requiring registration of design . . . . .	617
2	Exceptions . . . . .	618
3	Items of plant requiring registration . . . . .	618
4	Exceptions . . . . .	619
<b>Schedule 5A</b>	<b>Principal contractors—particular amenities for construction work</b> . . . . .	620
<b>Part 1</b>	<b>Definitions for schedule 5A</b>	
1	Definitions. . . . .	620
<b>Part 2</b>	<b>Toilets</b>	
2	Toilets . . . . .	620
3	When toilet must be connected toilet or portable toilet. . . . .	621
4	Privacy, ventilation and toilet paper . . . . .	622
<b>Part 3</b>	<b>Other amenities</b>	
5	Room, or sheltered area, to eat meals in . . . . .	623
6	Hands and face washing facilities. . . . .	624
7	Drinking water . . . . .	624
<b>Schedule 6</b>	<b>Classification of mixtures</b> . . . . .	626
1	Purpose of this schedule . . . . .	626
<b>Schedule 7</b>	<b>Safety data sheets</b> . . . . .	629
1	Safety data sheets—content . . . . .	629
2	Safety data sheets—research chemical, waste product or sample for analysis. . . . .	630
<b>Schedule 8</b>	<b>Disclosure of ingredients in safety data sheet</b> . . . . .	632
1	Purpose of this schedule . . . . .	632
2	Identity of ingredients to be disclosed . . . . .	632
3	Generic names used to disclose identity of ingredients . . . . .	634
4	Disclosing proportions of ingredients . . . . .	635
<b>Schedule 9</b>	<b>Classification, packaging and labelling requirements</b> . . . . .	636
<b>Part 1</b>	<b>Correct classification</b>	
1	Correct classification of a substance, mixture or article . . . . .	636
<b>Part 2</b>	<b>Correct packing</b>	
2	Correctly packing hazardous chemicals. . . . .	637

<b>Part 3</b>	<b>Correct labelling</b>	
3	Labelling hazardous chemicals—general . . . . .	638
4	Labelling hazardous chemicals—small container . . . . .	639
5	Labelling hazardous chemicals—research chemicals or samples for analysis . . . . .	639
6	Labelling hazardous chemicals—decanted or transferred chemicals . . . . .	639
7	Labelling hazardous chemicals—known hazards. . . . .	640
8	Labelling hazardous chemicals—waste products. . . . .	640
9	Labelling hazardous chemicals—explosives . . . . .	641
10	Labelling hazardous chemicals—agricultural and veterinary chemicals . . . . .	641
<b>Schedule 10</b>	<b>Prohibited carcinogens, restricted carcinogens and restricted hazardous chemicals</b> . . . . .	643
<b>Schedule 11</b>	<b>Placard and manifest quantities</b> . . . . .	648
1	Determination of classification of flammable liquids. . . . .	652
<b>Schedule 12</b>	<b>Manifest requirements</b> . . . . .	653
1	Manifest—general information . . . . .	653
2	Manifest—bulk storage and containers . . . . .	653
3	Manifest—identification of hazardous chemical . . . . .	654
4	Manifest—storage area for packaged hazardous chemicals . . . . .	654
5	Manifest—hazardous chemicals being manufactured . . . . .	656
6	Manifest—hazardous chemicals in transit . . . . .	656
7	Manifest—plan of workplace . . . . .	657
<b>Schedule 13</b>	<b>Placard requirements</b> . . . . .	658
1	Displaying placards . . . . .	658
2	Maintaining placards . . . . .	659
3	Outer warning placards—requirements . . . . .	659
4	Placards for particular hazardous chemicals stored in bulk . . . . .	660
5	Placards for unstable explosives, organic peroxides type A or self-reactive substances type A stored in bulk . . . . .	662
6	Placards for packaged schedule 11 hazardous chemicals (other than flammable liquids category 4) and IBCs . . . . .	663
7	Placards for flammable liquids category 4 packaged or in bulk . . . . .	665
<b>Schedule 14</b>	<b>Requirements for health monitoring</b> . . . . .	666
<b>Schedule 15</b>	<b>Hazardous chemicals at major hazard facilities (and their threshold quantity)</b> . . . . .	672
1	Definitions. . . . .	672

Contents

---

2	Relevant hazardous chemicals . . . . .	673
3	Threshold quantity of one hazardous chemical . . . . .	673
4	Threshold quantity of more than one hazardous chemical. . . . .	674
5	How table 15.1 must be used . . . . .	675
6	How table 15.2 must be used . . . . .	675
<b>Schedule 16</b>	<b>Matters to be included in emergency plan for major hazard facility</b> . . . . .	<b>683</b>
1	Site and hazard detail. . . . .	683
2	Command structure and site personnel . . . . .	684
3	Notifications . . . . .	684
4	Resources and equipment . . . . .	684
5	Procedures . . . . .	685
<b>Schedule 17</b>	<b>Additional matters to be included in safety management system of major hazard facility</b> . . . . .	<b>686</b>
1	Safety policy and safety objectives. . . . .	686
2	Organisation and personnel . . . . .	686
3	Operational controls . . . . .	686
4	Duties of operators . . . . .	687
5	Management of change . . . . .	687
6	Principles and standards . . . . .	687
7	Performance monitoring . . . . .	688
8	Audit . . . . .	688
<b>Schedule 18</b>	<b>Additional matters to be included in safety case for a major hazard facility</b> . . . . .	<b>689</b>
1	The facility . . . . .	689
2	The surrounding area . . . . .	690
3	Control measures to limit the consequences of major incidents . . . . .	691
4	Performance monitoring . . . . .	692
5	Safety management system. . . . .	692
6	Safety and reliability of facility structures and plant . . . . .	692
7	Major incident history . . . . .	692
<b>Schedule 19</b>	<b>Dictionary</b> . . . . .	<b>693</b>

---

# Chapter 1 Preliminary

## Part 1.1 Introductory matters

### 1 Short title

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

### 2 Commencement

- (1) Section 142 commences on 1 July 2012.
- (2) The following provisions commence on 1 January 2013—
  - (a) section 48;
  - (b) section 217;
  - (c) section 272;
  - (d) section 279(2)(d);
  - (e) section 343;
  - (f) sections 432 and 433;
  - (g) part 8.5, division 1.
- (3) The following provisions commence on the commencement of the *Waste Reduction and Recycling Act 2011*, section 103—
  - (a) section 492(2)(i)(ii);
  - (b) section 500(b)(ii).
- (4) The remaining provisions commence on the commencement of section 277 (Repeal of Workplace Health and Safety Act 1995) of the Act.

[s 3]

---

### **3 Section number not used**

*Note—*

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

### **4 Section number not used**

*See note to section 3.*

### **5 Definitions**

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

### **6 Determination of safety management system**

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

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

- (1) For section 5(6) of the Act, a strata title body corporate that is responsible for any common areas used only for residential purposes may be taken not to be a person conducting a business or undertaking in relation to those premises.
- (2) Subsection (1) does not apply if the strata title body corporate engages any worker as an employee.
- (3) In this section—

---

*strata title body corporate* means a body corporate as defined under the *Body Corporate and Community Management Act 1997*, schedule 6.

## **8 Meaning of *supply***

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

*Examples—*

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

## **9 Provisions linked to health and safety duties in Act**

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

*Note—*

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

# **Part 1.2 Application**

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

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

[s 11]

---

- (a) part 5, divisions 2 to 8;
- (b) part 6;
- (c) part 7.

## **11 Application of this regulation**

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

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

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

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

# **Part 1.3 Incorporated documents**

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

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



applied, adopted, incorporated or referred to unless express provision is made to the contrary.

#### **14 Inconsistencies between provisions**

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

#### **15 References to standards**

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

## **Chapter 2      Representation and participation**

### **Part 2.1      Representation**

#### **Division 1      Work groups**

##### **16      Negotiations for and determination of work groups**

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

- (a) most effectively and conveniently enables the interests of the workers, in relation to work health and safety, to be represented; and
- (b) has regard to the need for a health and safety representative for the work group to be readily accessible to each worker in the work group.

*Note—*

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

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

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

- (a) the number of workers;

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

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

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

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

[s 19]

---

- (2) The person conducting the election must take all reasonable steps to ensure that the following procedures are complied with—
  - (a) each person conducting a business or undertaking in which a worker in the work group works is informed of the date on which the election is to be held as soon as practicable after the date is determined;
  - (b) all workers in the work group are given an opportunity to—
    - (i) nominate for the position of health and safety representative; and
    - (ii) vote in the election;
  - (c) all workers in the work group and all relevant persons conducting a business or undertaking are informed of the outcome of the election.

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

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

Maximum penalty—36 penalty units.

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

- (1) For section 64(2)(d) of the Act, the majority of the members of a work group may remove a health and safety representative for the work group if the members sign a written declaration that the health and safety representative should no longer represent the work group.
- (2) A member of the work group nominated by the members who signed the declaration must, as soon as practicable—
  - (a) inform the following persons of the removal of the health and safety representative—

- 
- (i) the health and safety representative who has been removed;
  - (ii) each person conducting a business or undertaking in which a worker in the work group works; and
  - (b) take all reasonable steps to inform all members of the work group of the removal.
- (3) The removal of the health and safety representative takes effect when the persons mentioned in subsection (2)(a) and the majority of members of the work group have been informed of the removal.

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

- (1) For section 72(1) of the Act, a health and safety representative is entitled to attend the following courses of training in work health and safety—
- (a) an initial course of training of 5 days;
  - (b) one day's refresher training each year, with the entitlement to the first refresher training commencing 1 year after the initial training.
- (2) In approving a course of training in work health and safety for section 72(1)(b) of the Act, the regulator may have regard to all relevant matters including—
- (a) the content and quality of the curriculum, including its relevance to the powers and functions of a health and safety representative; and
  - (b) the qualifications, knowledge and experience of the person who is to provide the course.

### *Notes—*

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

[s 22]

---

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

## **Part 2.2 Issue resolution**

### **22 Agreed procedure—minimum requirements**

- (1) This section sets out minimum requirements for an agreed procedure for issue resolution at a workplace.
- (2) The agreed procedure for issue resolution at a workplace must include the steps set out in section 23.
- (3) A person conducting a business or undertaking at a workplace must ensure that the agreed procedure for issue resolution at the workplace—
  - (a) complies with subsection (2); and
  - (b) is set out in writing; and
  - (c) is communicated to all workers to whom the agreed procedure applies.

Maximum penalty—36 penalty units.

### **23 Default procedure**

- (1) This section sets out the default procedure for issue resolution for section 81(2) of the Act.
- (2) Any party to the issue may commence the procedure by telling each other party—
  - (a) that there is an issue to be resolved; and
  - (b) the nature and scope of the issue.

- 
- (3) As soon as parties are told of the issue, all parties must meet or communicate with each other to attempt to resolve the issue.
  - (4) The parties must have regard to all relevant matters including the following—
    - (a) the degree and immediacy of risk to workers or other persons affected by the issue;
    - (b) the number and location of workers and other persons affected by the issue;
    - (c) the measures (both temporary and permanent) that must be implemented to resolve the issue;
    - (d) who will be responsible for implementing the resolution measures.
  - (5) A party may, in resolving the issue, be assisted or represented by a person nominated by the party.
  - (6) If the issue is resolved, details of the issue and its resolution must be set out in a written agreement if any party to the issue requests this.

*Note—*

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

- (7) If a written agreement is prepared all parties to the issue must be satisfied that the agreement reflects the resolution of the issue.
- (8) A copy of the written agreement must be provided to—
  - (a) all parties to the issue; and
  - (b) if requested, to the health and safety committee for the workplace.
- (9) For the avoidance of doubt, nothing in this procedure prevents a worker from bringing a work health and safety issue to the attention of the worker's health and safety representative.

[s 24]

---

## **Part 2.3 Cessation of unsafe work**

### **24 Continuity of engagement of worker**

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

- (a) remuneration and promotion, as affected by seniority;
- (b) superannuation benefits;
- (c) leave entitlements;
- (d) any entitlement to notice of termination of the engagement.

## **Part 2.4 Workplace entry by WHS entry permit holders**

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

- (1) The prescribed training for sections 131 and 133 of the Act is training, that is provided or approved by the regulator, in relation to the following matters—
  - (a) the right of entry requirements under part 7 of the Act;
  - (b) the issue resolution requirements under the Act and this regulation;
  - (c) the duties under, and the framework of, the Act and this regulation;
  - (d) the requirements for the management of risks under section 17 of the Act;
  - (e) the meaning of *reasonably practicable* as set out in section 18 of the Act;



- 
- (f) the relationship between the Act and this regulation and the *Fair Work Act 2009* (Cwlth) or any relevant State or Territory industrial laws.
  - (2) The training must include providing the participant with information about the availability of any guidance material published by the regulator in relation to the Act and this regulation.
  - (3) For the purpose of approving training, the regulator may have regard to any relevant matter including—
    - (a) the content and quality of the curriculum, including its relevance to the powers and functions of a WHS permit holder;
    - (b) the qualifications, knowledge and experience of the person who is to provide the training.

*Notes—*

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

## **26 Form of WHS entry permit**

A WHS entry permit must include the following—

- (a) the section of the Act under which the WHS entry permit is issued;
- (b) the full name of the WHS entry permit holder;
- (c) the name of the union that the WHS entry permit holder represents;
- (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;

[s 27]

---

- (g) the signature of the WHS entry permit holder;
- (h) any conditions on the WHS entry permit.

## **27 Notice of entry—general**

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

- (a) be written; and
- (b) include the following—
  - (i) the full name of the WHS entry permit holder;
  - (ii) the name of the union that the WHS entry permit holder represents;
  - (iii) the section of the Act under which the WHS entry permit holder is entering or proposing to enter the workplace;
  - (iv) the name and address of the workplace entered or proposed to be entered;
  - (v) the date of entry or proposed entry;
  - (vi) the additional information and other matters required under section 28, 29 or 30 (as applicable).

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

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

- (a) so far as is practicable, the particulars of the suspected contravention to which the notice relates;
- (b) a declaration stating—
  - (i) that the union is entitled to represent the industrial interests of a worker who carries out work at the workplace entered and is a member, or eligible to be a member, of that union; and

- (ii) the provision in the union's rules that entitles the union to represent the industrial interests of that worker; and
- (iii) that the suspected contravention relates to, or affects, that worker.

*Note—*

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

## **29 Additional requirements—entry under section 120**

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

- (a) so far as is practicable, the particulars of the suspected contravention to which the notice relates;
- (b) a description of the employee records and other documents, or of the classes of records and documents, directly relevant to the suspected contravention, that are proposed to be inspected;
- (c) a declaration stating—
  - (i) that the union is entitled to represent the industrial interests of a worker who is a member, or eligible to be a member, of that union; and
  - (ii) the provision in the union's rules that entitles the union to represent the industrial interests of that worker; and
  - (iii) that the suspected contravention relates to, or affects, that worker; and
  - (iv) that the records and documents proposed to be inspected relate to that contravention.

[s 30]

---

*Note—*

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

### **30 Additional requirements—entry under section 121**

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

- (a) that the union is entitled to represent the industrial interests of a worker who carries out work at the workplace proposed to be entered and is a member, or eligible to be a member, of that union; and
- (b) the provision in the union's rules that entitles the union to represent the industrial interests of that worker.

*Note—*

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

### **31 Register of WHS entry permit holders**

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

- (a) an up-to-date register of WHS entry permit holders; and
- (b) the date on which the register was last updated.

*Editor's note—*

The commission's website is <[www.qirc.qld.gov.au](http://www.qirc.qld.gov.au)>.

---

## **Chapter 3      General risk and workplace management**

### **Part 3.1      Managing risks to health and safety**

#### **32      Application of pt 3.1**

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

#### **33      Specific requirements must be complied with**

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

*Examples—*

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

#### **34      Duty to identify hazards**

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

#### **35      Management of risk**

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

[s 36]

---

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

### **36 Hierarchy of control measures**

- (1) This section applies if it is not reasonably practicable for a duty holder to eliminate risks to health and safety.
- (2) A duty holder, in minimising risks to health and safety must implement risk control measures under this section.
- (3) The duty holder must minimise risks, so far as is reasonably practicable, by doing one or more of the following—
  - (a) substituting (wholly or partly) the hazard giving rise to the risk with something that gives rise to a lesser risk;
  - (b) isolating the hazard from any person exposed to it;
  - (c) implementing engineering controls.
- (4) If a risk then remains, the duty holder must minimise the remaining risk, so far as is reasonably practicable, by implementing administrative controls.
- (5) If a risk then remains, the duty holder must minimise the remaining risk, so far as is reasonably practicable, by ensuring the provision and use of suitable personal protective equipment.

*Note—*

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

### **37 Maintenance of control measures**

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

---

effective, including by ensuring that the control measure is and remains—

- (a) fit for purpose; and
- (b) suitable for the nature and duration of the work; and
- (c) installed, set up and used correctly.

### **38 Review of control measures**

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

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

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

*Examples—*

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

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

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

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

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

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

[s 39]

---

- (a) a change to the workplace itself or any aspect of the work environment; or
  - (b) a change to a system of work, a process or a procedure.
- (4) A health and safety representative for workers at a workplace may request a review of a control measure if the representative reasonably believes that—
- (a) a circumstance mentioned in subsection (2)(a), (b), (c) or (d) affects or may affect the health and safety of a member of the work group represented by the health and safety representative; and
  - (b) the duty holder has not adequately reviewed the control measure in response to the circumstance.

## **Part 3.2                      General workplace management**

### **Division 1                      Information, training and instruction**

#### **39                      Provision of information, training and instruction**

- (1) This section applies for section 19 of the Act to a person conducting a business or undertaking.
- (2) The person must ensure that information, training and instruction provided to a worker is suitable and adequate having regard to—
  - (a) the nature of the work carried out by the worker; and
  - (b) the nature of the risks associated with the work at the time the information, training or instruction is provided; and
  - (c) the control measures implemented.



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

Maximum penalty—60 penalty units.

## **Division 2                    General working environment**

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

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

- (a) the layout of the workplace allows, and the workplace is maintained so as to allow, for persons to enter and exit and to move about without risk to health and safety, both under normal working conditions and in an emergency;
- (b) work areas have space for work to be carried out without risk to health and safety;
- (c) floors and other surfaces are designed, installed and maintained to allow work to be carried out without risk to health and safety;
- (d) lighting enables—
  - (i) each worker to carry out work without risk to health and safety; and
  - (ii) persons to move within the workplace without risk to health and safety; and
  - (iii) safe evacuation in an emergency;
- (e) ventilation enables workers to carry out work without risk to health and safety;
- (f) workers carrying out work in extremes of heat or cold are able to carry out work without risk to health and safety;

[s 41]

---

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

Maximum penalty—60 penalty units.

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

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

Maximum penalty—60 penalty units.

- (2) The person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that the facilities provided under subsection (1) are maintained so as to be—
  - (a) in good working order; and
  - (b) clean, safe and accessible.

Maximum penalty—60 penalty units.

- (3) For this section, a person conducting a business or undertaking must have regard to all relevant matters including—
  - (a) the nature of the work being carried out at the workplace; and
  - (b) the nature of the hazards at the workplace; and
  - (c) the size, location and nature of the workplace; and
  - (d) the number and composition of the workers at the workplace.

---

## **Division 3                      First aid**

### **42            Duty to provide first aid**

- (1) A person conducting a business or undertaking at a workplace must ensure—
- (a) the provision of first aid equipment for the workplace; and
  - (b) that each worker at the workplace has access to the equipment; and
  - (c) access to facilities for the administration of first aid.

Maximum penalty—60 penalty units.

- (2) A person conducting a business or undertaking at a workplace must ensure that—
- (a) an adequate number of workers are trained to administer first aid at the workplace; or
  - (b) workers have access to an adequate number of other persons who have been trained to administer first aid.

Maximum penalty—60 penalty units.

- (3) For this section, the person conducting the business or undertaking must have regard to all relevant matters including—
- (a) the nature of the work being carried out at the workplace; and
  - (b) the nature of the hazards at the workplace; and
  - (c) the size and location of the workplace; and
  - (d) the number and composition of the workers and other persons at the workplace.

[s 43]

---

## **Division 4                      Emergency plans**

### **43            Duty to prepare, maintain and implement emergency plan**

- (1) A person conducting a business or undertaking at a workplace must ensure that an emergency plan is prepared for the workplace, that provides for the following—
- (a) emergency procedures, including—
    - (i) an effective response to an emergency; and
    - (ii) evacuation procedures; and
    - (iii) notifying emergency service organisations at the earliest opportunity; and
    - (iv) medical treatment and assistance; and
    - (v) effective communication between the person authorised by the person conducting the business or undertaking to coordinate the emergency response and all persons at the workplace;
  - (b) testing of the emergency procedures, including the frequency of testing;
  - (c) information, training and instruction to relevant workers in relation to implementing the emergency procedures.

Maximum penalty—60 penalty units.

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

Maximum penalty—60 penalty units.

- (3) For subsections (1) and (2), the person conducting the business or undertaking must 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.
- (4) A person conducting a business or undertaking at a workplace must implement the emergency plan for the workplace in the event of an emergency.

Maximum penalty—60 penalty units.

## **Division 5                      Personal protective equipment**

### **44                      Provision to workers and use of personal protective equipment**

- (1) This section applies if personal protective equipment is to be used to minimise a risk to health and safety in relation to work at a workplace under section 20.
- (2) The person conducting a business or undertaking who directs the carrying out of work must provide the personal protective equipment to workers at the workplace, unless the personal protective equipment has been provided by another person conducting a business or undertaking.

Maximum penalty—60 penalty units.

*Example—*

equipment that has been provided by a labour hire company

- (3) The person conducting the business or undertaking who directs the carrying out of work must ensure that personal protective equipment provided under subsection (2) is—
- (a) selected to minimise risk to health and safety, including by ensuring that the equipment is—
    - (i) suitable having regard to the nature of the work and any hazard associated with the work; and
    - (ii) a suitable size and fit and reasonably comfortable for the worker who is to use or wear it; and

[s 45]

---

- (b) maintained, repaired or replaced so that it continues to minimise risk to the worker who uses it, including by ensuring that the equipment is—
    - (i) clean and hygienic; and
    - (ii) in good working order; and
  - (c) used or worn by the worker, so far as is reasonably practicable.
- (4) The person conducting a business or undertaking who directs the carrying out of work must provide the worker with information, training and instruction in the—
- (a) proper use and wearing of personal protective equipment; and
  - (b) the storage and maintenance of personal protective equipment.

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

*Note—*

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

#### **45 Personal protective equipment used by other persons**

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

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

Maximum penalty—60 penalty units.

---

#### **46 Duties of worker**

- (1) This section applies if a person conducting a business or undertaking provides a worker with personal protective equipment.
- (2) The worker must, so far as the worker is reasonably able, use or wear the equipment in accordance with any information, training or reasonable instruction by the person conducting the business or undertaking.

Maximum penalty—36 penalty units.

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

Maximum penalty—36 penalty units.

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

Maximum penalty—36 penalty units.

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

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

Maximum penalty—36 penalty units.

### **Division 6 Remote or isolated work**

#### **48 Remote or isolated work**

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

[s 49]

---

*Notes—*

- 1 WHS Act—section 19 (see section 9).
  - 2 For general risk management requirements, see part 3.1.
- (2) In minimising risks to the health and safety of workers associated with remote or isolated work, a person conducting a business or undertaking must provide a system of work that includes effective communication with the worker.

Maximum penalty—60 penalty units.

- (3) In this section—

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

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

## **Division 7                      Managing risks from airborne contaminants**

### **49            Ensuring exposure standards for substances etc not exceeded**

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

Maximum penalty—60 penalty units.

### **50            Monitoring airborne contaminant levels**

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



- 
- (a) the person is not certain on reasonable grounds whether or not the airborne concentration of the substance or mixture at the workplace exceeds the relevant exposure standard; or
  - (b) monitoring is necessary to determine whether there is a risk to health.

Maximum penalty—60 penalty units.

- (2) A person conducting a business or undertaking at a workplace must ensure that the results of air monitoring carried out under subsection (1) are—
  - (a) recorded, and kept for 30 years after the date the record is made; and
  - (b) readily accessible to persons at the workplace who may be exposed to the substance or mixture.

Maximum penalty—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

## **Division 8                      Hazardous atmospheres**

### **51            Managing risks to health and safety**

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

[s 52]

---

*Notes—*

- 1 WHS Act—section 19 (see section 9).
  - 2 For general risk management requirements, see part 3.1.
- (2) An atmosphere is a ***hazardous atmosphere*** if—
- (a) the atmosphere does not have a safe oxygen level; or
  - (b) the concentration of oxygen in the atmosphere increases the fire risk; or
  - (c) the concentration of flammable gas, vapour, mist, or fumes exceeds 5% of the LEL for the gas, vapour, mist or fumes; or
  - (d) a hazardous chemical in the form of a combustible dust is present in a quantity and form that would result in a hazardous area.

## **52 Ignition sources**

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

*Note—*

WHS Act—section 19 (see section 9).

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

## **Division 9 Storage of flammable or combustible substances**

### **53 Flammable and combustible material not to be accumulated**

- (1) A person conducting a business or undertaking at a workplace must ensure that, if flammable or combustible substances are

kept at the workplace, the substances are kept at the lowest practicable quantity for the workplace.

Maximum penalty—60 penalty units.

(2) In this section—

*flammable or combustible substances* include—

- (a) flammable and combustible liquids, including waste liquids, in containers, whether empty or full; and
- (b) gas cylinders, whether empty or full.

## **Division 10                      Falling objects**

### **54                      Management of risk of falling objects**

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

*Notes—*

- 1    WHS Act—section 19 (see section 9).
- 2    For general risk management requirements, see part 3.1.

### **55                      Minimising risk associated with falling objects**

- (1) This section applies if it is not reasonably practicable to eliminate the risk mentioned in section 38.
- (2) The person conducting the business or undertaking at a workplace must minimise the risk of an object falling on a person by providing adequate protection against the risk under this section.

Maximum penalty—60 penalty units.

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

[s 56]

---

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

*Examples—*

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

## Chapter 4 Hazardous work

### Part 4.1 Noise

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

- (1) In this regulation, *exposure standard for noise*, in relation to a person, means—
  - (a)  $L_{Aeq,8h}$  of 85 dB(A); or
  - (b)  $L_{C,peak}$  of 140 dB(C).
- (2) For subsection (1)—

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

---

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

## **57 Managing risk of hearing loss from noise**

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

*Notes—*

- 1 WHS Act—section 19 (see section 9).
  - 2 For general risk management requirements, see part 3.1.
- (2) A person conducting a business or undertaking at a workplace must ensure that the noise that a worker is exposed to at the workplace does not exceed the exposure standard for noise.

Maximum penalty—60 penalty units.

## **58 Audiometric testing**

- (1) This section applies in relation to a worker who is frequently required by the person conducting the business or undertaking to use personal protective equipment to protect the worker from the risk of hearing loss associated with noise that exceeds the exposure standard for noise.
- (2) The person conducting the business or undertaking who provides the personal protective equipment as a control measure must provide audiometric testing for the worker—
  - (a) within 3 months of the worker commencing the work; and
  - (b) in any event, at least every 2 years.

Maximum penalty—60 penalty units.

- (3) In this section—

[s 59]

---

*audiometric testing* means the testing and measurement of the hearing threshold levels of each ear of a person by means of pure tone air conduction threshold tests.

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

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

Maximum penalty—60 penalty units.

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

- (a) the noise emission values of the plant; and
- (b) the operating conditions of the plant when noise emission is to be measured; and
- (c) the methods the designer has used to measure the noise emission of the plant.

Maximum penalty—60 penalty units.

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

Maximum penalty—60 penalty units.

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

- (a) the noise emission values of the plant; and
- (b) the operating conditions of the plant when noise emission is to be measured; and
- (c) the methods the manufacturer has used to measure the noise emission of the plant.

Maximum penalty—60 penalty units.

- 
- (5) An importer of plant must take all reasonable steps to—
- (a) obtain the information the manufacturer is required to give an importer under subsection (4); and
  - (b) give that information to any person to whom the importer supplies the plant.

Maximum penalty—60 penalty units.

- (6) A supplier of plant must take all reasonable steps to—
- (a) obtain the information the designer, manufacturer or importer is required to give a supplier under subsection (3), (4) or (5); and
  - (b) give that information to any person to whom the supplier supplies the plant.

Maximum penalty—60 penalty units.

## **Part 4.2 Hazardous manual tasks**

### **60 Managing risks to health and safety**

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

*Note—*

WHS Act—section 19 (see section 9).

- (2) In determining what control measures to implement under subsection (1), the person conducting the business or undertaking must have regard to all relevant matters that may contribute to a musculoskeletal disorder, including—
- (a) postures, movements, forces and vibration relating to the hazardous manual task; and

[s 61]

---

- (b) the duration and frequency of the hazardous manual task; and
- (c) workplace environmental conditions that may affect the hazardous manual task or the worker performing it; and
- (d) the design of the work area; and
- (e) the layout of the workplace; and
- (f) the systems of work used; and
- (g) the nature, size, weight or number of persons, animals or things involved in carrying out the hazardous manual task.

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

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

Maximum penalty—60 penalty units.

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

Maximum penalty—60 penalty units.

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

Maximum penalty—60 penalty units.

- (4) A manufacturer of plant or a structure must ensure that the plant or structure is manufactured so as to eliminate the need



for any hazardous manual task to be carried out in connection with the plant or structure.

Maximum penalty—60 penalty units.

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

Maximum penalty—60 penalty units.

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

Maximum penalty—60 penalty units.

- (7) An importer of plant or a structure must take all reasonable steps to—
- (a) obtain the information the designer or manufacturer is required to give under subsection (3) or (6); and
  - (b) give that information to any person to whom the importer supplies the plant.

Maximum penalty—60 penalty units.

- (8) A supplier of plant or a structure must take all reasonable steps to—
- (a) obtain the information the designer, manufacturer or importer is required to give under subsection (3), (6) or (7); and
  - (b) give that information to any person to whom the supplier supplies the plant.

Maximum penalty—60 penalty units.

## **Part 4.3                      Confined spaces**

### **Division 1                      Preliminary**

#### **62                      Confined spaces to which this part applies**

- (1) This part applies to confined spaces that—
  - (a) are entered by any person; or
  - (b) are intended or likely to be entered by any person; or
  - (c) could be entered inadvertently by any person.
- (2) In this part, a reference to a *confined space* in relation to a person conducting a business or undertaking is a reference to a confined space that is under the person's management or control.

#### **63                      Application to emergency service workers**

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

- (a) rescuing a person from the space; or
- (b) providing first aid to a person in the space.

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

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

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

- (2) A designer, manufacturer, importer or supplier of the plant or structure, and a person who installs or constructs the plant or structure, must ensure that—
- (a) the need for any person to enter the space and the risk of a person inadvertently entering the space are eliminated, so far as is reasonably practicable; or
  - (b) if it is not reasonably practicable to eliminate the need to enter the space or the risk of a person inadvertently entering the space—
    - (i) the need or risk is minimised so far as is reasonably practicable; and
    - (ii) the space is designed with a safe means of entry and exit; and
    - (iii) the risk to the health and safety of any person who enters the space is eliminated so far as is reasonably practicable or, if it is not reasonably practicable to eliminate the risk, the risk is minimised so far as is reasonably practicable.

*Note—*

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

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

### **65            Entry into confined space must comply with this division**

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

Maximum penalty—60 penalty units.

[s 66]

---

## **66 Managing risks to health and safety**

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

*Notes—*

1 WHS Act—section 19 (see section 9).

2 For general risk management requirements, see part 3.1.

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

Maximum penalty—36 penalty units.

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

Maximum penalty—

- (a) for an individual—12½ penalty units; or  
(b) for a body corporate—60 penalty units.

*Note—*

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

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

- (a) whether the work can be carried out without the need to enter the confined space; and  
(b) the nature of the confined space; and  
(c) if the hazard is associated with the concentration of oxygen or the concentration of airborne contaminants in the confined space—any change that may occur in that concentration; and

- 
- (d) the work required to be carried out in the confined space, the range of methods by which the work can be carried out and the proposed method of working; and
  - (e) the type of emergency procedures, including rescue procedures, required.
- (5) The person conducting a business or undertaking must ensure that a risk assessment under this section is reviewed and as necessary revised by a competent person to reflect any review and revision of control measures under part 3.1.

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

## **67 Confined space entry permit**

- (1) A person conducting a business or undertaking at a workplace must not direct a worker to enter a confined space to carry out work unless the person has issued a confined space entry permit for the work.

Maximum penalty—60 penalty units.

- (2) A confined space entry permit must—
- (a) be completed by a competent person; and
  - (b) be in writing; and
  - (c) state the following—
    - (i) the confined space to which the permit relates;
    - (ii) the names of persons permitted to enter the space;
    - (iii) the period of time during which the work in the space will be carried out;
    - (iv) measures to control risk associated with the proposed work in the space; and
  - (d) contain space for an acknowledgement that work in the confined space has been completed and that all persons have left the confined space.

[s 68]

---

- (3) The control measures stated in a confined space permit must—
  - (a) be based on a risk assessment conducted under section 66; and
  - (b) include—
    - (i) control measures to be implemented for safe entry; and
    - (ii) details of the system of work provided under section 69.
- (4) The person conducting a business or undertaking must ensure that, when the work for which the entry permit was issued is completed—
  - (a) all workers leave the confined space; and
  - (b) the acknowledgement mentioned in subsection (2)(d) is completed by the competent person.

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

## **68 Signage**

- (1) A person conducting a business or undertaking must ensure that signs that comply with subsection (2) are erected—
  - (a) immediately before work in a confined space commences and while the work is being carried out; and
  - (b) while work is being carried out in preparation for, and in the completion of, work in a confined space.

Maximum penalty—36 penalty units.

- (2) The signs must—
  - (a) identify the confined space; and
  - (b) inform workers that they must not enter the space unless they have a confined space entry permit; and
  - (c) be clear and prominently located next to each entry to the space.

---

**69 Communication and safety monitoring**

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

- (a) continuous communication with the worker from outside the space; and
- (b) monitoring of conditions within the space by a standby person who is in the vicinity of the space and, if practicable, observing the work being carried out.

Maximum penalty—60 penalty units.

**70 Specific control—connected plant and services**

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

- (a) the introduction of any substance or condition into the space from or by any plant or services connected to the space;
- (b) the activation or energising in any way of any plant or services connected to the space.

Maximum penalty—36 penalty units.

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

Maximum penalty—36 penalty units.

**71 Specific control—atmosphere**

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

[s 72]

---

- (a) purging or ventilation of any contaminant in the atmosphere of the space is carried out, so far as is reasonably practicable; and
- (b) pure oxygen or gas mixtures with oxygen in a concentration exceeding 21% by volume are not used for purging or ventilation of any airborne contaminant in the space.

Maximum penalty—60 penalty units.

- (2) The person must ensure that, while work is being carried out in a confined space—
  - (a) the atmosphere of the space has a safe oxygen level; or
  - (b) if it is not reasonably practicable to comply with paragraph (a) and the atmosphere in the space has an oxygen level less than 19.5% by volume—any worker carrying out work in the space is provided with air supplied respiratory equipment.

Maximum penalty—60 penalty units.

- (3) In this section—

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

*Notes—*

- 1 Section 28 applies to the use of personal protective equipment, including the equipment provided under subsection (2).
- 2 Section 34 also applies to airborne contaminants.

## **72 Specific control—flammable gases and vapours**

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

Maximum penalty—60 penalty units.



- 
- (2) If it is not reasonably practicable to limit the atmospheric concentration of a flammable gas, vapour or mist in a confined space to less than 5% of its LEL and the atmospheric concentration of the flammable gas, vapour or mist in the space is—
- (a) equal to or greater than 5% but less than 10% of its LEL—the person must ensure that any worker is immediately removed from the space unless a suitably calibrated, continuous-monitoring flammable gas detector is used in the space; or
  - (b) equal to or greater than 10% of its LEL—the person must ensure that any worker is immediately removed from the space.

Maximum penalty—60 penalty units.

### **73 Specific control—fire and explosion**

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

Maximum penalty—60 penalty units.

### **74 Emergency procedures**

- (1) A person conducting a business or undertaking must—
- (a) establish first aid procedures and rescue procedures to be followed in the event of an emergency in a confined space; and
  - (b) ensure that the procedures are practised as necessary to ensure that they are efficient and effective.

Maximum penalty—60 penalty units.

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

[s 75]

---

Maximum penalty—60 penalty units.

- (3) The person must ensure, in relation to any confined space, that—
- (a) the entry and exit openings of the confined space are large enough to allow emergency access; and
  - (b) the entry and exit openings of the space are not obstructed; and
  - (c) plant, equipment and personal protective equipment provided for first aid or emergency rescue are maintained in good working order.

Maximum penalty—60 penalty units.

*Note—*

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

## **75 Personal protective equipment in emergencies**

- (1) This section applies in relation to a worker who is to enter a confined space in order to carry out first aid or rescue procedures in an emergency.
- (2) The person conducting the business or undertaking for which the worker is carrying out work must ensure that air supplied respiratory equipment is available for use by, and is provided to, the worker in an emergency in which—
- (a) the atmosphere in the confined space does not have a safe oxygen level; or
  - (b) the atmosphere in the space has a harmful concentration of an airborne contaminant; or
  - (c) there is a serious risk of the atmosphere in the space becoming affected in the way mentioned in paragraph (a) or (b) while the worker is in the space.

Maximum penalty—60 penalty units.

- 
- (3) The person conducting the business or undertaking for which the worker is carrying out work must ensure that suitable personal protective equipment is available for use by, and is provided to, the worker in an emergency in which—
- (a) an engulfment has occurred inside the confined space; or
  - (b) there is a serious risk of an engulfment occurring while the worker is in the space.

Maximum penalty—60 penalty units.

*Note—*

Section 28 applies to the use of personal protective equipment, including the equipment provided under this section.

## **76 Information, training and instruction for workers**

- (1) A person conducting a business or undertaking must ensure that relevant workers are provided with suitable and adequate information, training and instruction in relation to the following—
- (a) the nature of all hazards relating to a confined space;
  - (b) the need for, and the appropriate use of, control measures to control risks to health and safety associated with those hazards;
  - (c) the selection, fit, use, wearing, testing, storage and maintenance of any personal protective equipment;
  - (d) the contents of any confined space entry permit that may be issued in relation to work carried out by the worker in a confined space;
  - (e) emergency procedures.

Maximum penalty—60 penalty units.

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

Maximum penalty—

[s 77]

---

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- (3) In this section—

*relevant worker* means—

- (a) a worker who, in carrying out work for the business or undertaking, could—
  - (i) enter or work in a confined space; or
  - (ii) carry out any function in relation to work in a confined space or the emergency procedures established under section 74, but who is not required to enter the space; or
- (b) any person supervising a worker mentioned in paragraph (a).

## **77 Confined space entry permit and risk assessment must be kept**

- (1) This section applies if a person conducting a business or undertaking—
  - (a) prepares a risk assessment under section 66; or
  - (b) issues a confined space entry permit under section 67.
- (2) Subject to subsection (3), the person must keep—
  - (a) a copy of the risk assessment until at least 28 days after the work to which it relates is completed; and
  - (b) a copy of the confined space entry permit at least until the work to which it relates is completed.

Maximum penalty—

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

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

*Note—*

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

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

Maximum penalty—

- (a) for an individual—12½ penalty units; or  
(b) for a body corporate—60 penalty units.

*Note—*

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

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

Maximum penalty—

- (a) for an individual—12½ penalty units; or  
(b) for a body corporate—60 penalty units.

*Note—*

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

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

Maximum penalty—36 penalty units.

## Part 4.4 Falls

### 78 Management of risk of fall

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

*Notes—*

- 1 WHS Act—section 19 (see section 9).
  - 2 For general risk management requirements, see part 3.1.
- (2) Subsection (1) includes the risk of a fall—
- (a) in or on an elevated workplace from which a person could fall; or
  - (b) in the vicinity of an opening through which a person could fall; or
  - (c) in the vicinity of an edge over which a person could fall; or
  - (d) on a surface through which a person could fall; or
  - (e) in any other place from which a person could fall.
- (3) A person conducting a business or undertaking must ensure, so far as is reasonably practicable, that any work that involves the risk of a fall to which subsection (1) applies is carried out on the ground or on a solid construction.

Maximum penalty—60 penalty units.

- (4) A person conducting a business or undertaking must provide safe means of access to and exit from—
- (a) the workplace; and
  - (b) any area within the workplace mentioned in subsection (2).

Maximum penalty—60 penalty units.

(5) In this section—

*solid construction* means an area that has—

- (a) a surface that is structurally capable of supporting all persons and things that may be located or placed on it; and
- (b) barriers around its perimeter and any openings to prevent a fall; and
- (c) an even and readily negotiable surface and gradient; and
- (d) a safe means of entry and exit.

## **79 Specific requirements to minimise risk of fall**

- (1) This section applies if it is not reasonably practicable for the person conducting a business or undertaking at a workplace to eliminate the risk of a fall to which section 78 applies.
- (2) The person conducting the business or undertaking at a workplace must minimise the risk of a fall by providing adequate protection against the risk under this section.

Maximum penalty—60 penalty units.

- (3) The person provides adequate protection against the risk if the person provides and maintains a safe system of work, including by—
  - (a) providing a fall prevention device if it is reasonably practicable to do so; or
  - (b) if it is not reasonably practicable to provide a fall prevention device, providing a work positioning system; or
  - (c) if it is not reasonably practicable to comply with either paragraph (a) or (b), providing a fall arrest system, so far as is reasonably practicable.

*Examples of a safe system of work could include—*

- providing temporary work platforms

[s 80]

---

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

*Note—*

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

- (4) This section does not apply in relation to the following work—
- (a) the performance of stunt work;
  - (b) the performance of acrobatics;
  - (c) a theatrical performance;
  - (d) a sporting or athletic activity;
  - (e) horse riding.

*Note—*

Section 20 applies to the management of risk in relation to this work.

- (5) In this section—
- fall prevention device*** includes—
- (a) a secure fence; and
  - (b) edge protection; and
  - (c) working platforms; and
  - (d) covers.

*Note—*

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

## **80 Emergency and rescue procedures**

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



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

Maximum penalty—60 penalty units.

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

Maximum penalty—60 penalty units.

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

Maximum penalty—60 penalty units.

- (5) In this section—

*relevant worker* means—

- (a) a worker who, in carrying out work in the business or undertaking, uses or is to use a fall arrest system; and
- (b) a worker who may be involved in initiating or implementing the emergency procedures.

## **Part 4.5 High risk work**

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

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

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

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

[s 82]

---

*Notes—*

- 1 See section 43 of the Act.
- 2 Schedule 3 sets out the high risk licences and classes of high risk work that are within the scope of each licence. Schedule 4 sets out the qualifications required for a high risk work licence.

## **82 Exceptions**

- (1) A person who carries out high risk work in either of 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 the high risk work; and
    - (ii) under the supervision of a person who is licensed to carry out the high risk work;
  - (b) work carried out by a person who, having applied for a licence to carry out the high risk work on the basis of a certification, is awaiting a decision on that application.
- (2) A person who carries out high risk work involving plant is not required to be licensed if—
  - (a) the work is carried out at a workplace solely for the purpose of the manufacture, testing, trialling, installation, commissioning, maintenance, servicing, repair, alteration, demolition or disposal of the plant at that workplace or moving the plant within the workplace; and
  - (b) the plant is operated or used without a load except when standard weight loads with predetermined fixing points are used for calibration of the plant.
- (3) For subsection (2)(a), moving does not include loading plant onto, or unloading plant from, the vehicle or equipment used to move the plant.

- 
- (4) A person who carries out high risk work with a crane or hoist is not required to be licensed as a crane operator if—
- (a) the work is limited to setting up or dismantling the crane or hoist; and
  - (b) the person carrying out the work holds a licence in relation to rigging, which qualifies the person to carry out the work.

*Note—*

See schedule 3 for the classes of crane operator licence.

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

### **83 Recognition of high risk work licences in other jurisdictions**

- (1) In this subdivision, a reference to a high risk work licence includes a reference to an equivalent licence—
- (a) that was issued under a corresponding WHS law; and
  - (b) that is being used in accordance with the terms and conditions under which it was granted.
- (2) Subsection (1) does not apply to a licence that is suspended or cancelled or has expired in the corresponding jurisdiction.

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

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

Maximum penalty—60 penalty units.

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

[s 85]

---

- (a) the nature or circumstances of a particular task make direct supervision impracticable or unnecessary; and
  - (b) the reduced level of supervision will not place the health or safety of the supervised person or any other person at risk.
- (3) In this section—
- direct supervision* of a person means the oversight by the supervising person of the work of that person for the purposes of—
- (a) directing, demonstrating, monitoring and checking the person's work in a way that is appropriate to the person's level of competency; and
  - (b) ensuring a capacity to respond in an emergency situation.

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

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

Maximum penalty—36 penalty units.

- (2) A person conducting a business or undertaking at a workplace must not direct or allow a worker to carry out high risk work mentioned in section 82(1) unless the person sees written evidence provided by the worker that the worker—
- (a) is undertaking the course of training mentioned in section 82(1)(a)(i); or
  - (b) has applied for the relevant licence and holds the certification mentioned in section 82(1)(b).

Maximum penalty—36 penalty units.

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

Maximum penalty—36 penalty units.

- (4) A person conducting a business or undertaking at a workplace must keep the written evidence given to the person—
- (a) under subsection (1) or (2)—for at least 1 year after the high risk work is carried out;
  - (b) under subsection (3)—for at least 1 year after the last occasion on which the worker performs the supervision work.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

## **Subdivision 2      Licensing process**

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

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

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

- (1) An application for a high risk work licence must be made in the way and in the form approved by the regulator.
- (2) The application must include the following information—
  - (a) the applicant's name and residential address;

[s 87]

---

- (b) evidence of the applicant's identity;
- (c) evidence of the applicant's age;
- (d) a recent photograph of the applicant;
- (e) the class of high risk work licence to which the application relates;
- (f) a copy of a certification—
  - (i) that is held by the applicant in relation to the VET course, or each of the VET courses, set out in schedule 4 in relation to the high risk licence applied for; and
  - (ii) that was issued not more than 60 days before the application is made;
- (g) a declaration that the applicant does not hold an equivalent licence granted by a corresponding regulator under a corresponding WHS law;
- (h) a declaration as to whether or not the applicant has any relevant WHS conviction;
- (i) details of any relevant WHS conviction declared under paragraph (h);
- (j) a declaration as to whether or not the applicant has entered into an enforceable undertaking under a relevant WHS law;
- (k) details of any enforceable undertaking declared under paragraph (j);
- (l) if the applicant has previously been refused an equivalent licence under a relevant WHS law, a declaration giving details of that refusal;
- (m) if the applicant has previously held an equivalent licence under a relevant WHS law, a declaration—
  - (i) describing any condition imposed on that licence; and

- 
- (ii) stating whether or not that licence had been suspended or cancelled and, if so, whether or not the applicant had been disqualified from applying for a similar licence; and
  - (iii) giving details of any suspension, cancellation or disqualification;
  - (n) a declaration that the information contained in the application is, to the best of the applicant's knowledge, true and correct.
- (3) The application must be accompanied by the relevant fee.

## **88 Additional information**

- (1) If an application for a high risk work licence does not contain sufficient information to enable the regulator to make a decision whether or not to grant the licence, the regulator may ask the applicant to provide additional information.
- (2) A request for additional information must—
  - (a) state the date (not being less than 28 days after the request) by which the additional information is to be given; and
  - (b) be confirmed in writing.
- (3) If an applicant does not provide the additional information by the date stated, the application is to be taken to have been withdrawn.
- (4) The regulator may make more than one request for additional information under this section.

## **89 Decision on application**

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

[s 89]

---

- (a) the application has been made under this regulation;
  - (b) the applicant does not hold an equivalent licence under a corresponding WHS law unless that licence is due for renewal;
  - (c) the applicant—
    - (i) resides in Queensland; or
    - (ii) resides outside Queensland and circumstances exist that justify the grant of the licence;
  - (d) the applicant is at least 18 years of age;
  - (e) the applicant has provided the certification required under section 87(2)(f);
  - (f) the applicant is able to carry out the work to which the licence relates safely and competently.
- (3) The regulator must refuse to grant a high risk work licence if satisfied that—
- (a) the applicant is disqualified under a corresponding WHS law from holding an equivalent licence; or
  - (b) the applicant, in making the application, has—
    - (i) given information that is false or misleading in a material particular; or
    - (ii) failed to give any material information that should have been given.
- (4) If the regulator decides to grant the licence, it must notify the applicant within 14 days after making the decision.
- (5) If the regulator does not make a decision within 120 days after receiving the application or the additional information requested under section 88, the regulator is taken to have refused to grant the licence applied for.

*Note—*

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



---

**90 Matters to be taken into account**

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

- (a) any relevant WHS conviction of the applicant;
- (b) the cancellation or suspension of any equivalent licence held by the applicant, or any refusal to issue an equivalent licence to the applicant, under a relevant WHS law;
- (c) any enforceable undertaking the applicant has entered into under a relevant WHS law;
- (d) the applicant's record in relation to any matters arising under a relevant WHS law.

**91 Refusal to grant high risk work licence—process**

- (1) If the regulator proposes to refuse to grant a licence, the regulator must provide a written notice to the applicant—
  - (a) informing the applicant of the reasons for the proposed refusal; and
  - (b) advising the applicant that the applicant may, by a stated date (being not less than 28 days after giving the notice), make a submission to the regulator in relation to the proposed refusal.
- (2) After the date stated under subsection (1)(b), the regulator must—
  - (a) if the applicant has made a submission in relation to the proposed refusal to grant the licence—consider that submission; and
  - (b) whether or not the applicant has made a submission, decide whether to grant or refuse to grant the licence; and
  - (c) within 14 days after making that decision, give the applicant written notice of the decision, including the reasons for the decision.

[s 92]

---

*Note—*

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

## **92 Duration of licence**

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

## **93 Licence document**

- (1) If the regulator grants a high risk work licence, the regulator must issue to the applicant a licence document in the form approved by the regulator.
- (2) The licence document must include—
  - (a) the name of the licence holder; and
  - (b) a photograph of the licence holder; and
  - (c) the date of birth of the licence holder; and
  - (d) a copy of the signature of the licence holder or provision for the inclusion of a copy signature; and
  - (e) the class of high risk work licence and a description of the work within the scope of the licence; and
  - (f) the date on which the licence was granted; and
  - (g) the expiry date of the licence.
- (3) For subsection (2)(e), if the regulator grants more than one class of high risk work licence to a person, the licence document must contain a description of each class of licence and the work that is within the scope of each licence.
- (4) If a licence holder holds more than one high risk work licence, the regulator may issue to the licence holder one licence document in relation to some or all those licences.

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

#### **94 Licence document to be available**

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

Maximum penalty—12½ penalty units.

- (2) Subsection (1) does not apply if the licence document is not in the licence holder's possession because—
- (a) it has been returned to the regulator under section 97; or
  - (b) the licence holder has applied for, but has not received, a replacement licence document under section 98.

#### **95 Reassessment of competency of licence holder**

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

*Examples—*

- 1 The training or competency assessment of the licence holder did not meet the standard required to hold the licence.
- 2 The regulator receives information that the licence holder has carried out high risk work incompetently.

### **Subdivision 3      Amendment of licence document**

#### **96      Notice of change of address**

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

Maximum penalty—12½ penalty units.

#### **97      Licence holder to return licence**

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

Maximum penalty—12½ penalty units.

#### **98      Replacement licence document**

- (1) A licence holder must give written notice to the regulator as soon as practicable if the licence document is lost, stolen or destroyed.

Maximum penalty—12½ penalty units.

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

*Note—*

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

- (3) The application must be made in the form and manner required by the regulator.
- (4) The application must include—
  - (a) a declaration describing the circumstances in which the original document was lost, stolen or destroyed; and

- 
- (b) a declaration that the information contained in the application is, to the best of the applicant's knowledge, true and correct; and
  - (c) the relevant fee.
- (5) The regulator must issue a replacement licence document if satisfied that the original document was lost, stolen or destroyed.
- (6) If the regulator refuses to issue a replacement licence document, it must give the licence holder written notice of this decision, including the reasons for the decision, within 14 days after making the decision.

*Note—*

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

## **99 Voluntary surrender of licence**

- (1) A licence holder may voluntarily surrender the licence document to the regulator.
- (2) The licence expires on the surrender of the licence document.

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

### **100 Regulator may renew licence**

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

### **101 Application for renewal**

- (1) An application for renewal of a high risk work licence must be made in the way and in the form approved by the regulator.
- (2) The application must include the following information—
  - (a) the name and residential address of the applicant;

[s 102]

---

- (b) evidence of the applicant's identity;
  - (c) a recent photograph of the applicant;
  - (d) a declaration by the applicant that he or she has maintained his or her competency to carry out the high risk work.
- (3) The application must be accompanied by the relevant fee.
- (4) The application must be made before the expiry of the licence.

### **102 Licence continues in force until application is decided**

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

### **103 Renewal of expired licence**

- (1) A person whose high risk work licence has expired may apply for a renewal of that licence—
- (a) within 12 months after the expiry of the licence; or
  - (b) if the person satisfies the regulator that exceptional circumstances exist—within any longer period that the regulator allows.
- (2) An application under subsection (1) must include a declaration that the information contained in the application is, to the best of the applicant's knowledge, true and correct.

*Note—*

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

---

## **104 Provisions relating to renewal of licence**

- (1) For this subdivision—
  - (a) section 88 applies as if a reference in that section to an application for a licence were a reference to an application to renew a licence; and
  - (b) sections 89 (except subsection (5)), 90 and 92 apply as if a reference in section 89 to the grant of a licence were a reference to the renewal of a licence; and
  - (c) section 91 applies as if a reference in that section to a refusal to grant a licence were a reference to a refusal to renew a licence.
- (2) The regulator may renew a high risk work licence granted to a person under a corresponding WHS law unless that licence is renewed under that law.

*Note—*

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

## **105 Status of licence during review**

- (1) This section applies if the regulator gives a licence holder written notice of its decision to refuse to renew the licence.
- (2) If the licence holder does not apply for internal review of the decision, the licence continues to have effect until the last of the following events—
  - (a) the expiry of the licence;
  - (b) the end of the period for applying for an internal review.
- (3) If the licence holder applies for an internal review of the decision, the licence continues to have effect until the earlier of the following events—
  - (a) the licence holder withdraws the application for review;
  - (b) the regulator makes a decision on the review.

[s 106]

---

- (4) If the licence holder does not apply for an external review, the licence continues to have effect until the end of the time for applying for an external review.
- (5) If the licence holder applies for an external review, the licence continues to have effect until the earlier of the following events—
  - (a) the licence holder withdraws the application for review; or
  - (b) QCAT makes a decision on the review.
- (6) The licence continues to have effect under this section even if its expiry date passes.

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

### **106      Suspension or cancellation of licence**

- (1) The regulator may suspend or cancel a high risk work licence if satisfied that—
  - (a) the licence holder has failed to take reasonable care to carry out the high risk work safely and competently; or
  - (b) the licence holder, in the application for the grant or renewal of the licence or on request by the regulator for additional information—
    - (i) gave information that was false or misleading in a material particular; or
    - (ii) failed to give any material information that should have been given in that application or on that request; or
  - (c) the licence was granted or renewed on the basis of a certification that was obtained on the basis of the giving of false or misleading information by any person or body or that was obtained improperly through a breach



---

of a condition of accreditation by the accredited assessor who conducted the competency assessment.

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

*Note—*

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

### **107 Notice to and submissions 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 and any proposed disqualification that outlines all relevant allegations, facts and circumstances known to the regulator; and
- (b) give the licence holder not less than 28 days to make submissions to the regulator in relation to the proposed suspension or cancellation and any proposed disqualification.

### **108 Matters taken into account**

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

[s 109]

---

- (a) any submissions made by the licence holder under section 107; and
  - (b) any advice received from a corresponding regulator.
- (2) For section 106(1)(a) and (b), the regulator must have regard to any relevant matter, including the following—
- (a) any relevant WHS conviction of the licence holder;
  - (b) any suspension or cancellation of an equivalent licence held by the licence holder, or a refusal to issue an equivalent licence to the licence holder, under a relevant WHS law;
  - (c) any enforceable undertaking that has been entered into by the licence holder has entered into under a relevant WHS law;
  - (d) the licence holder's record in relation to any matters arising under a relevant WHS law.

## **109 Notice of decision**

- (1) The regulator must give the licence holder written notice of a decision under section 106 to cancel or suspend a high risk work licence within 14 days after making the decision.
- (2) The notice must—
  - (a) state that the licence is to be suspended or cancelled; and
  - (b) if the licence is to be suspended, state—
    - (i) when the suspension begins and ends; and
    - (ii) the reasons for the suspension; and
    - (iii) whether the licence holder is required to undergo retraining before the suspension ends; and
    - (iv) whether or not the licence holder is disqualified from applying for a further licence during the period of suspension; and

- (c) if the licence is to be cancelled, state—
  - (i) when the cancellation takes effect; and
  - (ii) the reasons for the cancellation; and
  - (iii) whether or not the licence holder is disqualified from applying for a further licence; and
- (d) if the licence holder is to be disqualified from applying for a further licence, state—
  - (i) when the disqualification begins and ends; and
  - (ii) whether or not the disqualification ending is conditional upon the licence holder undergoing retraining or reassessment or taking any other action; and
  - (iii) the reasons for the disqualification; and
  - (iv) any class of high risk work licence or other licence under this regulation that the licence holder must not apply for during the period of suspension or disqualification; and
- (e) state when the licence document must be returned to the regulator.

## **110 Immediate suspension**

- (1) The regulator may suspend a high risk work licence on a ground mentioned in section 106 without giving notice under section 109 if satisfied that—
  - (a) work carried out under the high risk work licence should cease because the work may involve an imminent serious risk to the health or safety of any person; or
  - (b) a corresponding regulator has suspended an equivalent licence held by the licence holder under this section as applying in the corresponding jurisdiction.
- (2) If the regulator decides to suspend a licence under this section—

[s 111]

---

- (a) the regulator must give the licence holder written notice of the suspension and the reasons for the suspension; and
  - (b) the suspension of the licence takes effect on the giving of the notice.
- (3) The regulator must then give notice under section 107 within 14 days after giving the notice under subsection (2).
- (4) If the regulator does not give notice under subsection (3), the suspension ends at the end of the 14 day period.
- (5) If the regulator gives the notice under section 107, the licence remains suspended until the decision is made under section 106.

#### **111 Licence holder to return licence document**

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

Maximum penalty—12<sup>1</sup>/<sub>2</sub> penalty units.

#### **112 Regulator to return licence document after suspension**

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

### **Division 2 Accreditation of assessors**

#### **Subdivision 1 Requirement to be accredited**

#### **113 Accreditation required to assess competency for high risk work licence**

A person who is not an accredited assessor must not—

- (a) conduct a competency assessment; or
- (b) issue a notice of satisfactory assessment; or
- (c) in any other way hold himself or herself out to be an accredited assessor.

*Note—*

See section 43 of the Act.

#### **114 Accredited assessor must act in accordance with accreditation**

- (1) An accredited assessor must not conduct a competency assessment unless—
  - (a) the competency assessment relates to a class of high risk work for which the assessor is accredited; and
  - (b) the accredited assessor conducts the competency assessment for or on behalf of an RTO.
- (2) An accredited assessor must not issue a notice of satisfactory assessment unless the competency assessment relates to a class of high risk work for which the assessor is accredited.
- (3) An accredited assessor who conducts a competency assessment must do so in accordance with the conditions of accreditation imposed under sections 121.
- (4) An accredited assessor who issues a notice of satisfactory assessment must do so in accordance with the conditions of accreditation imposed under sections 121.
- (5) Subsections (1) to (4) do not apply if the regulator is the accredited assessor.

*Note—*

See section 43 of the Act.

## **Subdivision 2      Accreditation process**

### **115      Regulator may accredit assessors**

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

### **116      Application for accreditation**

- (1) An application for accreditation must be made in the way and in the form approved by the regulator.
- (2) The application must include the following information—
  - (a) the name and address of the applicant;
  - (b) evidence of the applicant's identity;
  - (c) details of the class of high risk work to which the application relates;
  - (d) evidence that the applicant is qualified to conduct the type of competency assessment in relation to the class of high risk work to which the application relates;
  - (e) details of any current equivalent accreditation under a corresponding WHS law;
  - (f) a declaration as to whether or not the applicant has any relevant WHS conviction;
  - (g) details of any relevant WHS conviction declared under paragraph (f);
  - (h) a declaration as to whether or not the applicant has entered into an enforceable undertaking under a relevant WHS law;
  - (i) details of any enforceable undertaking declared under paragraph (h);
  - (j) if the applicant has previously been refused an equivalent accreditation under a relevant WHS law, a declaration giving details of that refusal;

- 
- (k) if the applicant has previously held an equivalent accreditation under a relevant WHS law, a declaration—
    - (i) describing any condition imposed on that accreditation; and
    - (ii) stating whether or not that accreditation had been suspended or cancelled and, if so, whether or not the applicant had been disqualified from applying for a similar accreditation; and
    - (iii) giving details of any suspension, cancellation or disqualification;
  - (l) a declaration that the information contained in the application is, to the best of the applicant's knowledge, true and correct.
- (3) The application must be accompanied by the relevant fee.

### **117 Additional information**

- (1) If an application for accreditation does not contain sufficient information to enable the regulator to make a decision whether or not to grant the accreditation, the regulator may ask the applicant to provide additional information.
- (2) A request for additional information must—
  - (a) state the date (being not less than 28 days after the request) by which the additional information is to be given; and
  - (b) be confirmed in writing.
- (3) If an applicant does not provide the additional information by the date specified, the application is taken to have been withdrawn.
- (4) The regulator may make more than one request for additional information under this section.

[s 118]

---

## 118 Decision on application

- (1) Subject to subsection (3), the regulator must grant an accreditation if satisfied about the matters mentioned in subsection (2).
- (2) The regulator must be satisfied about the following—
  - (a) the applicant—
    - (i) is qualified to conduct the competency assessment to which the application relates; and
    - (ii) is able to conduct the competency assessment to which the application relates competently; and
    - (iii) is able to ensure compliance with any conditions that will apply to the accreditation; or
  - (b) the applicant holds a current equivalent accreditation under a corresponding WHS law.
- (3) The regulator must refuse to grant an accreditation if satisfied that—
  - (a) the applicant is disqualified under a corresponding WHS law from holding an equivalent accreditation; or
  - (b) the applicant, in making the application, has—
    - (i) given information that is false or misleading in a material particular; or
    - (ii) failed to give any material information that should have been given.
- (4) If the regulator decides to grant the accreditation, it must notify the applicant within 14 days after making the decision.
- (5) If the regulator does not make a decision within 120 days after receiving the application or the additional information requested under section 117, the regulator is taken to have refused to grant the accreditation applied for.
- (6) For subsection (2)(a)(i), an applicant is *qualified* to provide the competency assessment if—



- 
- (a) the applicant's competencies, skills and knowledge are in accordance with the *Standards for NVR Registered Training Organisations 2011* published by the Commonwealth; and
  - (b) the applicant holds a current high risk work licence for the class of high risk work to which the competency assessment relates.

*Note—*

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

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

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

- (a) any relevant WHS conviction of the applicant;
- (b) the cancellation or suspension of any equivalent accreditation held by the applicant, or any refusal to issue an equivalent accreditation to the applicant, under a relevant WHS law;
- (c) any enforceable undertaking the applicant has entered into under a relevant WHS law;
- (d) the applicant's record in relation to any matters arising under a relevant WHS law.

## **120 Refusal to grant accreditation—process**

- (1) If the regulator proposes to refuse to grant an accreditation, the regulator must provide a written notice to the applicant—
  - (a) informing the applicant of the reasons for the proposed refusal; and
  - (b) advising the applicant that the applicant may by a stated date (being not less than 28 days after the notice is

[s 121]

---

given), make a submission to the regulator in relation to the proposed refusal.

- (2) After the date stated in a notice under subsection (1)(b), the regulator must—
  - (a) if the applicant has made a submission in relation to the proposed refusal to grant the accreditation—consider that submission; and
  - (b) whether or not the applicant has made a submission, decide whether to grant or refuse to grant the accreditation; and
  - (c) within 14 days after making that decision, give the applicant written notice of the decision, including the reasons for the decision.

*Notes—*

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

## **121 Conditions of accreditation**

- (1) In granting an accreditation, the regulator may impose conditions on the accreditation.
- (2) Without limiting subsection (1), the regulator may impose conditions—
  - (a) relating to the competency assessments and assessment activities that may be carried out; and
  - (b) relating to the circumstances in which competency assessments or assessment activities may be carried out; and
  - (c) requiring the accredited assessor to keep stated information; and
  - (d) requiring the accredited assessor to give stated information to the regulator.

*Notes—*

- 1 A person must comply with the conditions of accreditation, see section 45 of the Act.
- 2 A decision to impose a condition on an accreditation is a reviewable decision, see section 676.

## **122 Duration of accreditation**

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

## **123 Accreditation document**

- (1) If the regulator grants an accreditation, it must issue to the applicant an accreditation document in the form approved by the regulator.
- (2) An accreditation document must include—
  - (a) the name of the accredited assessor; and
  - (b) the class of high risk work to which the accreditation relates; and
  - (c) any conditions imposed by the regulator under section 121; and
  - (d) the expiry date of the accreditation.
- (3) If an assessor is accredited to conduct a competency assessment in relation to more than one class of high risk work, the regulator may issue to the accredited assessor one accreditation document in relation to some or all of those classes of high risk work.
- (4) If 2 or more of the classes of high risk work mentioned in subsection (3) represent levels of the same type of work, it is sufficient if the accreditation document contains a description of the class of work that represents the highest level.

[s 124]

---

## **124 Accreditation document to be available**

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

Maximum penalty—12½ penalty units.

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

Maximum penalty—12½ penalty units.

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

- (a) it has been returned to the regulator under section 126;  
or  
(b) the accreditation assessor has applied for, but has not received, a replacement accreditation document under section 127.

## **Subdivision 3 Amendment of accreditation document**

### **125 Changes to information**

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

Maximum penalty—12½ penalty units.

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

---

## 126 Accredited assessor to return accreditation document

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

Maximum penalty—12½ penalty units.

## 127 Replacement accreditation document

- (1) An accredited assessor must give written notice to the regulator as soon as practicable if the accreditation document is lost, stolen or destroyed.

Maximum penalty—12½ penalty units.

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

*Note—*

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

- (3) The application must be made in the form and manner required by the regulator.
- (4) The application must include—
- (a) a declaration describing the circumstances in which the original document was lost, stolen or destroyed; and
  - (b) a declaration that the information contained in the application is, to the best of the applicant's knowledge, true and correct; and
  - (c) the relevant fee.
- (5) The regulator must issue a replacement accreditation document if satisfied that the original document was lost, stolen or destroyed.
- (6) If the regulator refuses to issue a replacement accreditation document, it must give the accredited assessor written notice

[s 128]

---

of this decision, including the reasons for the decision, within 14 days after making the decision.

*Note—*

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

## **128 Voluntary surrender of accreditation**

- (1) An accredited assessor may voluntarily surrender the accreditation document to the regulator.
- (2) The accreditation expires on the surrender of the accreditation document.

## **Subdivision 4 Renewal of accreditation**

### **129 Regulator may renew accreditation**

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

### **130 Application for renewal**

- (1) An application for renewal of accreditation must be made in the way and in the form approved by the regulator.
- (2) An application must—
  - (a) include the information mentioned in section 116(2); and
  - (b) be accompanied by the relevant fee.
- (3) The application must be made before the expiry of the accreditation.

---

**131 Accreditation continues in force until application is decided**

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

**132 Provisions relating to application**

For this division—

- (a) section 116 applies as if a reference in that section to an application for accreditation were a reference to an application to renew an accreditation; and
- (b) sections 118 (except subsection (5)), 119 and 121 apply as if a reference in section 118 to the grant of an accreditation were a reference to the renewal of an accreditation; and
- (c) section 120 applies as if a reference in that section to a refusal to grant an accreditation were a reference to a refusal to renew an accreditation.

*Note—*

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

**Subdivision 5 Suspension and cancellation**

**133 Regulator may suspend or cancel accreditation**

- (1) The regulator may, under this division—
  - (a) suspend or cancel an accreditation; and
  - (b) if suspending an accreditation, vary the conditions of the accreditation, including by imposing different or additional conditions.

[s 134]

---

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

*Note—*

A decision under this section is a reviewable decision, see section 676.

### **134 Suspension or cancellation of accreditation**

- (1) The regulator may suspend or cancel an accreditation if satisfied about one or more of the following—
- (a) the accredited assessor is no longer qualified to conduct the competency assessment stated in the assessor's accreditation document;
  - (b) the accredited assessor is not able to conduct the competency assessment to which the accreditation relates competently;
  - (c) the accredited assessor has failed to comply with a condition imposed on the accreditation under section 121;
  - (d) the accredited assessor, in the application for the grant or renewal of accreditation or on request by the regulator for additional information—
    - (i) gave information that was false or misleading in a material particular; or
    - (ii) failed to give any material information that should have been given in that application or on that request.

- (2) In this section—

*qualified* has the same meaning in relation to an accredited assessor as it has in section 118 in relation to an applicant for accreditation.



---

### **135 Notice to and submissions by accredited assessor**

Before suspending or cancelling an accreditation, the regulator must—

- (a) give the accredited assessor a written notice of the proposed suspension or cancellation and any proposed variation of conditions of accreditation or disqualification that outlines all relevant allegations, facts and circumstances known to the regulator; and
- (b) give the accredited assessor not less than 28 days to make submissions to the regulator in relation to the proposed suspension or cancellation and any proposed variation of conditions or disqualification.

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

- (1) In making a decision under section 133, the regulator must have regard to—
  - (a) any submissions made by the accredited assessor under section 135; and
  - (b) any advice received from a corresponding regulator.
- (2) For section 134(1)(b) and (c), the regulator may have regard to any relevant matter, including the following—
  - (a) any relevant WHS conviction of the accredited assessor;
  - (b) any suspension or cancellation of an equivalent accreditation held by the accredited assessor, or a refusal to issue an equivalent accreditation to the accredited assessor under relevant WHS law;
  - (c) any suspension of a high risk work licence held by the accredited assessor under a relevant WHS law;
  - (d) any enforceable undertaking the accredited assessor has entered into under a relevant WHS law;
  - (e) the accredited assessor's record in relation to any matters arising under a relevant WHS law.

[s 137]

---

### **137 Notice of decision**

- (1) The regulator must give the accredited assessor written notice of a decision under section 134 to cancel or suspend the accreditation within 14 days after making the decision.
- (2) The notice must—
  - (a) state that the accreditation is to be suspended or cancelled; and
  - (b) if the accreditation is to be suspended, state—
    - (i) when the suspension begins and ends; and
    - (ii) the reasons for the suspension; and
    - (iii) whether or not the suspension ending is conditional upon the accredited assessor undergoing retraining or reassessment or taking any other action; and
    - (iv) whether any variation is to be made to the conditions of accreditation; and
  - (c) if the accreditation is to be cancelled, state—
    - (i) when the cancellation takes effect; and
    - (ii) the reasons for the cancellation; and
    - (iii) whether or not the accredited assessor is disqualified from applying for a further accreditation; and
  - (d) if the accredited assessor is to be disqualified from obtaining a further accreditation, state—
    - (i) when the disqualification begins and ends; and
    - (ii) the reasons for the disqualification; and
    - (iii) whether or not the disqualification ending is conditional upon the accredited assessor obtaining retraining or reassessment or taking any other action; and
  - (e) when the accreditation document must be returned to the regulator.

---

**138 Immediate suspension**

- (1) The regulator may suspend an accreditation on a ground mentioned in section 134 without giving notice under section 135 if satisfied that a person may be exposed to an imminent serious risk to his or her health or safety if the accreditation were not suspended.
- (2) If the regulator decides to suspend an accreditation under this section—
  - (a) the regulator must give the accredited assessor written notice of the suspension and the reasons for the suspension; and
  - (b) the suspension takes effect on the giving of the notice.
- (3) The regulator must then give the notice under section 135 within 14 days after giving the notice under subsection (2).
- (4) If the regulator does not give notice under subsection (2), the suspension ends at the end of the 14 day period.
- (5) If the regulator gives the notice under section 135, the accreditation remains suspended until the decision is made under section 134.

**139 Accredited assessor to return accreditation document**

An accredited assessor, on receiving a notice under section 137, must return the accreditation document to the regulator in accordance with that notice.

Maximum penalty—12½ penalty units.

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

The regulator must return the accreditation document to the accredited assessor within 14 days after the suspension ends.

## **Subdivision 5**

### **141 Subdivision and section number not used**

*See note to section 3.*

## **Part 4.6 Demolition work**

### **Division 1 Notice of demolition work**

#### **142 Notice of demolition work**

- (1) Subject to subsection (4), a person conducting a business or undertaking who proposes to carry out any of the following demolition work must ensure that written notice is given to the regulator under this section at least 5 days before the work commences—
- (a) demolition of a structure, or a part of a structure that is loadbearing or otherwise related to the physical integrity of the structure, that is at least 6m in height;
  - (b) demolition work involving load shifting machinery on a suspended floor;
  - (c) demolition work involving explosives.

Maximum penalty—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- 
- (2) The notice must be given in the way and in the form approved by the regulator.
  - (3) Subsection (4) applies to an emergency service organisation in relation to demolition work carried out by an emergency service worker who, at the direction of the emergency service organisation, is—
    - (a) rescuing a person; or
    - (b) providing first aid to a person.
  - (4) An emergency service organisation must give notice under subsection (1) as soon as practicable (whether before or after the work is carried out).
  - (5) In this section a reference to the height of a structure is a reference to the height of the structure measured from the lowest level of the ground immediately adjacent to the base of the structure at the point at which the height is to be measured to its highest point.

## **Division 2                      Licence to carry out demolition work**

### **143      Requirement to hold a licence to carry out demolition work**

- (1) A person conducting a business or undertaking that commissions demolition work to be carried out at a workplace must ensure that the demolition work is carried out in compliance with subsection (2).

Maximum penalty—40 penalty units.

- (2) A person must not carry out demolition work at a workplace unless the person, or the person on whose behalf the work is carried out, holds a licence to carry out demolition work.

Maximum penalty—40 penalty units.

[s 144]

---

- (3) A person who conducts a business or undertaking must not direct or allow a worker to carry out demolition work unless the person holds a licence to carry out demolition work.

Maximum penalty—40 penalty units.

**144 Nominated competent person must be present or readily available**

- (1) A person holding a licence to carry out demolition work must ensure that a person nominated to supervise the demolition work under section 144D is readily available to a worker carrying out demolition work whenever the work is being carried out.

Maximum penalty—60 penalty units.

- (2) A person holding a licence to carry out demolition work must provide appropriate training to a worker carrying out demolition work at a workplace to ensure that the work is carried out safely and competently.

Maximum penalty—60 penalty units.

**144A Recognition of licences to carry out demolition work issued in other jurisdictions**

- (1) In this division, a reference to a licence to carry out demolition work includes a reference to an equivalent licence—
- (a) that was issued by a corresponding regulator under a corresponding WHS law; and
  - (b) that is being used in accordance with the terms and conditions under which it was granted.
- (2) Subsection (1) does not apply to a licence that is suspended or cancelled or has expired in the corresponding jurisdiction.

---

## Division 3                      Licensing process

### 144B Who may apply for a licence

Only a person who conducts, or proposes to conduct, a business or undertaking may apply for a licence to carry out demolition work.

### 144C Application for licence to carry out demolition work

- (1) An application for a licence to carry out demolition work must be made in the way and in the form approved by the regulator.
- (2) The application must include the following information—
  - (a) the applicant's name and address;
  - (b) evidence of the applicant's identity;
  - (c) if required by the regulator of an applicant who is an individual, a recent photograph of the applicant;
  - (d) if the applicant conducts the business or undertaking under a business name—the business name and a certificate or other written evidence of the registration of the business name;
  - (e) a declaration that the applicant does not hold an equivalent licence under a corresponding WHS law;
  - (f) a declaration as to whether or not the applicant (and in the case of a body corporate, any officer of the body corporate) has any relevant WHS conviction;
  - (g) details of any relevant WHS conviction declared under paragraph (f);
  - (h) a declaration as to whether or not the applicant (and in the case of a body corporate, any officer of the body corporate) has any conviction for any offence against either of the following ACTs in relation to the unlawful disposal of hazardous waste—
    - (i) the *Environmental Protection Act 1994*;

[s 144C]

---

*Note—*

See sections 437 (Offences of causing serious environmental harm), 438 (Offences of causing material environmental harm) of that Act for examples of relevant provisions.

(ii) the *Waste Reduction and Recycling Act 2011*;

*Note—*

See sections 102 (General littering offence) and 103 (Illegal dumping of waste provisions) of that Act for examples of relevant provisions.

- (i) details of any conviction declared under paragraph (h);
- (j) a declaration as to whether or not the applicant (and in the case of a body corporate, any officer of the body corporate) has entered into an enforceable undertaking under a relevant WHS law;
- (k) details of any enforceable undertaking declared under paragraph (j);
- (l) if the applicant (and in the case of a body corporate, any officer of the body corporate) has previously been refused a similar licence under a relevant WHS law, a declaration giving details of that refusal;
- (m) if the applicant (and in the case of a body corporate, any officer of the body corporate) has previously held a similar licence under a relevant WHS law, a declaration—
  - (i) describing any condition imposed on that licence; and
  - (ii) stating whether or not that licence had been suspended or cancelled and, if so, whether or not the applicant (and in the case of a body corporate, any officer of the body corporate) had been disqualified from applying for a similar licence; and
  - (iii) giving details of any suspension, cancellation or disqualification;



- (n) the additional information and evidence mentioned in section 144D;
  - (o) evidence that the applicant meets the approved criteria stated in Information Paper D1 (Approved criteria for a certificate to carry out demolition work) issued by the regulator;
  - (p) a declaration that the information contained in the application is, to the best of the applicant's knowledge, true and correct.
- (3) The application must be accompanied by the relevant fee.

#### **144D Content of application**

- (1) For section 144C(2)(n), an application for a licence to carry out demolition work must include the following—
- (a) the names of 1 or more competent persons who have been engaged by the applicant to supervise the demolition work to be authorised by the licence;
  - (b) evidence, as required by the regulator, that each named supervisor is at least 18 years of age;
  - (c) evidence that each named supervisor meets the requirements stated in Information Paper D2 (Requirements to supervise demolition work) issued by the regulator.
- (2) If the applicant is an individual who proposes to supervise the demolition work, the information and evidence mentioned in subsection (1)(b) and (c) must relate to the applicant.

#### **144E Additional information**

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

[s 144F]

---

- (a) state the date (not being less than 28 days after the request) by which the additional information is to be given; and
  - (b) be confirmed in writing.
- (3) If an applicant does not provide the additional information by the date stated, the application is to be taken to have been withdrawn.
- (4) The regulator may make more than 1 request for additional information.

#### **144F Decision on application**

- (1) Subject to subsection (3), the regulator must grant a licence to carry out demolition work if satisfied about—
- (a) the matters mentioned in subsection (2); and
  - (b) the additional matters mentioned in section 144D.
- (2) The regulator must be satisfied about the following—
- (a) the application has been made as required under this regulation;
  - (b) the applicant does not hold an equivalent licence under a corresponding WHS law unless that licence is due for renewal;
  - (c) if the applicant is an individual, the applicant—
    - (i) resides in Queensland; or
    - (ii) resides outside Queensland and circumstances exist that justify the grant of the licence;
  - (d) if the applicant is a body corporate, the applicant's registered office—
    - (i) is located in Queensland; or
    - (ii) is located outside Queensland and circumstances exist that justify the grant of the licence;

- 
- (e) the applicant will be able to ensure that the work or other activities to which the licence relates are carried out safely and competently;
  - (f) the applicant will be able to ensure compliance with any conditions that will apply to the licence.
- (3) The regulator must refuse to grant a licence if satisfied that—
- (a) the applicant is disqualified under a corresponding WHS law from holding an equivalent licence; or
  - (b) the applicant, in making the application, has—
    - (i) given information that is false or misleading in a material particular; or
    - (ii) failed to give any material information that should have been given.
- (4) If the regulator decides to grant the licence, the regulator must notify the applicant within 14 days after making the decision.
- (5) If the regulator does not make a decision within 120 days after receiving the application or the additional information requested under section 149, the regulator is taken to have refused to grant the licence applied for.

*Note—*

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

#### **144G Regulator to be satisfied about additional matters**

For section 144F(1)(b), the regulator must be satisfied that each supervisor named by the applicant—

- (a) is at least 18 years of age; and
- (b) satisfies the requirements mentioned in section 144D(1)(c).

[s 144H]

---

## 144H Matters to be taken into account

For section 144F(2)(e) and (f), the regulator must have regard to all relevant matters including the following—

- (a) any relevant WHS conviction of the applicant (or in the case of a body corporate, any officer of the body corporate);
- (b) any offence in relation to the unlawful disposal of hazardous waste against either of the following Acts for which the applicant (or in the case of a body corporate, any officer of the body corporate) has a conviction—

- (i) the *Environmental Protection Act 1994*;

*Note—*

See sections 437 (Offences of causing serious environmental harm), 438 (Offences of causing material environmental harm) of that Act for examples of relevant provisions.

- (ii) the *Waste Reduction and Recycling Act 2011*;

*Note—*

See sections 102 (General littering offence) and 103 (Illegal dumping of waste provisions) of that Act for examples of relevant provisions.

- (c) the cancellation or suspension of any equivalent licence held by the applicant (or in the case of a body corporate, any officer of the body corporate), or any refusal to grant an equivalent licence to the applicant (or officer), under a relevant WHS law;
  - (d) any enforceable undertaking the applicant (or in the case of a body corporate, any officer of the body corporate) has entered into under a relevant WHS law;
  - (e) the record of applicant (or in the case of a body corporate, any officer of the body corporate) in relation to any matters arising under a relevant WHS law.

---

### **144I Refusal to grant licence—process**

- (1) If the regulator proposes to refuse to grant a licence, the regulator must provide a written notice to the applicant—
  - (a) informing the applicant of the reasons for the proposed refusal; and
  - (b) advising the applicant that the applicant may, by a stated date, being not less than 28 days after giving the notice, make a submission to the regulator in relation to the proposed refusal.
- (2) After the date stated under subsection (1)(b), the regulator must—
  - (a) if the applicant has made a submission in relation to the proposed refusal to grant the licence—consider that submission; and
  - (b) whether or not the applicant has made a submission—decide whether to grant or refuse to grant the licence; and
  - (c) within 14 days after making the decision—give the applicant written notice of the decision, including the reasons for the decision.

*Note—*

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

### **144J Conditions of licence**

- (1) The regulator may impose conditions on a licence to carry out demolition work when granting the licence.
- (2) Without limiting subsection (1), the regulator may impose conditions in relation to any of the following matters—
  - (a) control measures that must be implemented in relation to the carrying out of work or activities under the licence;
  - (b) the recording or keeping of information;

[s 144K]

---

- (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 section 676.

#### **144K Duration of licence**

Subject to this part, a licence to carry out demolition work takes effect on the day it is granted and, unless cancelled earlier, expires 2 years after that day.

#### **144L Licence document**

- (1) If the regulator grants a licence to carry out demolition work, the regulator must issue to the applicant a licence document in the form approved by the regulator.
- (2) The licence document must include—
  - (a) the name of the licence holder; and
  - (b) if the licence holder conducts the business or undertaking under a business name—that business name; and
  - (c) a description of the work within the scope of the licence; and
  - (d) any licence conditions imposed by the regulator; and

- (e) the day on which the licence was granted; and
- (f) the expiry day of the licence.

#### **144M Licence document to be available**

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

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- (2) Subsection (1) does not apply if the licence document is not in the licence holder's possession because—
  - (a) it has been returned to the regulator under section 144T; or
  - (b) the licence holder has applied for, but has not received, a replacement licence document under section 144U.

### **Division 4                      Amendment of licence document**

#### **144N Changes to information**

The holder of a licence to carry out demolition work must give the regulator written notice of any change to any material particular in any information given at any time by the licence holder to the regulator in relation to the licence within 14 days after the licence holder becomes aware of the change.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

[s 144O]

---

*Note—*

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

#### **144O Change to nominated supervisor**

- (1) If there is a change in relation to a supervisor named to the regulator by the holder of a licence to carry out demolition work, the licence holder must—
  - (a) if the change is to remove a supervisor—within 14 days after the change, ask the regulator to amend the licence under section 144Q to make that change; and
  - (b) if the change is to add a supervisor—give the regulator the information about the supervisor mentioned in section 144D.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- (2) If the change mentioned in subsection (1) is to add a supervisor, that supervisor is not a nominated supervisor for the purposes of this regulation until the regulator has approved the nomination.

#### **144P Amendment imposed by regulator**

- (1) The regulator may, on the regulator's own initiative, amend a licence to carry out demolition work, including amending the licence to—
  - (a) vary or delete a condition of the licence; or
  - (b) impose a new condition on the licence.



- 
- (2) If the regulator proposes to amend a licence under subsection (1), the regulator must provide a written notice to the licence holder—
- (a) informing the licence holder of the reasons for the proposed amendment; and
  - (b) advising the licence holder that the licence holder may, by a stated day, being not less than 28 days after giving the notice, make a submission to the regulator in relation to the proposed amendment.
- (3) After the day stated under subsection (2)(b), the regulator must—
- (a) if the licence holder has made a submission in relation to the proposed amendment, consider that submission; and
  - (b) whether or not the licence holder has made a submission—decide—
    - (i) to make the proposed amendment; or
    - (ii) not to make the proposed amendment; or
    - (iii) to make a different amendment that results from consideration of any submission made by the licence holder; and
  - (c) within 14 days after making that decision, give the licence holder written notice that—
    - (i) sets out the amendment; and
    - (ii) if a submission was made in relation to the proposed amendment—sets out the regulator’s reasons for making the amendment; and
    - (iii) states the day, being not less than the 28 days after the licence holder is given the notice, on which the amendment takes effect.

*Note—*

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

[s 144Q]

---

#### **144Q Amendment on application by licence holder**

- (1) The regulator may, on application by the licence holder, amend a licence to carry out demolition work, including amending the licence to vary or delete a condition of the licence.
- (2) If the regulator proposes to refuse to amend the licence under subsection (1), the regulator must provide a written notice to the licence holder—
  - (a) informing the licence holder of the intention to refuse to amend the licence and the reasons for the proposed refusal; and
  - (b) advising the licence holder that the licence holder may, by a stated date, being not less than 28 days after giving the notice, make a submission to the regulator in relation to the proposed refusal.
- (3) After the day stated under subsection (2)(b), the regulator must—
  - (a) if the licence holder has made a submission in relation to the proposed refusal—consider that submission; and
  - (b) whether or not the licence holder has made a submission—decide to—
    - (i) make the amendment; or
    - (ii) refuse to make the amendment; or
    - (iii) make a different amendment that results from consideration of any submission made by the licence holder; and
  - (c) within 14 days after making that decision, give the licence holder written notice of the decision under this section.
- (4) If the regulator makes the amendment, the notice under subsection (3) must state the day, being not less than 28 days after the licence holder is given the decision notice, on which the amendment takes effect.

- 
- (5) If the regulator refuses to make the amendment or makes a different amendment, the notice under subsection (3) must—
- (a) if a submission was made in relation to the proposed amendment—set out the reasons for the regulator's decision; and
  - (b) if the regulator makes a different amendment—
    - (i) set out the amendment; and
    - (ii) state the day, being not less than 28 days after the licence holder is given the notice, on which the amendment takes effect.

*Note—*

A refusal to make the amendment applied for, or a decision to make a different amendment, is a reviewable decision, see section 676.

#### **144R Minor corrections to licence**

The regulator may make minor amendments to a licence, including an amendment—

- (a) to correct an obvious error; or
- (b) to change an address; or
- (c) that imposes no significant burden on the licence holder.

#### **144S Regulator to provide amended licence**

If the regulator amends a licence to carry out demolition work and considers that the licence document requires amendment, the regulator must give the licence holder an amended licence document within 14 days of making the decision.

#### **144T Licence holder to return licence**

The holder of a licence to carry out demolition work that has been amended must return the licence document to the regulator for amendment at the written request of the regulator and within the time stated in the request.

[s 144U]

---

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

#### **144U Replacement licence document**

- (1) A holder of a licence to carry out demolition work must give written notice to the regulator as soon as practicable if the licence document is lost, stolen or destroyed.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

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

*Note—*

A licence holder is required to keep the licence document available for inspection, see section 144M.

- (3) An application for a replacement licence document must be made in the way and in the form approved by the regulator.
- (4) The application must include—
  - (a) a declaration describing the circumstances in which the original document was lost, stolen or destroyed; and
  - (b) a declaration that the information contained in the application is, to the best of the applicant's knowledge, true and correct; and
  - (c) the relevant fee.

- 
- (5) The regulator may issue a replacement licence document if satisfied that the original document was lost, stolen or destroyed.
  - (6) If the regulator refuses to issue a replacement licence document, it must give the licence holder written notice of this decision, including the reasons for the decision, within 14 days after making the decision.

*Note—*

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

#### **144V Voluntary surrender of licence**

- (1) A licence holder may voluntarily surrender the licence document to the regulator.
- (2) The licence expires on the surrender of the licence document.

### **Division 5                      Suspension and cancellation of licence**

#### **144W Suspension or cancellation of licence**

- (1) The regulator may suspend or cancel a licence to carry out demolition work if satisfied about 1 or more of the following—
  - (a) the licence holder has failed to ensure that the work or other activities authorised by the licence are carried out safely and competently;
  - (b) the licence holder has failed to ensure compliance with a condition of the licence, including a condition requiring the licence holder, or a nominated supervisor of the licence holder, to undergo retraining or reassessment during the term of the licence;

[s 144W]

---

- (c) the licence holder, in the application for the grant or renewal of the licence or on request by the regulator for additional information—
    - (i) gave information that was false or misleading in a material particular; or
    - (ii) failed to give any material information that should have been given in that application or on that request;
  - (d) the licence was granted on the basis of a certification that was obtained by a nominated supervisor or the licence holder if an individual, on the basis of the giving of false or misleading information by any person or body;
  - (e) the licence holder no longer satisfies the requirements of section 144C(2)(o);
  - (f) a nominated supervisor no longer satisfies the requirements mentioned in section 144D(1)(c).
- (2) It is a ground for the suspension or cancellation of a licence to carry out demolition work if the licence holder does not have a qualified nominated supervisor.

*Note—*

Section 144O (Change to nominated supervisor) provides for a licence holder to notify the regulator of any change in a nominated supervisor.

- (3) For the purposes of subsection (1)(b), a licence holder complies with a condition on the licence that requires the licence holder or a nominated supervisor of the licence holder to undergo retraining or reassessment during the term of the licence if the licence holder provides a certification in relation to that retraining or reassessment.
- (4) If the regulator suspends or cancels a licence, the regulator may disqualify the licence holder from applying for—
  - (a) a further licence of the same type; or
  - (b) another licence under this regulation to carry out work which requires skills that are the same as or similar to

---

those required for the work authorised by the licence that has been suspended or cancelled.

*Note—*

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

### **144X Matters taken into account**

- (1) In making a decision under section 144W, the regulator must have regard to—
  - (a) any submissions made by the licence holder under section 144Y; and
  - (b) any advice received from a corresponding regulator.
- (2) For section 144W(1)(a) and (b), the regulator must have regard to all relevant matters, including the following—
  - (a) any relevant WHS conviction of the licence holder (or in the case of a body corporate, any officer of the body corporate);
  - (b) any suspension or cancellation of an equivalent licence held by the licence holder (or in the case of a body corporate, any officer of the body corporate), or any refusal to grant an equivalent licence to the applicant (or officer), under a relevant WHS law;
  - (c) any enforceable undertaking the licence holder (or in the case of a body corporate, any officer of the body corporate) has entered into under a relevant WHS law;
  - (d) the record of the licence holder (or officer) in relation to any matters arising under a relevant WHS law.

### **144Y Notice to and submissions by licence holder**

Before suspending or cancelling a licence to carry out demolition work the regulator must—

[s 144Z]

---

- (a) give the licence holder a written notice of the proposed suspension or cancellation and any proposed disqualification that outlines all relevant allegations, facts and circumstances known to the regulator; and
- (b) give the licence holder not less than 28 days to make submissions to the regulator in relation to the proposed suspension or cancellation and any proposed disqualification.

#### **144Z Notice of decision**

- (1) The regulator must give the licence holder written notice of a decision under section 144W to suspend or cancel licence to carry out demolition work within 14 days after the decision.
- (2) The notice must—
  - (a) state that the licence is to be suspended or cancelled; and
  - (b) if the licence is to be suspended, state—
    - (i) when the suspension starts and ends; and
    - (ii) the reasons for the suspension; and
    - (iii) whether the licence holder is required to undergo retraining or reassessment or take any other action before the suspension ends; and
    - (iv) whether or not the licence holder is disqualified from applying for a further licence during the suspension; and
  - (c) if the licence is to be cancelled, state—
    - (i) when the cancellation takes effect; and
    - (ii) the reasons for the cancellation; and
    - (iii) whether or not the licence holder is disqualified from applying for a further licence; and
  - (d) if the licence holder is disqualified from applying for a further licence, state—



- (i) when the disqualification starts and ends; and
  - (ii) the reasons for the disqualification; and
  - (iii) whether or not the disqualification ending is conditional upon the licence holder undergoing retraining or reassessment or taking any other action; and
  - (iv) any other class of licence under this regulation that the licence holder is disqualified from applying for during the suspension or disqualification; and
- (e) state when the licence document must be returned to the regulator.

#### **144ZA Immediate suspension**

- (1) The regulator may suspend a licence to carry out demolition work on a ground mentioned in section 144W without giving notice under section 144Y, if satisfied that—
- (a) work carried out under the licence should stop because the work may involve an imminent serious risk to the health or safety of any person; or
  - (b) a corresponding regulator has suspended an equivalent licence held by the licence holder under this section as applying in the corresponding jurisdiction.
- (2) If the regulator decides to suspend a licence under this section—
- (a) the regulator must give the licence holder written notice of the suspension and the reasons for the suspension; and
  - (b) the suspension of the licence takes effect on the giving of the notice.
- (3) The regulator must then give notice under section 144Y within 14 days after giving the notice under subsection (2) and must make a decision under section 144W as soon as practicable.

[s 144ZB]

---

- (4) If the regulator does not give notice under subsection (3), the suspension ends at the end of the 14 day period.
- (5) If the regulator gives the notice under section 144Y, the licence remains suspended until the decision is made under section 144W.

#### **144ZB Licence holder to return licence document**

A licence holder, on receiving a notice under section 162, must return the licence document to the regulator as required under the notice.

Maximum penalty—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

#### **144ZC Regulator to return licence document after suspension**

The regulator must return the licence document to the licence holder within 14 days after the licence suspension ends.

## **Part 4.7**

### **145 Part number and section numbers 145–166 not used**

*See note to section 3.*

---

## **Part 4.8                      Diving work**

### **Division 1                      Preliminary**

#### **167      Purpose of part 4.8**

The purpose of this part is to impose duties on a person carrying out a business or undertaking at a workplace to ensure—

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

### **Division 2                      General diving work—fitness and competence of worker**

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

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

Maximum penalty—60 penalty units.

- (2) The person must not direct or allow a worker to carry out general diving work or undergo training for diving work unless the work or training complies with any conditions on the current certificate of medical fitness of the worker.

Maximum penalty—60 penalty units.

[s 169]

---

## **169 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) state the following—
  - (i) the name of the person to whom it is issued;
  - (ii) its date of issue and its expiry date;
  - (iii) whether or not the person to whom it is issued is, in accordance with the fitness criteria, medically fit to carry out diving work;
  - (iv) any conditions in relation to the type of diving work the person to whom it is issued is fit to carry out, or the circumstances in which the person is fit to carry out general diving work, including, in the case of a person who is under 18 years of age, any particular conditions applicable to the age of the person.

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

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

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

---

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

A person must not carry out general diving work (other than incidental diving work and limited scientific diving work) unless—

- (a) the person has one or more of the following qualifications—
  - (i) a statement of attainment for a specified VET course for general diving work that includes the type of general diving work to be carried out by the person;
  - (ii) a certificate for general diving work, issued by a training organisation, that mentions the subject areas covered in AS/NZS 4005.2:2000 (Training and certification of—recreational divers—Recreational SCUBA dive supervisor); and
- (b) the person has, through training, qualification or experience, acquired sound knowledge and skill in relation to the following—
  - (i) the application of diving physics;
  - (ii) the use, inspection and maintenance of diving equipment (including emergency equipment) and air supply of the type to be used in the proposed general diving work;
  - (iii) the use of decompression tables or dive computers;
  - (iv) dive planning;
  - (v) ways of communicating with another diver and with persons at the surface during general diving work;
  - (vi) how to safely carry out general diving work of the type proposed to be carried out;
  - (vii) diving physiology and first aid.

[s 172]

---

*Note—*

See section 44 of the Act.

## **172 Competence of worker—incidental diving work**

- (1) A person must not carry out incidental diving work unless the person has—
  - (a) the training, qualification or experience mentioned in section 171(b); and
  - (b) relevant diving experience.

*Note—*

See section 44 of the Act.

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

## **173 Competence of worker—limited scientific diving work**

- (1) A person who is not permanently resident in Australia must not carry out limited scientific diving work unless the person has—
  - (a) the training, qualification or experience mentioned in section 171(b); and
  - (b) relevant diving experience, including relevant diving experience obtained outside Australia.

*Note—*

See section 44 of the Act.

- (2) In this section, a person has *relevant diving experience* if the person has logged at least 60 hours diving of which at least 8 hours and 20 minutes were spent diving between 10 metres above and any depth below the maximum depth at which the limited scientific diving work is to be carried out.

---

**174 Competence of competent person supervising general diving work**

A person appointed under section 177 must not perform any function associated with that appointment unless the person has—

- (a) the qualification stated in section 171(a); and
- (b) experience in the type of diving work to be supervised.

*Note—*

See section 44 of the Act.

**175 Evidence of competence—duty of person conducting business or undertaking**

- (1) A person conducting a business or undertaking at a workplace must not direct or allow a worker to carry out general diving work unless the person sees written evidence provided by the worker that the worker has the relevant competence required under this division.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- (2) A person conducting as business or undertaking at a workplace must not direct or allow a person appointed under section 177 to perform any of the functions associated with that appointment unless the person conducting the business or undertaking sees written evidence provided by the worker that the person appointed has the competence required under section 174.

Maximum penalty—

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

[s 176]

---

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

*Note—*

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

- (3) A person conducting a business or undertaking must keep the written evidence obtained—
- (a) under subsection (1)—for at least 1 year after the diving work is carried out;
- (b) under subsection (2)—for at least 1 year after the last occasion on which the person performs a function associated with the appointment.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

## **Division 3                      Managing risks—general diving work**

### **176      Management of risks to health and safety**

- (1) A person conducting a business or undertaking at a workplace must manage risks to health and safety associated with general diving work, under part 3.1.

*Note—*

WHS Act—section 19 (see section 9).

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

Maximum penalty—36 penalty units.



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

Maximum penalty—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or  
(b) for a body corporate—60 penalty units.

*Note—*

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

### **177 Appointment of competent person to supervise diving work**

A person conducting a business or undertaking at a workplace must appoint one or more competent persons to—

- (a) supervise general diving work carried out in the business or undertaking; and  
(b) perform other functions under this division.

Maximum penalty—60 penalty units.

*Note—*

See section 174 for the qualifications of the competent person.

### **178 Additional control—dive plan**

- (1) A person conducting a business or undertaking at a workplace must not direct or allow general diving work to be carried out unless a dive plan for the dive—
- (a) is prepared by a competent person appointed under section 177; or  
(b) has been prepared by a competent person appointed under section 177 on an earlier occasion for a similar dive.

Maximum penalty—60 penalty units.

- (2) A dive plan must state the following—

[s 179]

---

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

### **179 Dive plan must be complied with**

- (1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that general diving work is carried out in accordance with the dive plan prepared for it.

Maximum penalty—60 penalty units.

- (2) A person conducting a business or undertaking must ensure that a competent person appointed by the person under section 177 gives workers instruction in relation to the dive plan before commencing the diving work to which the plan relates.

Maximum penalty—60 penalty units.

### **180 Additional control—dive safety log to be kept**

A person conducting a business or undertaking at a workplace where general diving work is carried out must keep a dive safety log that contains the following information about each dive carried out by a worker—

- (a) the name of the worker who carries out the dive;
- (b) the name of any other person with whom the dive is carried out;

- 
- (c) the name of the competent person appointed under section 177 to supervise the diving work;
  - (d) the date and location of the dive;
  - (e) the time each diver enters and leaves the water;
  - (f) the maximum depth of the dive;
  - (g) any incident, difficulty, discomfort or injury that occurs or is experienced during the dive;
  - (h) if the dive was carried out using a dive computer—the dive time;
  - (i) if the dive was carried out using dive tables—the repetitive dive group, if available, and either the bottom time or the dive time;
  - (j) if the repetitive group and surface interval result in a repetitive factor—the surface interval and the repetitive factor;
  - (k) if the dive is carried out using EANx—
    - (i) the oxygen content of the EANx; and
    - (ii) the maximum operating depth of the EANx;
  - (l) if the dive is carried out using mixed gas—
    - (i) the oxygen content and the nitrogen content (if any) of the gas; and
    - (ii) the maximum operating depth of the mixed gas; and
    - (iii) the minimum operating depth of the bottom mix.

Maximum penalty—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

[s 181]

---

## **181 Use of dive safety log**

- (1) This section applies to a person conducting a business or undertaking at a workplace where general diving work is carried out.
- (2) The person conducting the business or undertaking must ensure that, after each dive carried out in connection with the general diving work is completed, the return of each diver is verified in the dive safety log, as soon as practicable after the return, by—
  - (a) the diver; and
  - (b) a competent person appointed under section 177 to supervise the diving work.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- (3) If workers are carrying out general diving work from a vessel, the person conducting the business or undertaking must ensure that a competent person appointed under section 177 to supervise the diving work makes and verifies entries in the dive safety log of the number of workers and other persons on board the vessel—
  - (a) before the diving work commences; and
  - (b) before the vessel leaves the location after the diving work is completed.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- (4) The person conducting the business or undertaking must ensure that the dive safety log is kept for at least 1 year after the last entry is made.

Maximum penalty—

- (a) for an individual—12½ penalty units; or  
(b) for a body corporate—60 penalty units.

*Note—*

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

- (5) In this section—

**verified** means an event is verified in the dive safety log—

- (a) by signing; or  
(b) if the log is electronic, by entering the verifier's unique identifier.

## 182 Record keeping

- (1) This section applies if a person conducting a business or undertaking prepares—
- (a) a risk assessment under section 176; or  
(b) a dive plan under section 178.
- (2) Subject to subsection (3), the person must keep—
- (a) a copy of the risk assessment until at least 28 days after the work to which it relates is completed; and  
(b) a copy of the dive plan until the work to which it relates is completed.

Maximum penalty—

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

[s 182]

---

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

*Note—*

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

- (3) If a notifiable incident occurs in connection with the work to which the assessment or dive plan relates, the person must keep the assessment or dive plan (as the case requires) for at least 2 years after the incident occurs.

Maximum penalty—

- (a) for an individual—12½ penalty units; or  
(b) for a body corporate—60 penalty units.

*Note—*

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

- (4) The person must ensure that for the period for which the assessment or dive plan must be kept under this section, a copy is readily accessible to any worker engaged by the person to carry out the work to which the assessment or dive plan relates.

Maximum penalty—36 penalty units.

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

Maximum penalty—

- (a) for an individual—12½ penalty units; or  
(b) for a body corporate—60 penalty units.

*Note—*

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

---

## **Division 4                      High risk diving work**

### **183      Duties of person conducting business or undertaking**

A person conducting a business or undertaking at a workplace where high risk diving work is carried out must ensure that the following are in accordance with AS/NZS 2299.1:2007 (Occupational diving operations—Standard operational practice)—

- (a) the fitness of persons carrying out the work;
- (b) the competence of persons carrying out the work;

*Note—*

See section 44 of the Act.

- (c) the carrying out of the work.

Maximum penalty—60 penalty units.

### **184      Duty of worker—competence**

A person must not carry out high risk diving work unless the person has the qualifications, knowledge, skills and experience required by AS/NZS 2299.1:2007 (Occupational diving operations—Standard operational practice) for work of the kind to be carried out by the person.

*Note—*

See section 44 of the Act.

## **Chapter 5      Plant and structures**

### **Part 5.1              General duties for plant and structures**

*Note—*

If a jurisdiction enacts schedule 1 of the Act, this part will extend to plant outside the workplace as provided for in that schedule.

#### **Division 1              Preliminary**

##### **185      Application of part 5.1 to plant**

- (1) Subject to this section, this part applies to all plant.
- (2) Subject to subsection (3), this part does not apply to plant that—
  - (a) relies exclusively on manual power for its operation; and
  - (b) is designed to be primarily supported by hand.
- (3) This part applies to explosive power tools that are designed to be supported by hand.

##### **186      Application of part 5.1 to structures**

This part applies to structures as provided in this part.



---

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

### **187      Provision of information to manufacturer**

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

- (a) information to enable the plant to be manufactured in accordance with the design specifications; and
- (b) if applicable, information about—
  - (i) the installation, commissioning, decommissioning, use, handling, storage and, if the plant is capable of being dismantled, dismantling of the plant; and
  - (ii) the hazards and risks associated with the use of the plant that the designer has identified; and
  - (iii) testing or inspections to be carried out on the plant; and
  - (iv) the systems of work and competency of operators that are necessary for the safe use of the plant; and
  - (v) the emergency procedures (if any) that are required to be implemented if there is a malfunction of the plant.

Maximum penalty—36 penalty units.

*Note—*

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

### **188      Hazard identified in design during manufacture**

If a manufacturer of plant advises the designer of the plant that there is a hazard in the design of plant for which the designer has not provided a control measure, the designer must—

[s 189]

---

- (a) revise the information originally supplied to the manufacturer to ensure that—
  - (i) the risk is eliminated so far as is reasonably practicable; or
  - (ii) if it is not reasonably practicable to eliminate the risk, the risk is minimised so far as is reasonably practicable; or
- (b) notify the manufacturer, in writing, that the designer is of the opinion that it is not necessary to revise the information originally supplied to the manufacturer to ensure compliance with this part.

Maximum penalty—36 penalty units.

*Note—*

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

## **189 Guarding**

- (1) This section applies if a designer of plant uses guarding as a measure to control risk.
- (2) The designer must ensure, so far as is reasonably practicable, that the guarding designed for that purpose will prevent access to the danger point or danger area of the plant.

Maximum penalty—60 penalty units.

- (3) The designer must ensure that—
  - (a) if access to the area of the plant requiring guarding is not necessary during operation, maintenance or cleaning of the plant—the guarding is a permanently fixed physical barrier; or
  - (b) if access to the area of the plant requiring guarding is necessary during operation, maintenance or cleaning of the plant—the guarding is an interlocked physical barrier that allows access to the area being guarded at times when that area does not present a risk and prevents access to that area at any other time; or

- (c) if it is not reasonably practicable to use guarding mentioned in paragraph (a) or (b)—the guarding used is a physical barrier that can only be altered or removed by the use of tools; or
- (d) if it is not reasonably practicable to use guarding mentioned in paragraph (a), (b) or (c)—the design includes a presence-sensing safeguarding system that eliminates any risk arising from the area of the plant requiring guarding while a person or any part of a person is in the area being guarded.

Maximum penalty—60 penalty units.

- (4) The designer must ensure that the guarding is designed—
  - (a) to be of solid construction and securely mounted so as to resist impact or shock; and
  - (b) to make bypassing or disabling of the guarding, whether deliberately or by accident, as difficult as is reasonably practicable; and
  - (c) so as not to cause a risk in itself.

Maximum penalty—60 penalty units.

- (5) If the plant to be guarded contains moving parts and those parts may break or cause workpieces to be ejected from the plant, the designer must ensure, so far as is reasonably practicable, that the guarding will control any risk from those broken or ejected parts and workpieces.

Maximum penalty—60 penalty units.

- (6) Despite anything to the contrary in this section, the designer must ensure—
  - (a) that the guarding is of a kind that can be removed to allow maintenance and cleaning of the plant at any time that the plant is not in normal operation; and

[s 190]

---

- (b) if the guarding is removed, that, so far as is reasonably practicable, the plant cannot be restarted unless the guarding is replaced.

Maximum penalty—60 penalty units.

## **190 Operational controls**

- (1) A designer of plant must ensure that the design provides for any operator's controls for the plant to be—
  - (a) identified on the plant so as to indicate their nature and function and direction of operation; and
  - (b) located so as to be readily and conveniently operated by each person using the plant; and
  - (c) located or guarded to prevent unintentional activation; and
  - (d) able to be locked into the “off” position to enable the disconnection of all motive power.

Maximum penalty—60 penalty units.

- (2) If the need for plant to be operated during maintenance or cleaning cannot be eliminated, the designer of the plant must ensure that the design provides for operator's controls that—
  - (a) permit operation of the plant while a person is undertaking the maintenance or cleaning of the plant; and
  - (b) while the plant is being maintained or cleaned, cannot be operated by any person other than the person who is carrying out the maintenance or cleaning of the plant; and
  - (c) will allow operation of the plant in such a way that any risk associated with the activities in relation to any person who is carrying out the maintenance or cleaning—
    - (i) is eliminated so far as is reasonably practicable; or

- (ii) if it is not reasonably practicable to eliminate the risk, is minimised so far as is reasonably practicable.

Maximum penalty—60 penalty units.

## **191 Emergency stop controls**

- (1) If plant is designed to be operated or attended by more than one person and more than one emergency stop control is fitted, the designer of the plant must ensure that the design provides for the multiple emergency stop controls to be of the “stop and lock-off” type so that the plant cannot be restarted after an emergency stop control has been used unless that emergency stop control is reset.

Maximum penalty—60 penalty units.

- (2) If the design of the plant includes an emergency stop control for the plant, the designer of the plant must ensure that the design provides—
  - (a) for the stop control to be prominent, clearly and durably marked and immediately accessible to each operator of the plant; and
  - (b) for any handle, bar or push button associated with the stop control to be coloured red; and
  - (c) that the stop control cannot be adversely affected by electrical or electronic circuit malfunction.

Maximum penalty—60 penalty units.

## **192 Warning devices**

- (1) This section applies if the design of plant includes an emergency warning device or it is necessary to include an emergency warning device to minimise risk.

[s 193]

---

- (2) The designer of the plant must ensure that the design provides for the device to be positioned on the plant to ensure the device will work to best effect.

Maximum penalty—60 penalty units.

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

### **193      Control of risk**

- (1) A manufacturer of plant must ensure the following—
- (a) that the plant is manufactured and inspected having regard to the information provided to the manufacturer by the designer of the plant under the Act and this regulation;
  - (b) if the information provided to the manufacturer by the designer of the plant under the Act and this regulation requires the plant to be tested—that the plant is tested in accordance with that information;
  - (c) if, during the manufacturing process, any hazard is identified in the design of the plant for which the designer has not provided a control measure—
    - (i) that the hazard is not incorporated into the manufacture of the plant; and
    - (ii) that the designer of the plant is given written notice of the hazard as soon as practicable; and
    - (iii) that all reasonable steps are taken to consult with the designer of the plant in relation to the alteration of the design to rectify the hazard.

Maximum penalty—60 penalty units.

- (2) A manufacturer of plant must ensure that, if it is not possible to tell the designer of the hazard under subsection (1)—

- (a) the risk is eliminated, so far as is reasonably practicable; or
- (b) if it is not reasonably practicable to eliminate the risk, the risk is minimised so far as is reasonably practicable.

*Note—*

WHS Act—section 23 (see section 9).

- (3) A manufacturer to whom subsection (1)(c) applies must not manufacture the plant until—
  - (a) the designer gives the manufacturer the revised information or written instruction under section 188; or
  - (b) the manufacturer eliminates or minimises the risk under subsection (2).

*Note—*

WHS Act—section 23 (see section 9).

- (4) If the designer notifies a manufacturer of plant under section 188, the manufacturer may proceed in accordance with the designer's original information.

## **194 Guarding**

- (1) A manufacturer of plant must ensure that guarding used as a measure to control risk is of solid construction and securely mounted so as to resist impact or shock.

Maximum penalty—60 penalty units.

- (2) A manufacturer of plant must ensure—
  - (a) that any guarding used as a measure to control risk in relation to plant is of a kind that can be removed to allow maintenance and cleaning of the plant at any time that the plant is not in normal operation; and
  - (b) if the guarding is removed, that, so far as is reasonably practicable, the plant cannot be restarted unless the guarding is replaced.

Maximum penalty—60 penalty units.

[s 195]

---

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

A manufacturer of plant must—

- (a) take all reasonable steps to obtain the information required to be provided to the manufacturer by the designer of the plant under section 22(4)(a) and (c) of the Act and sections 187 and 188; and
- (b) ensure that, when the plant is supplied by the manufacturer to a person to whom the manufacturer supplies the plant is provided with the information provided to the manufacturer by the designer under section 22(4)(a) and (c) of the Act and section 187 at the time the plant is supplied by the manufacturer; and
- (c) if the manufacturer acts under section 193(1)(c), ensure that a person to whom the manufacturer supplies the plant is provided with the information, applicable to the plant, that is required to be provided by the designer under sections 22(4)(a) and (c) of the Act and section 188.

Maximum penalty—36 penalty units.

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

### **196 Information to be obtained and provided by importer**

An importer of plant must—

- (a) take all reasonable steps to obtain—
  - (i) the information that would be required to be provided by a manufacturer under section 23(4)(a) and (c) of the Act; and
  - (ii) the information that would be required to be provided by the designer of the plant to the manufacturer under sections 187 and 188; and



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

Maximum penalty—36 penalty units.

## **197 Control of risk**

An importer of plant must—

- (a) ensure that the plant is inspected having regard to the information provided by the manufacturer; and
- (b) if the information provided by the manufacturer requires the plant to be tested—ensure that the plant is tested in accordance with that information; and
- (c) if any hazards are identified—
  - (i) ensure that the plant is not supplied until the risks have been eliminated so far as is reasonably practicable; and
  - (ii) if it is not reasonably practicable to eliminate the risks, advise the person to whom the plant is supplied of the risks; and
  - (iii) take all reasonable steps to ensure that the designer and manufacturer of the plant are consulted in relation to any alteration made to the plant to control the risk.

Maximum penalty—60 penalty units.

## **Division 5 Duties of persons conducting businesses or undertakings that supply plant**

### **198 Information to be obtained and provided by supplier**

A supplier of plant must—

[s 199]

---

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

Maximum penalty—36 penalty units.

### **199 Supply of second-hand plant—duties of supplier**

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

Maximum penalty—60 penalty units.

- (2) A supplier of second-hand plant must ensure that the person to whom the plant is supplied is, before the plant is supplied, given written notice—
  - (a) of the condition of the plant; and
  - (b) of any faults identified under subsection (1); and
  - (c) if appropriate, that the plant should not be used until the faults are rectified.

Maximum penalty—60 penalty units.

- (3) This section does not apply to plant to be used for scrap or spare parts.

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

A supplier of plant to be used for scrap or spare parts must, before the plant is supplied, inform the person to whom the plant is supplied, either in writing or by marking the plant, that the plant is being supplied for scrap or spare parts and that the plant in its current form is not to be used as plant.

Maximum penalty—36 penalty units.

---

**Division 6**                      **Duties of persons conducting businesses or undertakings that install, construct or commission plant or structures**

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

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

Maximum penalty—60 penalty units.

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

- (1) This section applies to a person who conducts a business or undertaking that installs, constructs or commissions a structure that is to be used, or could reasonably be expected to be used, as or at, a workplace.
- (2) The person must ensure that the structure is installed, constructed or commissioned having regard to—
  - (a) the information provided by the designer, manufacturer, importer or supplier of the structure under the Act and this regulation; or

[s 203]

---

- (b) the instructions provided by a competent person to the extent that those instructions relate to health and safety.

Maximum penalty—60 penalty units.

## **Division 7                      General duties of a person conducting a business or undertaking involving the management or control of plant**

*Note—*

A person with management or control of plant at a workplace is the person conducting a business or undertaking at the workplace to the extent that the business or undertaking involves the management or control of plant in whole or in part at the workplace. See the definition of *person with management or control of plant at a workplace* in schedule 19 and section 21 of the Act.

### **Subdivision 1              Management of risks**

#### **203      Management of risks to health and safety**

A person with management or control of plant at a workplace must manage risks to health and safety.

*Note—*

WHS Act—section 21 (see section 9).

### **Subdivision 2              Additional control measures for general plant**

#### **204      Control of risks arising from installation or commissioning**

- (1) A person with management or control of plant at a workplace must not commission the plant unless the person has

---

established that the plant is, so far as is reasonably practicable, without risks to the health and safety of any person.

Maximum penalty—60 penalty units.

- (2) A person with management or control of plant at a workplace must not decommission or dismantle the plant unless the decommissioning or dismantling can be carried out, so far as is reasonably practicable, without risks to the health and safety of any person.

Maximum penalty—60 penalty units.

- (3) A person with management or control of plant at a workplace must ensure that a person who installs, assembles, constructs, commissions or decommissions or dismantles the plant is a competent person.

Maximum penalty—60 penalty units.

- (4) A person with management or control of plant at a workplace must ensure that a person who installs, assembles, constructs, commissions or decommissions or dismantles the plant is provided with the available information for eliminating or minimising risks to health or safety.

Maximum penalty—60 penalty units.

- (5) A person with management or control of plant at a workplace must ensure that the processes for the installation, construction, commissioning, decommissioning and dismantling of plant include inspections that ensure, so far as is reasonably practicable, that risks associated with these activities are monitored.

Maximum penalty—60 penalty units.

## **205 Preventing unauthorised alterations to or interference with plant**

The person with management or control of plant at a workplace must, so far as is reasonably practicable, prevent

[s 206]

---

alterations to or interference with the plant that are not authorised by the person.

Maximum penalty—60 penalty units.

## **206 Proper use of plant and controls**

- (1) The person with management or control of plant at a workplace must take all reasonable steps to ensure that plant is used only for the purpose for which it was designed, unless the person has determined that the proposed use does not increase the risk to health or safety.

Maximum penalty—60 penalty units.

- (2) In determining whether or not a proposed use of plant increases the risk to health or safety, the person with management or control of the plant must ensure that the risk associated with the proposed use is assessed by a competent person.

Maximum penalty—60 penalty units.

- (3) The person with management or control of plant at a workplace must take all reasonable steps to ensure that all health and safety features and warning devices (including guarding, operational controls, emergency stops and warning devices) are used in accordance with the instructions and information provided by that person under section 39.

Maximum penalty—60 penalty units.

## **207 Plant not in use**

The person with management or control of plant at a workplace must ensure, so far as is reasonably practicable, that plant that is not in use is left in a state that does not create a risk to the health or safety of any person.

Maximum penalty—60 penalty units.

---

## 208 Guarding

- (1) This section applies if guarding is used as a measure to control risk associated with plant at a workplace.
- (2) The person with management or control of the plant must ensure that—
  - (a) if access to the area of the plant requiring guarding is not necessary during operation, maintenance or cleaning of the plant, the guarding is a permanently fixed physical barrier; or
  - (b) if access to the area of the plant requiring guarding is necessary during operation, maintenance or cleaning of the plant, the guarding is an interlocked physical barrier that allows access to the area being guarded at times when that area does not present a risk and prevents access to that area at any other time; or
  - (c) if it is not reasonably practicable to use guarding mentioned in paragraph (a) or (b), the guarding used is a physical barrier that can only be altered or removed by the use of tools; or
  - (d) if it is not reasonably practicable to use guarding mentioned in paragraph (a), (b) or (c), the guarding includes a presence-sensing safeguarding system that eliminates any risk arising from the area of the plant requiring guarding while a person or any part of a person is in the area being guarded.

Maximum penalty—60 penalty units.

- (3) The person with management or control of the plant must ensure that the guarding—
  - (a) is of solid construction and securely mounted so as to resist impact or shock; and
  - (b) makes by-passing or disabling of the guarding, whether deliberately or by accident, as difficult as is reasonably practicable; and
  - (c) does not create a risk in itself; and

[s 209]

---

(d) is properly maintained.

Maximum penalty—60 penalty units.

- (4) If the plant to be guarded contains moving parts that may break or cause workpieces to be ejected from the plant, the person with management or control of the plant must ensure, so far as is reasonably practicable, that the guarding will control any risk from those broken or ejected parts and workpieces.

Maximum penalty—60 penalty units.

- (5) Despite anything to the contrary in this section, the person with management or control of the plant must ensure—

(a) that the guarding is of a kind that can be removed to allow maintenance and cleaning of the plant at any time that the plant is not in normal operation; and

(b) if guarding is removed, that, so far as is reasonably practicable, the plant cannot be restarted unless the guarding is replaced.

Maximum penalty—60 penalty units.

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

The person with management or control of plant at a workplace must ensure, so far as is reasonably practicable, that any pipe or other part of the plant associated with heat or cold is guarded or insulated so that the plant is without risks to the health and safety of any person.

Maximum penalty—60 penalty units.

## **210 Operational controls**

- (1) The person with management or control of plant at a workplace must ensure that any operator's controls are—

(a) identified on the plant so as to indicate their nature and function and direction of operation; and



- 
- (b) located so as to be readily and conveniently operated by each person using the plant; and
  - (c) located or guarded to prevent unintentional activation; and
  - (d) able to be locked into the 'off' position to enable the disconnection of all motive power.

Maximum penalty—60 penalty units.

- (2) If the need for plant to be operated during maintenance or cleaning cannot be eliminated, the person with management or control of the plant at a workplace must ensure that the operator's controls—
  - (a) permit operation of the plant while a person is undertaking the maintenance or cleaning of the plant; and
  - (b) while the plant is being maintained or cleaned, either—
    - (i) cannot be operated by any person other than the person who is carrying out the maintenance or cleaning of the plant; or
    - (ii) if subparagraph (i) cannot be complied with because the plant must be operated by a person other than the person who is carrying out the maintenance or cleaning of the plant, cannot be operated except by a person authorised by the person with management or control of the plant for that purpose; and
  - (c) will allow operation of the plant in such a way that any risk associated with the activities in relation to any person who is carrying out the maintenance or cleaning—
    - (i) is eliminated so far as is reasonably practicable; or

[s 211]

---

- (ii) if it is not reasonably practicable to eliminate the risk, is minimised so far as is reasonably practicable.

Maximum penalty—60 penalty units.

## **211 Emergency stops**

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

Maximum penalty—60 penalty units.

- (2) If the design of plant at a workplace includes an emergency stop control, the person with management or control of the plant at the workplace must ensure that—
  - (a) the stop control is prominent, clearly and durably marked and immediately accessible to each operator of the plant; and
  - (b) any handle, bar or push button associated with the stop control is coloured red; and
  - (c) the stop control cannot be adversely affected by electrical or electronic circuit malfunction.

Maximum penalty—60 penalty units.

## **212 Warning devices**

- (1) This section applies if the design of plant includes an emergency warning device or it is necessary to include an emergency warning device to minimise risk.

- 
- (2) The person with management or control of the plant must ensure that the device is positioned on the plant to ensure that the device will work to best effect.

Maximum penalty—60 penalty units.

### **213 Maintenance and inspection of plant**

- (1) The person with management or control of plant at a workplace must ensure that the maintenance, inspection and, if necessary, testing of the plant is carried out by a competent person.

Maximum penalty—36 penalty units.

- (2) The maintenance, inspection and testing must be carried out—
- (a) in accordance with the manufacturer's recommendations, if any; or
  - (b) if there are no manufacturer's recommendations, in accordance with the recommendations of a competent person; or
  - (c) in relation to inspection, if it is not reasonably practicable to comply with paragraph (a) or (b), annually.

### **Subdivision 3 Additional control measures for particular plant**

*Note—*

The person with management or control of plant at a workplace is the person conducting a business or undertaking at a workplace to the extent that the business or undertaking involves the management or control of plant in whole or in part at the workplace. See the definition of *person with management or control of plant at a workplace* in schedule 19 and section 21 of the Act.

[s 214]

---

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

The person with management or control of powered mobile plant at a workplace must under part 3.1, manage risks to health and safety associated with the following—

- (a) the plant overturning;
- (b) things falling on the operator of the plant;
- (c) the operator being ejected from the plant;
- (d) the plant colliding with any person or thing;
- (e) mechanical failure of pressurised elements of plant that may release fluids that pose a risk to health and safety.

*Note—*

WHS Act—section 21 (see section 9).

## **215 Powered mobile plant—specific control measures**

- (1) This section applies to a person conducting a business or undertaking with management or control of powered mobile plant at a workplace.
- (2) The person must ensure, so far as is reasonably practicable, that a suitable combination of operator protective devices for the plant is provided, maintained and used.

Maximum penalty—60 penalty units.

- (3) The person must ensure, so far as is reasonably practicable, that no person other than the operator rides on the plant unless the person is provided with a level of protection that is equivalent to that provided to the operator.

Maximum penalty—60 penalty units.

- (4) The person must ensure that the plant does not collide with pedestrians or other powered mobile plant.

Maximum penalty—60 penalty units.

- (5) Without limiting subsection (5), if there is a possibility of the plant colliding with pedestrians or other powered mobile

---

plant, the person must ensure that the plant has a warning device that will warn persons who may be at risk from the movement of the plant.

Maximum penalty—60 penalty units.

## 216 Roll-over protection on tractors

- (1) The person with management or control of a tractor at a workplace must ensure that the tractor is not used unless it is securely fitted with a roll-over protective structure.

Maximum penalty—60 penalty units.

- (2) If a tractor is used in a place that is too low for the tractor to work while it is fitted with a roll-over protective structure, the structure may be lowered or removed for the period during which the tractor is used in such a situation (but only if other measures to minimise the risk of roll-over are in place).

- (3) This section does not apply if the tractor is—

- (a) installed in a fixed position, and in a manner which would no longer permit it to be used as powered mobile plant; or
- (b) a tractor with a mass of less than 560kg or a mass of 15000kg or more; or
- (c) being used for a historical purpose or activity.

- (4) In this section—

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

*Example of a historical activity—*

a historical display, parade, demonstration or re-enactment

*Example of an activity ancillary to a historical activity—*

restoring, maintaining, modifying or housing a tractor used, or to be used, for a historical activity.

[s 217]

---

***roll-over protective structure*** means a structure designed to protect a tractor operator from injury if the tractor rolls over in any direction.

*Note—*

Sections 214 and 215 also apply to a tractor.

## **217 Protective structures on earthmoving machinery**

- (1) The person with management or control of earthmoving machinery at a workplace must ensure that the machinery is not used unless it is securely fitted with a protective structure.

Maximum penalty—60 penalty units.

- (2) This section does not apply to earthmoving machinery that has a weight of less than 1500kg (not including attachments to the machinery) and is not designed to have a seated operator.
- (3) In this section—

***protective structure*** means a structure designed to protect the operator from injury if the machinery rolls over and from falling objects.

*Note—*

Sections 214 and 215 also apply to earthmoving machinery.

## **218 Industrial lift trucks**

- (1) The person with management or control of an industrial lift truck at a workplace must ensure that the truck is—
- (a) equipped with lifting attachments that are suitable for the load to be lifted or moved by the truck; and
  - (b) operated in a manner that ensures that the risks to the operator of the truck and other persons at or near the workplace that arise from systems of work and the environment in which the truck is used—
    - (i) are eliminated so far as is reasonably practicable; or

- (ii) if it is not reasonably practicable to eliminate the risks, are minimised so far as is reasonably practicable.

Maximum penalty—60 penalty units.

- (2) The person with management or control of an industrial lift truck at a workplace must ensure that the truck is not used to carry a passenger unless—
  - (a) the truck is designed to carry a seated passenger; and
  - (b) the passenger seat is—
    - (i) fitted with suitable seat restraints; and
    - (ii) located within the zone of protection that is provided by the operator protective device required to be fitted to the industrial lift truck.

Maximum penalty—60 penalty units.

- (3) The person with management or control of an industrial lift truck at a workplace must take all reasonable steps to ensure that a passenger in an industrial lift truck is seated in a seat that complies with subsection (2)(b).

Maximum penalty—60 penalty units.

*Note—*

Sections 214 and 215 will also apply to an industrial lift truck.

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

- (1) This section applies in relation to plant that is used to lift or suspend persons or things.
- (2) The person with management or control of plant at a workplace must ensure, so far as is reasonably practicable, that the plant used is specifically designed to lift or suspend the load.

Maximum penalty—60 penalty units.

[s 220]

---

- (3) If it is not reasonably practicable to use plant that is specifically designed to lift or suspend the load, the person must ensure that—
- (a) the plant does not cause a greater risk to health and safety than if specifically designed plant were used; and
  - (b) if the plant is lifting or suspending persons, the use of the plant complies with section 220.

Maximum penalty—60 penalty units.

- (4) The person must ensure that the lifting and suspending is carried out—
- (a) with lifting attachments that are suitable for the load being lifted or suspended; and
  - (b) within the safe working limits of the plant.

Maximum penalty—60 penalty units.

- (5) The person must ensure, so far as is reasonably practicable, that no loads are suspended or travel over a person unless the plant is specifically designed for that purpose.

Maximum penalty—60 penalty units.

- (6) The person must ensure, so far as is reasonably practicable, that loads are lifted or suspended in a way that ensures that the load remains under control during the activity.

Maximum penalty—60 penalty units.

- (7) The person must ensure, so far as is reasonably practicable, that no load is lifted simultaneously by more than 1 piece of plant unless each piece of plant used to lift the load is specifically designed to lift a load.

Maximum penalty—60 penalty units.

**220 Exception—Plant not specifically designed to lift or suspend a person**

- (1) For section 219(3)(b), the person with management or control of the plant at a workplace must ensure that—



- 
- (a) the persons are lifted or suspended in a work box that is securely attached to the plant; and
  - (b) the persons in the work box remain substantially within the work box while they are being lifted or suspended; and
  - (c) if there is a risk of a person falling from a height, a safety harness is provided and worn by the person in order to prevent, so far as is reasonably practicable, injury to the person as a result of the fall; and
  - (d) means are provided by which the persons being lifted or suspended can safely exit from the plant in the event of a failure in its normal operation.
- (2) This section does not apply to plant used in connection with—
- (a) the performance of stunt work; or
  - (b) the performance of acrobatics; or
  - (c) theatrical performances.

*Note—*

Part 4.4 (other than section 79) applies to the matters in subsection (2).

## **221 Plant used in connection with tree lopping**

- (1) Section 220(1)(a) and (b) do not apply in connection with tree lopping if—
- (a) a risk assessment shows that lifting or suspending a person in a harness with a crane to place the person in a tree to carry out tree lopping does not create a greater risk to health or safety than using plant specifically designed to lift a person or climbing a tree; and
  - (b) the tree lopping is carried out by a person who is a competent person in the use of the harness mentioned in paragraph (a); and
  - (c) a crane is used to put the competent person in the tree to fell it; and

[s 222]

---

- (d) the crane has safety mechanisms that would prevent the competent person from inadvertently falling; and
- (e) while attached to the crane, the competent person is in visual, audio or radio communication with the crane operator.

(2) In this section—

*harness* means a work positioning harness that is designed and certified, in accordance with AS/NZS 1891.1:2007 (Industrial fall-arrest systems—Harnesses and ancillary equipment), for the purpose of lifting and suspending a person.

## **222 Industrial robots**

- (1) This section applies to a person with management or control of an industrial robot or other remotely or automatically energised plant at a workplace.
- (2) The person must not allow or direct a worker to work in the immediate vicinity of the plant if it could start without warning and cause a hazard, unless suitable control measures are in place to control the risks to health and safety.

Maximum penalty—60 penalty units.

- (3) If the remote or automatic energising of the plant could lead to risks to health and safety, the person must ensure that access to the area in the immediate vicinity of the plant is controlled at all times—
  - (a) by isolating the area; or
  - (b) by—
    - (i) providing interlocked guards; or
    - (ii) if a risk remains, providing presence-sensing devices; or

- (iii) if a risk then remains, providing permit to work systems.

Maximum penalty—60 penalty units.

## **223 Lasers**

- (1) This section applies to the person with management or control, at a workplace, of laser equipment that may create a risk to health and safety.

- (2) The person must ensure that laser equipment intended for use on plant is designed, constructed and installed so as to prevent accidental irradiation of any person.

Maximum penalty—60 penalty units.

- (3) The person must ensure that laser equipment on plant is protected so that any operator of the plant or other person is not exposed to direct radiation, radiation produced by reflection or diffusion or secondary radiation.

Maximum penalty—60 penalty units.

- (4) The person must ensure that the visual equipment used for the observation or adjustment of laser equipment on plant causes no risk to health or safety from laser rays.

Maximum penalty—60 penalty units.

- (5) The person must ensure that the workers operating the laser equipment are trained in the proper operation of the equipment.

Maximum penalty—60 penalty units.

- (6) The person must ensure that Class 3B and Class 4 lasers (within the meaning of AS 2397 Safe Use of Lasers in the Building and Construction Industry) are not used in construction work.

Maximum penalty—60 penalty units.

[s 224]

---

## **224 Pressure equipment**

- (1) The person with management or control of pressure equipment at a workplace must ensure that—
  - (a) the equipment is inspected on a regular basis by a competent person; and
  - (b) any gas cylinder that is inspected is marked with a current inspection mark showing the date of the most recent inspection.

Maximum penalty—36 penalty units.

- (2) The person with management or control of gas cylinders at a workplace that is a gas cylinder filling station must ensure that—
  - (a) a gas cylinder is not filled with gas unless it bears a current inspection mark; and
  - (b) a gas cylinder is only filled with gas for which that cylinder is designed.

Maximum penalty—36 penalty units.

## **225 Scaffolds**

- (1) This section applies in relation to—
  - (a) a suspended scaffold; and
  - (b) a cantilevered scaffold; and
  - (c) a spur scaffold; and
  - (d) a hung scaffold; and
  - (e) any other scaffold from which a person or thing could fall more than 4m.
- (2) The person with management or control of a scaffold at a workplace must ensure that the scaffold is not used unless the person receives written confirmation from a competent person that construction of the scaffold has been completed.

Maximum penalty—60 penalty units.

- 
- (3) The person with management or control of a scaffold at a workplace must ensure that the scaffold and its supporting structure are inspected by a competent person—
- (a) before the scaffold is used; and
  - (b) before use of the scaffold is resumed after an incident occurs that may reasonably be expected to affect the stability of the scaffold; and
  - (c) before use of the scaffold is resumed after repairs; and
  - (d) at least every 30 days.

Maximum penalty—60 penalty units.

- (4) If an inspection indicates that a scaffold at a workplace or its supporting structure creates a risk to health or safety, the person with management or control of the scaffold must ensure that—
- (a) any necessary repairs, alterations and additions are made or carried out; and
  - (b) the scaffold and its supporting structure are inspected again by a competent person before use of the scaffold is resumed.

Maximum penalty—60 penalty units.

- (5) The person with management or control of a scaffold at a workplace must ensure that unauthorised access to the scaffold is prevented while the scaffold is incomplete or unattended.

*Example—*

danger tags and other warning signs

Maximum penalty—60 penalty units.

## **226 Plant with presence-sensing safeguarding system—records**

- (1) The person with management or control of plant with a presence-sensing safeguarding system at a workplace must

[s 226]

---

keep a record of safety integrity tests, inspections, maintenance, commissioning, decommissioning, dismantling and alterations of the plant for the period set out in subsection (2).

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- (2) The record must be kept for—
  - (a) 5 years unless paragraph (b) applies; or
  - (b) the life of the plant or until the person relinquishes control of the plant if the plant is registered plant or has been altered.
- (3) The person must keep the record available for inspection under the Act.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- (4) The person must make the record available to any person to whom the person relinquishes control of the plant.

Maximum penalty for subsection (4)—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

## **Part 5.2 Additional duties relating to registered plant and plant designs**

*Notes—*

- 1 The person with management or control of plant at a workplace is the person conducting a business or undertaking at a workplace to the extent that the business or undertaking involves the management or control of plant in whole or in part at the workplace. See the definition of *person with management or control of plant at a workplace* in schedule 19 and section 21 of the Act.
- 2 This part applies in addition to part 5.1.
- 3 In this part, *plant* includes a structure, see the definition of *plant* in schedule 19.

### **Division 1 Application of part 5.2**

#### **227 Application of pt 5.2**

This part applies to—

- (a) plant that is required to be registered under part 5.3; or
- (b) plant the design of which is required to be registered under part 5.3.

[s 228]

---

## **Division 2                      Duty of person conducting a business or undertaking who designs plant to record plant design**

### **228      Records and information**

If the design of plant is required to be registered under part 5.3, the designer of that plant must make a record that contains—

- (a) the method used to determine the control measures for the plant and the control measures that result from that decision; and
- (b) a copy of the information provided to a manufacturer under section 22 of the Act in relation to that plant; and
- (c) a copy of the information provided to a manufacturer under section 187 in relation to that plant; and
- (d) if applicable, a copy of the information provided to a manufacturer under section 188 in relation to that plant.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

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

- (1) If the design of plant is required to be registered under part 5.3, the designer of the plant must record any published technical standard, including any part of a published technical standard, that was used to design the plant.

Maximum penalty—

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



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

*Note—*

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

- (2) If the designer of the plant has not used published technical standards to design the plant, the designer must record any engineering principles used to design the plant.

Maximum penalty—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or  
(b) for a body corporate—60 penalty units.

*Note—*

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

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

- (1) A designer of plant must ensure that the records made under sections 228 and 229 are kept available for inspection under the Act.

Maximum penalty—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or  
(b) for a body corporate—60 penalty units.

*Note—*

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

- (2) A designer of plant must ensure that the records are made available for inspection by the design verifier of the plant design.

Maximum penalty—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or  
(b) for a body corporate—60 penalty units.



---

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

A supplier must not supply plant stated in schedule 5, part 1 unless the design of that plant is registered under part 5.3.

Maximum penalty—60 penalty units.

**234 Duty of persons conducting businesses or undertakings that commission plant**

- (1) This section applies to a person who conducts a business or undertaking that commissions plant.
- (2) The person must not commission an item of plant that is stated in schedule 5, part 2 for use in a workplace unless that item of plant is registered under part 5.3.

Maximum penalty—60 penalty units.

- (3) Nothing in subsection (2) prevents a person from performing any necessary adjustments, tests or inspections as part of the commissioning process before the plant is commissioned at a workplace.

**Division 4 Duties of a person conducting a business or undertaking involving the management or control of plant**

**Subdivision 1 Control measures for registered plant**

**235 Major inspection of registered mobile cranes and tower cranes**

- (1) This section applies to the person with management or control of a registered mobile crane or tower crane at a workplace.

[s 236]

---

- (2) The person must ensure that the maintenance, inspection and, if necessary, testing of the crane is carried out by a competent person.

Maximum penalty—36 penalty units.

- (3) The person must ensure that the crane is inspected—
- (a) at the end of the design life recommended by the manufacturer for the crane; or
  - (b) if there are no manufacturer's recommendations, in accordance with the recommendations of a competent person; or
  - (c) if it is not reasonably practicable to comply with paragraph (a) or (b), every 10 years from the date that the crane was first commissioned or first registered, whichever occurred first.

Maximum penalty—36 penalty units.

- (4) In this section—

*competent person* means a person who—

- (a) either—
    - (i) has the skills, qualifications, competence and experience to inspect the plant; and
    - (ii) is registered under a law that provides for the registration of professional engineers; or
  - (b) is determined by the regulator to be a competent person.
- (5) The regulator may, on the application of a person, make a decision in relation to the person for the purposes of subsection (4)(b) if the regulator considers that exceptional circumstances exist.

## 236 Lifts

- (1) The person with management or control of a lift at a workplace (including a person with management or control of maintenance of a lift) must ensure that—

- 
- (a) if there is a risk of a person falling down a lift well—
    - (i) secure barriers are provided to prevent access to openings into the lift well by someone other than a person who is performing work in the lift well; and
    - (ii) secure working platforms or equivalent arrangements are provided for a person who is working in the lift well to prevent a fall from height; and
  - (b) if there is a risk to a person working in a lift well from objects falling onto that person—a secure barrier is provided to prevent, so far as is reasonably practicable, falling objects from striking the person or otherwise causing a risk.

Maximum penalty—36 penalty units.

- (2) The person must ensure that there is a safe means of entry to and exit from the base of the lift well.

Maximum penalty—36 penalty units.

- (3) The person must ensure that there is fixed, in a prominent place in the lift, a sign that states the safe working load specified in the design of the lift.

Maximum penalty—36 penalty units.

### **237 Records of plant**

- (1) This section applies in relation to plant that is required to be registered under part 5.3.
- (2) The person with management or control of the plant at a workplace must keep a record of all tests, inspections, maintenance, commissioning, decommissioning, dismantling and alterations of the plant for the period set out in subsection (3).

Maximum penalty—

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

[s 238]

---

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

*Note—*

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

- (3) The record must be kept for the period that the plant is used or until the person relinquishes control of the plant.
- (4) The person must keep the record available for inspection under the Act.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- (5) The person must make the record available to any person to whom the person relinquishes control of the plant.

Maximum penalty for subsection (5)—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

## **Subdivision 2      Control measures for amusement devices**

### **238      Operation of amusement devices**

- (1) The person with management or control of an amusement device at a workplace must ensure that the amusement device is operated only by a person who has been provided with instruction and training in the proper operation of the device.

---

Maximum penalty—60 penalty units.

- (2) The person with management or control of an amusement device at a workplace must ensure that—
- (a) the amusement device is checked before it is operated on each day on which it is to be operated; and
  - (b) the amusement device is operated without passengers before it is operated with passengers on each day on which the amusement device is to be operated; and
  - (c) the daily checks and operation of the amusement device without passengers are properly and accurately recorded in a log book for the amusement device.

Maximum penalty—60 penalty units.

### **239 Storage of amusement devices**

- (1) The person with management or control of an amusement device at a workplace must ensure that the device is stored so as to be without risk to health and safety.

Maximum penalty—36 penalty units.

- (2) The person with management or control of an amusement device at a workplace must ensure that a person who stores the device is a competent person or is under the supervision of a competent person.

Maximum penalty—36 penalty units.

### **240 Maintenance, inspection and testing of amusement device**

- (1) The person with management or control of an amusement device at a workplace must ensure that the maintenance, inspection and, if necessary, testing of the amusement device is carried out—
- (a) by a competent person; and
  - (b) in accordance with—

[s 241]

---

- (i) the recommendations of the designer or manufacturer or designer and manufacturer; or
- (ii) if a maintenance manual for the amusement device has been prepared by a competent person, the requirements of the maintenance manual.

Maximum penalty—60 penalty units.

- (2) A person is not a competent person to carry out a detailed inspection of an amusement device that includes an electrical installation unless the person is qualified, or is assisted by a person who is qualified, to inspect electrical installations.

#### **241 Annual inspection of amusement device**

- (1) The person with management or control of an amusement device at a workplace must ensure that a detailed inspection of the device is carried out at least once every 12 months by a competent person.

Maximum penalty—60 penalty units.

- (2) An inspection must include the following—
  - (a) a check of information about the operational history of the amusement device since the last detailed inspection;
  - (b) a check of the log book for the amusement device;
  - (c) a check that maintenance and inspections have been undertaken under section 240;
  - (d) a check that any required tests have been carried out, and that appropriate records have been maintained;
  - (e) a detailed inspection of the amusement device to ensure compliance with the Act and this regulation (including a specific inspection of the critical components of the amusement device).
- (3) The regulator may extend the date for an inspection by up to 35 days if an inspection is scheduled to coincide with the same event each year.



- 
- (4) If the date is extended under subsection (3), the new date is the date from which future annual inspections of the amusement device are determined.
- (5) In this section—  
**competent person** means a person who—
- (a) either—
    - (i) has the skills, qualifications, competence and experience to inspect the plant; and
    - (ii) is registered under a law that provides for the registration of professional engineers; or
  - (b) is determined by the regulator to be a competent person.
- (6) The regulator may, on the application of a person, make a decision in relation to the person for the purposes of subsection (5)(c) if the regulator considers that exceptional circumstances exist.

## **242 Log book and manuals for amusement device**

- (1) The person with management or control of an amusement device at a workplace, in addition to complying with the record-keeping requirements of section 237, must ensure that—
- (a) details of the erection or storage of the amusement device (including the date of erection) are recorded in the log book for the amusement device on each occasion on which it is erected or stored; and
  - (b) the log book and operating and maintenance manuals for the amusement device are kept with the amusement device.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.



---

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

### **243      Plant design to be registered**

The design of an item of plant stated in schedule 5, part 1 must be registered under this part.

*Note—*

See section 42 of the Act.

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

- (1) If the design of an item of plant stated in schedule 5, part 1 that is registered under this part is altered, the altered design must be registered under this part.

*Note—*

See section 42 of the Act.

- (2) In this section a reference to the alteration of a design is a reference to an alteration that may affect health or safety.

### **245      Recognition of designs registered by corresponding regulator**

- (1) A design of an item of plant is not required to be registered under this part if the design is registered under a corresponding WHS law.
- (2) A design mentioned in subsection (1) that is altered is not required to be registered under this part if the altered design is registered by the corresponding regulator that registered the original design.

[s 246]

---

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

### **246    Items of plant to be registered**

- (1) An item of plant stated in schedule 5, part 2 must be registered under this part.

*Note—*

See section 42 of the Act.

- (2) The purpose of registering an item of plant is to ensure that it is inspected by a competent person and is safe to operate.

### **247    Recognition of plant registered by corresponding regulator**

An item of plant is not required to be registered under this part if the plant is registered under a corresponding WHS law.

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

### **248    Application of division 3**

This division applies to the registration of a design of an item of plant stated in schedule 5, part 1.

### **249    Who can apply to register a plant design**

- (1) A person conducting a business or undertaking that designs an item of plant may apply to the regulator for the registration of the design of that item of plant.
- (2) A person with management or control of an item of plant may apply to the regulator for the registration of the design of that item of plant.

---

**250 Application for registration**

- (1) An application for registration of the design of an item of plant must be made in the way and in the form approved by the regulator.
- (2) The application must include the following information—
  - (a) the applicant's name;
  - (b) any evidence of identity required by the regulator;
  - (c) whether the applicant is a body corporate;
  - (d) if the applicant conducts the business or undertaking under a business name—that business name and a certificate or other written evidence of the registration of the business name;
  - (e) a statement signed by the designer of the item of plant—
    - (i) stating that the designer has complied with the designer's obligations under section 22 of the Act in relation to the design; and
    - (ii) stating the published technical standards and engineering principles used in the design; and
  - (f) a design verification statement that accords with section 251;
  - (g) representational drawings of the design;
  - (h) a declaration that the applicant does not hold an equivalent registration granted by a corresponding regulator under a corresponding WHS law;
  - (i) a declaration that the information contained in the application is, to the best of the applicant's knowledge, true and correct.
- (3) Any drawings or other documents provided with the application must be capable of being kept in an electronic form.
- (4) The application must be accompanied by the relevant fee.

[s 251]

---

## **251 Design verification statement**

The design verification statement must—

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

## **252 Who can be the design verifier**

- (1) A person is eligible to be a design verifier for the design of an item of plant if the person is a competent person.
- (2) Despite subsection (1), a person is not eligible to be the design verifier for the design of an item of plant if—
  - (a) the person was involved in the production of the design; or
  - (b) at the time the design was produced, the person was engaged by the person conducting the business or undertaking that produced the design.
- (3) Subsection (2)(b) does not apply if the person conducting the business or undertaking uses a quality system to undertake the design of plant that has been certified by a body accredited or approved by the Joint Accreditation System of Australia and New Zealand.

## **253 Duty of design verifier**

A design verifier of the design of an item of plant stated in schedule 5, part 1 must document the design verification

---

process carried out by that person and the results of that process.

Maximum penalty—36 penalty units.

## **254 Design verification statements not to be made in particular circumstances**

A person must not make a design verification statement for the design of an item of plant stated in schedule 5, part 1 if the person—

- (a) is not eligible to be a design verifier for that design; or
- (b) has not carried out a verification of the design.

Maximum penalty—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

## **255 Additional information**

- (1) If an application for registration of a design of an item of plant does not contain enough information to enable the regulator to make a decision whether or not to grant the registration, the regulator may ask the applicant to provide additional information.
- (2) A request for additional information must—
  - (a) state the date (not being less than 28 days after the request) by which the additional information is to be given; and
  - (b) be confirmed in writing.

[s 256]

---

- (3) If an applicant does not provide the additional information by the date stated, the application is taken to have been withdrawn.
- (4) The regulator may make more than one request for additional information under this section.

## **256 Decision on application**

- (1) Subject to subsection (3), the regulator must grant the registration if satisfied about the matters mentioned in subsection (2).
- (2) The regulator must be satisfied about the following—
  - (a) the application has been made in accordance with this division;
  - (b) the design is not registered under a corresponding WHS law;
  - (c) if the applicant is an individual, the applicant—
    - (i) resides in Queensland; or
    - (ii) resides outside Queensland and circumstances exist that justify the grant of the registration;
  - (d) if the applicant is a body corporate, the applicant's registered office—
    - (i) is located in Queensland; or
    - (ii) is located outside Queensland and the applicant has satisfied the regulator that circumstances exist that justify the grant of the registration;
  - (e) the applicant is able to ensure compliance with any conditions that will apply to the registration.
- (3) The regulator must refuse to grant a registration if satisfied that, in making the application, the applicant has—
  - (a) given information that is false or misleading in a material particular; or



- 
- (b) failed to give any material information that should have been given.
  - (4) If the regulator decides to grant the registration, it must notify the applicant within 14 days after making the decision.
  - (5) If the regulator does not make a decision within 120 days after receiving the application or the additional information requested under section 255, the regulator is taken to have refused to grant the registration applied for.

*Note—*

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

## **257 Refusal of registration—process**

- (1) If the regulator proposes to refuse to grant a registration, the regulator must provide a written notice to the applicant—
  - (a) informing the applicant of the reasons for the proposed refusal; and
  - (b) advising the applicant that the applicant may, by a stated date (being not less than 28 days after giving the notice), make a submission to the regulator in relation to the proposed refusal.
- (2) After the date specified under subsection (1)(b), the regulator must—
  - (a) if the applicant has made a submission in relation to the proposed refusal to grant the registration, consider that submission; and
  - (b) whether or not the applicant has made a submission, decide whether to grant or refuse to grant the registration; and
  - (c) within 14 days after making that decision, give the applicant written notice of the decision, including the reasons for the decision.

[s 258]

---

*Note—*

A refusal to grant a registration is a reviewable decision, see sections 256 and 676.

## **258 Conditions of registration**

- (1) The regulator may impose any conditions on the registration it considers appropriate when granting the registration.
- (2) Without limiting subsection (1), the regulator may impose conditions in relation to one or more of the following matters—
  - (a) the use and maintenance of plant manufactured to the design;
  - (b) the recording or keeping of information;
  - (c) the provision of information to the regulator.

*Notes—*

- 1 A person must comply with the conditions of registration, see section 45 of the Act.
- 2 A decision to impose a condition on a registration is a reviewable decision, see section 676.

## **259 Registration of plant design granted for unlimited duration**

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

## **260 Plant design registration number**

- (1) This section applies if the regulator registers a design of an item of plant.
- (2) The regulator must issue a plant design registration number for the design to the applicant.

- 
- (3) The person to whom the plant design registration number is issued must give the registration number to the manufacturer, importer or supplier of plant manufactured to that design.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- (4) The manufacturer, supplier or importer of plant to whom a plant design registration number is given under this section must give that number to the person with management or control of the plant—

- (a) manufactured to that design; or
- (b) supplied to that person by the manufacturer, supplier or importer.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- (5) The person with management or control of plant at a workplace for which a plant design is registered must ensure that the design registration number is kept readily accessible in the vicinity of the plant at all times.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

[s 261]

---

*Note—*

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

## **261 Registration document**

- (1) If the regulator registers a design of an item of plant, the regulator must issue to the applicant a registration document in the form approved by the regulator.
- (2) The registration document must include—
  - (a) the name of the registration holder; and
  - (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.

## **262 Registration document to be available**

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

Maximum penalty—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- (2) Subsection (1) does not apply if the registration document is not in the registration holder's possession because—
  - (a) it has been returned to the regulator under section 287; or

- (b) the registration holder has applied for but has not received, a replacement registration document under section 288.

## **263 Disclosure of design information**

- (1) Subject to this section, the regulator must not disclose to any person any confidential information provided by an applicant for registration of a design of an item of plant.
- (2) The regulator may disclose information about a plant design in either of the following circumstances—
  - (a) to a corresponding regulator or an authorised officer of a corresponding regulator, at the request of the corresponding regulator;
  - (b) to any person authorised by the applicant for the registration of the design.
- (3) The regulator may provide a copy of the design verification statement to—
  - (a) workers engaged by the person with management or control at a workplace of plant manufactured to the design; or
  - (b) a health and safety representative of those workers.
- (4) The regulator may provide the person with management or control of plant with the minimum information about the plant design that is necessary for the safe operation of the plant if the registration holder for the design of the plant cannot be located or no longer exists.

[s 264]

---

## **Division 4                      Registration process for an item of plant**

### **264      Application of division 4**

This division applies in relation to the registration of an item of plant stated in schedule 5, part 2 as requiring registration.

### **265      Who can apply to register an item of plant**

A person with management or control of an item of plant may apply to the regulator for the registration of that item of plant.

### **266      Application for registration**

- (1) An application for registration of an item of plant must be made in the way and in the form approved by the regulator.
- (2) The application must include the following information—
  - (a) the applicant's name;
  - (b) any other evidence of identity required by the regulator;
  - (c) whether the applicant is a body corporate;
  - (d) if the applicant conducts the business or undertaking under a business name—that business name and a certificate or other written evidence of the registration of the business name;
  - (e) sufficient information to clearly identify the item of plant;
  - (f) if the design of the item of plant was also required to be registered under this part, details of—
    - (i) the plant design registration number; and
    - (ii) the regulator or corresponding regulator that registered the design;

- 
- (g) a statement that the item of plant has been inspected by a competent person and assessed by that person as being safe to operate;
  - (h) the date that the plant was first commissioned or was first registered, whichever occurs first;
  - (i) a declaration that the applicant does not hold an equivalent registration granted by a corresponding regulator under a corresponding WHS law;
  - (j) a declaration that the information contained in the application is, to the best of the applicant's knowledge, true and correct.
- (3) The application must be accompanied by the relevant fee.

## **267 When is a person competent to inspect plant**

A person is a competent person to inspect an item of plant for registration if the person has—

- (a) educational or vocational qualifications in an engineering discipline relevant to the plant to be inspected; or
- (b) knowledge of the technical standards relevant to the plant to be inspected.

## **268 Additional information**

- (1) If an application for registration of an item of plant does not contain enough information to enable the regulator to make a decision whether or not to grant the registration, the regulator may ask the applicant to provide additional information.
- (2) A request for additional information must—
  - (a) state the date (not being less than 28 days after the request) by which the additional information is to be given; and
  - (b) be confirmed in writing.

[s 269]

---

- (3) If an applicant does not provide the additional information by the date stated, the application is taken to have been withdrawn.
- (4) The regulator may make more than one request for additional information under this section.

## **269 Decision on application**

- (1) Subject to subsection (3), the regulator must grant the registration if satisfied about the matters mentioned in subsection (2).
- (2) The regulator must be satisfied about the following—
  - (a) the application has been made under this division;
  - (b) the design is not registered under a corresponding WHS law;
  - (c) the plant is—
    - (i) located in Queensland; or
    - (ii) located outside Queensland and circumstances exist that justify the grant of the registration;
  - (d) if the applicant is an individual, the applicant—
    - (i) resides in Queensland; or
    - (ii) resides outside Queensland and circumstances exist that justify the grant of the registration;
  - (e) if the applicant is a body corporate, the applicant's registered office—
    - (i) is located in Queensland; or
    - (ii) is located outside Queensland and circumstances exist that justify the grant of the registration;
  - (f) the applicant is able to ensure compliance with any conditions that will apply to the registration.
- (3) The regulator must refuse to grant a registration if satisfied that, in making the application, the applicant has—



- 
- (a) given information that is false or misleading in a material particular; or
  - (b) failed to give any material information that should have been given.
- (4) If the regulator decides to grant the registration, it must notify the applicant within 14 days after making the decision.
- (5) If the regulator does not make a decision within 120 days after receiving the application or additional information requested under section 268, the regulator is taken to have refused to grant the registration applied for.

*Note—*

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

## **270 Refusal of registration—process**

- (1) If the regulator proposes to refuse to grant a registration, the regulator must provide a written notice to the applicant—
- (a) informing the applicant of the reasons for the proposed refusal; and
  - (b) advising the applicant that the applicant may, by a stated date, (being not less than 28 days after giving the notice) make a submission to the regulator in relation to the proposed refusal.
- (2) After the date stated under subsection (1)(b), the regulator must—
- (a) if the applicant has made a submission in relation to the proposed refusal to grant the registration—consider that submission; and
  - (b) whether or not the applicant has made a submission—decide whether to grant or refuse to grant the registration; and

[s 271]

---

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

*Note—*

A refusal to grant a registration is a reviewable decision, see sections 269 and 676.

## **271 Conditions of registration**

- (1) The regulator may impose on the registration of an item of plant any conditions it considers appropriate.
- (2) Without limiting subsection (1), the regulator may impose conditions in relation to the following matters—
  - (a) to the use and maintenance of the item of plant;
  - (b) the recording or keeping of information;
  - (c) the provision of information to the regulator.

*Notes—*

- 1 A person must comply with the conditions of registration, see section 45 of the Act.
- 2 A decision to impose a condition on a registration is a reviewable decision, see section 676.

## **272 Duration of registration**

A registration of an item of plant takes effect on the day it is granted and expires 5 years after that day.

### **272A Duration of registration on commencement**

- (1) A registration of an item of plant, granted on or after 1 January 2012 but before 1 January 2013, is valid from the day the registration is granted until 31 January in the following year.
- (2) This section expires on 31 January 2013.

---

### **273 Plant registration number**

- (1) This section applies if the regulator registers an item of plant.
- (2) The regulator must issue a plant registration number for the plant to the registration holder within 14 days after that registration.
- (3) The registration holder must give the plant registration number to the person with management or control of the plant at a workplace.

Maximum penalty—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- (4) The person with management or control of the plant at a workplace must ensure that the plant registration number is marked on the item of plant.

Maximum penalty for subsection (4)—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

### **274 Registration document**

- (1) If the regulator registers an item of plant, the regulator must issue to the applicant within 14 days a registration document in the form approved by the regulator.
- (2) The registration document must include—
  - (a) the name of the registration holder; and

[s 275]

---

- (b) if the registration holder conducts the business or undertaking under a business name, that business name; and
- (c) the registration number for the item of plant; and
- (d) the date that the plant was first commissioned or first registered, whichever occurred first; and
- (e) the date on which the registration takes effect.

### **275 Registration document to be available**

- (1) The registration holder of an item of plant must keep the registration document available for inspection under the Act.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- (2) Subsection (1) does not apply if the registration document is not in the registration holder's possession because—
- (a) it has been returned to the regulator under section 287; or
  - (b) the registration holder has applied for but not received, a replacement registration document under section 288.

### **276 Regulator may renew registration**

The regulator may renew the registration of an item of plant.

### **277 Application for renewal**

- (1) An application for renewal of a registration of an item of plant must be made in the way and in the form approved by the regulator.

- 
- (2) The application must include the following information—
- (a) the applicant's name;
  - (b) any evidence of identity required by the regulator;
  - (c) if the applicant conducts the business or undertaking under a business name, that business name and a certificate or other written evidence of the registration of the business name;
  - (d) the registration number of the item of plant;
  - (e) a declaration that the item of plant has been maintained, inspected and tested under section 213.
- (3) The application must be accompanied by the relevant fee.

**278 Registration continues in force until application is decided**

If a registration holder applies under section 277 for the renewal of a registration, the registration is taken to continue in force from the day it would, apart from this section, have ended until the registration holder is given notice of the decision on the application.

**279 Decision on application**

- (1) The regulator must renew the registration of an item of plant if the regulator is satisfied that—
- (a) the application for renewal has been made under this division; and
  - (b) the plant has been maintained and inspected in accordance with section 213.
- (2) For this division—
- (a) section 268 applies as if a reference in that section to an application for registration were a reference to an application to renew registration; and

[s 279A]

---

- (b) sections 269 and 271 apply as if a reference to the grant of a registration were a reference to the renewal of a registration; and
- (c) section 270 applies as if a reference in that section to a refusal to grant a registration were a reference to a refusal to renew a registration; and
- (d) section 272 applies as if a reference to the grant of a registration were a reference to the renewal of a registration.

*Note—*

A refusal to renew a registration is a reviewable decision, see sections 269 and 676.

### **279A Duration of renewal on commencement**

- (1) A renewal of the registration of an item of plant, granted before 1 January 2013, is valid from 1 February until 31 January in the following year.
- (2) This section expires on 31 January 2013.

### **280 Status of registration during review**

- (1) If the regulator gives the registration holder written notice of a decision to refuse to renew the registration, the registration continues to have effect under this section.
- (2) If the registration holder does not apply for internal review, the registration continues to have effect until the last of the following events—
  - (a) the expiry of the registration;
  - (b) the end of the period for applying for an internal review.
- (3) If the registration holder applies for an internal review, the registration continues to have effect until the earlier of the following events—

- 
- (a) the registration holder withdraws the application for review;
  - (b) the regulator makes a decision on the review.
- (4) If the registration holder does not apply for an external review, the registration continues to have effect until the end of the time for applying for an external review.
- (5) If the registration holder applies for an external review, the registration continues to have effect until the earlier of the following events—
- (a) the registration holder withdraws the application for review; or
  - (b) QCAT makes a decision on the review.
- (6) The registration continues to have effect under this section even if its expiry date passes.

## **Division 5                      Changes to registration and registration documents**

### **281      Application of division**

This division applies to—

- (a) the registration of a design of an item of plant; and
- (b) the registration of an item of plant.

### **282      Changes to information**

- (1) A registration holder must give the regulator written notice of any change to—
- (a) the registration holder's name; or
  - (b) any of the information mentioned in sections 250, 255(1), 266 or 268(1) within 14 days after the registration holder becomes aware of the change.

[s 283]

---

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- (2) Subsection (1) applies whether the information was given in the application for grant of the registration or in any other circumstance.
- (3) Without limiting subsection (1), a registration holder for an item of plant must give written notice to the regulator if—
  - (a) the item of plant is altered to an extent or in a way that requires the plant to be subject to new control measures; or
  - (b) the item of plant is usually fixed and is relocated; or
  - (c) the registration holder no longer has management or control of the item of plant.

### **283 Amendment of registration imposed by regulator**

- (1) The regulator may, on its own initiative, amend a registration, including by amending the registration to—
  - (a) vary or delete a condition of the registration; or
  - (b) impose a new condition on the registration.
- (2) Before amending a registration under this section, the regulator must give the registration holder written notice that—
  - (a) sets out the proposed amendment and the reasons for it; and
  - (b) informs the registration holder that the registration holder may make a submission to the regulator in relation to the proposed amendment within a stated



---

period (being not less than 28 days from the date of the notice).

- (3) If the registration holder makes a submission within the time stated in the notice, the regulator must consider that submission.
- (4) After the time stated in the notice, the regulator may—
  - (a) make the proposed amendment; or
  - (b) decide not to make the amendment; or
  - (c) make a different amendment that results from consideration of any submission made by the registration holder.
- (5) If the regulator amends the registration, it must, within 14 days after making the amendment, give the registration holder a written notice that—
  - (a) sets out the amendment; and
  - (b) if a submission was made in relation to the proposed amendment, sets out the regulator's reasons for making the amendment; and
  - (c) states the date, being not less than 28 days after the registration holder is given the notice, on which the amendment takes effect.

*Note—*

A decision to amend a registration is a reviewable decision, see section 676.

## **284 Amendment on application by registration holder**

- (1) The regulator may, on application by the registration holder, amend a registration, including by amending the registration to vary or delete or add a condition of the registration.
- (2) If the regulator proposes to refuse to amend the registration, it must give the registration holder a written notice that—

[s 284]

---

- (a) states the intention to refuse to make the amendment and the reasons for that intention; and
  - (b) informs the registration holder that the registration holder may make a submission to the regulator in relation to the proposed refusal within a specified period (being not less than 28 days after the registration holder is given the notice).
- (3) If the registration holder makes a submission within the time stated in the notice, the regulator must consider that submission.
- (4) After the time stated in the notice, the regulator may—
- (a) make the amendment; or
  - (b) refuse to make the amendment; or
  - (c) make a different amendment that results from consideration of any submission made by the registration holder.
- (5) If the regulator makes the amendment, it must give the registration holder a written notice within 14 days of making the decision stating the date on which the amendment takes effect.
- (6) If the regulator refuses to make the amendment or makes a different amendment, it must give the registration holder a written notice within 14 days of making the decision that—
- (a) if a submission was made in relation to the proposed amendment—sets out the reasons for the regulator's decision; and
  - (b) if the regulator makes a different amendment—
    - (i) sets out the amendment; and
    - (ii) states the date, being not less than the 28 days after the registration holder is given the second notice, on which the amendment takes effect.

---

*Note—*

A refusal to make the amendment applied for, or to make a different amendment, is a reviewable decision, see section 676.

## **285 Minor corrections to registration**

The regulator may make minor amendments to a registration, including an amendment—

- (a) to correct an obvious error; or
- (b) to change an address; or
- (c) that imposes no significant burden on the registration holder.

## **286 Regulator to provide amended registration document**

If the regulator amends a registration and considers that the registration document requires amendment, the regulator must give the registration holder an amended registration document within 14 days of making the decision.

## **287 Registration holder to return registration document**

A registration holder must return the registration document to the regulator for amendment at the written request of the regulator within the time stated in the request.

Maximum penalty—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

[s 288]

---

## **288 Replacement registration document**

- (1) A registration holder must give written notice to the regulator as soon as practicable if the registration document is lost, stolen or destroyed.

Maximum penalty—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

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

*Note—*

A registration holder is required to keep a registration document available for inspection, see section 275.

- (3) An application for a replacement registration document must include a declaration describing the circumstances in which the original document was lost, stolen or destroyed.
- (4) The regulator may issue a replacement registration document if satisfied that the original document was lost, stolen or destroyed.
- (5) If the regulator refuses to issue a replacement licence document, it must give the registration holder written notice of this decision, including the reasons for the decision within 14 days of making the decision.

*Note—*

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

---

## Chapter 6 Construction work

### Part 6.1 Preliminary

#### 289 Meaning of *construction work*

- (1) In this chapter, *construction work* means any work carried out in connection with the construction, alteration, conversion, fitting-out, commissioning, renovation, repair, maintenance, refurbishment, demolition, decommissioning or dismantling of a structure.
- (2) Without limiting subsection (1), *construction work* includes the following—
  - (a) any installation or testing carried out in connection with an activity mentioned in subsection (1);
  - (b) the removal from the workplace of any product or waste resulting from demolition;
  - (c) the prefabrication or testing of elements, at a place specifically established for the construction work, for use in construction work;
  - (d) the assembly of prefabricated elements to form a structure, or the disassembly of prefabricated elements forming part of a structure;
  - (e) the installation, testing or maintenance of an essential service in relation to a structure;
  - (f) any work connected with an excavation;
  - (g) any work connected with any preparatory work or site preparation (including landscaping as part of site preparation) carried out in connection with an activity mentioned in subsection (1);
  - (h) an activity mentioned in subsection (1), that is carried out on, under or near water, including work on buoys and obstructions to navigation.

[s 290]

---

- (3) In this chapter, **construction work** does not include any of the following—
- (a) the manufacture of plant;
  - (b) the prefabrication of elements, other than at a place specifically established for the construction work, for use in construction work;
  - (c) the construction or assembly of a structure that once constructed or assembled is intended to be transported to another place;
  - (d) testing, maintenance or repair work of a minor nature carried out in connection with a structure;
  - (e) mining or the exploration for or extraction of minerals.

## 290 Meaning of **structure**

- (1) In this chapter, **structure** has the same meaning as it has in the Act.

*Examples—*

- a roadway or pathway
  - a ship or submarine
  - foundations, earth retention works and other earthworks, including river works and sea defence works
  - formwork, falsework or any other structure designed or used to provide support, access or containment during construction work
  - an airfield
  - a dock, harbour, channel, bridge, viaduct, lagoon or dam
  - a sewer or sewerage or drainage works
- (2) This chapter does not apply to plant unless—
- (a) the plant is—
    - (i) a ship or submarine; or
    - (ii) a pipe or pipeline; or
    - (iii) an underground tank; or

- 
- (iv) designed or used to provide support, access or containment during work in connection with construction work; or
  - (b) work on the plant relates to work that is carried out in connection with construction work; or
  - (c) the plant is fixed plant on which outage work or overhaul work that involves or may involve work being carried out by 5 or more persons conducting businesses or undertakings at any point in time.

*Note—*

This chapter does not apply to the manufacture of plant, see section 289(3)(a).

## **291 Meaning of *high risk construction work***

In this chapter, *high risk construction work* means construction work that—

- (a) involves a risk of a person falling more than 2m; or
- (b) is carried out on a telecommunication tower; or
- (c) involves demolition of an element of a structure that is load-bearing or otherwise related to the physical integrity of the structure; or
- (d) involves, or is likely to involve, the disturbance of asbestos; or
- (e) involves structural alterations or repairs that require temporary support to prevent collapse; or
- (f) is carried out in or near a confined space; or
- (g) is carried out in or near—
  - (i) a shaft or trench with an excavated depth greater than 1.5m; or
  - (ii) a tunnel; or
- (h) involves the use of explosives; or

[s 292]

---

- (i) is carried out on or near pressurised gas distribution mains or piping; or
- (j) is carried out on or near chemical, fuel or refrigerant lines; or
- (k) is carried out on or near energised electrical installations or services; or
- (l) is carried out in an area that may have a contaminated or flammable atmosphere; or
- (m) involves tilt-up or precast concrete; or
- (n) is carried out on, in or adjacent to a road, railway, shipping lane or other traffic corridor that is in use by traffic other than pedestrians; or
- (o) is carried out in an area at a workplace in which there is any movement of powered mobile plant; or
- (p) is carried out in an area in which there are artificial extremes of temperature; or
- (q) is carried out in or near water or other liquid that involves a risk of drowning; or
- (r) involves diving work.

## **292 Meaning of *construction project***

In this chapter, a *construction project* is a project that involves construction work where the cost of the construction work is \$250000 or more.

## **293 Meaning of *principal contractor***

- (1) In this chapter, a person conducting a business or undertaking that commissions a construction project is, subject to this section, the *principal contractor* for the project.
- (2) If the person mentioned in subsection (1) engages another person conducting a business or undertaking as principal contractor for the construction project and authorises the



---

person to have management or control of the workplace and to discharge the duties of a principal contractor under this chapter, the person so engaged is the *principal contractor* for the project.

- (3) If the owner of residential premises is an individual who directly or indirectly engages a person conducting a business or undertaking to undertake a construction project in relation to the premises, the person so engaged is the *principal contractor* for the project if the person has management or control of the workplace.
- (4) A construction project has only one principal contractor at any specific time.

*Note—*

A person with management or control of a workplace must comply with section 20 of the Act.

## **Part 6.2                      Duties of designer of structure and person who commissions construction work**

### **294      Person who commissions work must consult with designer**

- (1) A person conducting a business or undertaking that commissions construction work in relation to a structure must, so far as is reasonably practicable, consult with the designer of the whole or any part of the structure about how to ensure that risks to health and safety arising from the design during the construction work are—
  - (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.

[s 295]

---

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- (2) Consultation must include giving the designer any information that the person who commissions the construction work has in relation to the hazards and risks at the workplace where the construction work is to be carried out.

## **295 Designer must give safety report to person who commissions design**

- (1) The designer of a structure or any part of a structure that is to be constructed must give the person conducting a business or undertaking who commissioned the design a written report that specifies the hazards relating to the design of the structure that, so far as the designer is reasonably aware—
  - (a) create a risk to the health or safety of persons who are to carry out any construction work on the structure or part; and
  - (b) are associated only with the particular design and not with other designs of the same type of structure.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- (2) If the person conducting a business or undertaking who commissions a construction project did not commission the design of the construction project, the person must take all

reasonable steps to obtain a copy of the written report mentioned in subsection (1) in relation to that design.

Maximum penalty—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

## **296 Person who commissions project must give information to principal contractor**

If a person conducting a business or undertaking that commissions a construction project engages a principal contractor for the project, the person must give the principal contractor any information the person has in relation to hazards and risks at or in the vicinity of the workplace where the construction work is to be carried out.

Maximum penalty—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

## **Part 6.3 Duties of person conducting business or undertaking**

*Note—*

As a principal contractor is a person conducting a business or undertaking, this part also applies to a principal contractor.

[s 297]

---

## **Division 1                      General**

### **297      Management of risks to health and safety**

A person conducting a business or undertaking must manage risks associated with the carrying out of construction work in accordance with part 3.1.

*Note—*

WHS Act—section 19 (see section 9).

### **298      Security of workplace**

- (1) A person with management or control of a workplace at which construction work is carried out must ensure, so far as is reasonably practicable, that the workplace is secured from unauthorised access.

Maximum penalty—36 penalty units.

- (2) In complying with subsection (1), the person must have regard to all relevant matters including—
- (a) risks to health and safety arising from unauthorised access to the workplace; and
  - (b) the likelihood of unauthorised access occurring; and

*Example—*

The proximity of the workplace to places frequented by children, including schools, parks and shopping precincts.

- (c) to the extent that unauthorised access to the workplace cannot be prevented—how to isolate hazards within the workplace.

---

## **Division 2                      High risk construction work—safe work method statements**

### **299      Safe work method statement required for high risk construction work**

- (1) A person conducting a business or undertaking that includes the carrying out of high risk construction work must, before high risk construction work commences, ensure that a safe work method statement for the proposed work—
- (a) is prepared; or
  - (b) has already been prepared by another person.

Maximum penalty—60 penalty units.

- (2) A safe work method statement must—
- (a) identify the work that is high risk construction work; and
  - (b) state hazards relating to the high risk construction work and risks to health and safety associated with those hazards; and
  - (c) describe the measures to be implemented to control the risks; and
  - (d) describe how the control measures are to be implemented, monitored and reviewed.
- (3) A safe work method statement must—
- (a) be prepared taking into account all relevant matters including—
    - (i) circumstances at the workplace that may affect the way in which the high risk construction work is carried out; and
    - (ii) if the high risk construction work is carried out in connection with a construction project—the WHS management plan that has been prepared for the workplace; and

[s 300]

---

- (b) be set out and expressed in a way that is readily accessible and understandable to persons who use it.
- (4) For subsection (2)(c), if a safe work method statement for high risk construction work that involves a risk of a person falling more than 2m states that the only control measures to be implemented will be administrative controls or the provision of personal protective equipment, the safe work method statement must describe all control measures considered in determining which control measures to implement (including by addressing the general fall protection requirements in section 79(3)).

*Note—*

See section 79 in relation to the minimisation of risk in relation to falls generally.

### **300 Compliance with safe work method statement**

- (1) A person conducting a business or undertaking that includes the carrying out of high risk construction work must put in place arrangements for ensuring that high risk construction work is carried out in accordance with the safe work method statement for the work.

Maximum penalty—60 penalty units.

- (2) If high risk construction work is not carried out in accordance with the safe work method statement for the work, the person must ensure that the work—
  - (a) is stopped immediately or as soon as it is safe to do so; and
  - (b) resumed only in accordance with the statement.

Maximum penalty—60 penalty units.

---

**301 Safe work method statement—copy to be given to principal contractor**

A person conducting a business or undertaking that includes carrying out high risk construction work in connection with a construction project must, before the high risk construction work commences, ensure that a copy of the safe work method statement for the work is given to the principal contractor.

Maximum penalty—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

**302 Review of safe work method statement**

A person conducting a business or undertaking must ensure that a safe work method statement is reviewed and, as necessary, revised if relevant control measures are revised under section 38.

Maximum penalty—36 penalty units.

**303 Safe work method statement must be kept**

- (1) Subject to subsection (2), a person conducting a business or undertaking must keep a copy of the safe work method statement until the high risk construction work to which it relates is completed.

Maximum penalty—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

[s 304]

---

- (2) If a notifiable incident occurs in connection with the high risk construction work to which the statement relates, the person must keep the statement for at least 2 years after the incident occurs.

Maximum penalty—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or  
(b) for a body corporate—60 penalty units.

*Note—*

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

- (3) The person must ensure that for the period for which the statement must be kept under this section, a copy is readily accessible to any worker engaged by the person to carry out the high risk construction work.

Maximum penalty—36 penalty units.

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

Maximum penalty—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or  
(b) for a body corporate—60 penalty units.

*Note—*

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

## **Division 3                      Excavation work**

### **304      Excavation work—underground essential services information**

- (1) This section applies in relation to a part of a workplace where excavation work is being carried out and any adjacent areas.



- 
- (2) A person with management or control of the workplace must take all reasonable steps to obtain current underground essential services information about the areas mentioned in subsection (1) before directing or allowing the excavation work to commence.

Maximum penalty—36 penalty units.

- (3) The person with management or control of the workplace must provide the information obtained under subsection (2) to any person engaged by the person to carry out the excavation work.

Maximum penalty—36 penalty units.

- (4) The person with management or control of the workplace and any person conducting a business or undertaking who is given information under subsection (3) must have regard to the information mentioned in subsection (2) in carrying out or directing or allowing the carrying out of the excavation work.

Maximum penalty—36 penalty units.

*Note—*

Legislation relating to the essential services may also impose duties on the person conducting the business or undertaking and the persons carrying out the work.

- (5) The person with control or management of the workplace must ensure that the information mentioned in subsection (2) is available for inspection under the Act for the period stated in subsection (6).

Maximum penalty—

- (a) for an individual—12½ penalty units; or  
(b) for a body corporate—60 penalty units.

*Note—*

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

- (6) The information must be available—

[s 305]

---

- (a) if a notifiable incident occurs in connection with the excavation work to which the information relates—for at least 2 years after the incident occurs; and
- (b) in every other case—until the excavation work is completed.

(7) In this section—

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

***underground essential services information***, in relation to proposed excavation work, means the following information about underground essential services that may be affected by the excavation—

- (a) the essential services that may be affected;
- (b) the location, including the depth, of any pipes, cables or other plant associated with the affected essential services;
- (c) any conditions on the proposed excavation work.

### **305 Management of risks to health and safety associated with excavation work**

- (1) A person conducting a business or undertaking must manage risks to health and safety associated with excavation work under part 3.1.

*Note—*

WHS Act—section 19 (see section 9).

- (2) The risks this section applies to include the following—
- (a) a person falling into an excavation;
  - (b) a person being trapped by the collapse of an excavation;
  - (c) a person working in an excavation being struck by a falling thing;

- 
- (d) a person working in an excavation being exposed to an airborne contaminant.
- (3) In complying with subsection (1), the person must have regard to all relevant matters including the following—
- (a) the nature of the excavation;
  - (b) the nature of the excavation work, including the range of possible methods of carrying out the work;
  - (c) the means of entry into and exit from the excavation, if applicable.

### **305A Additional controls—barricade or hoarding**

- (1) A person with management or control of a workplace where excavation work is carried out must erect a barricade or hoarding at least 900mm high to restrict access by persons to the excavation unless—
- (a) the erection of the barricade or hoarding is impracticable; or
  - (b) no person is likely to be in the vicinity of the excavation.
- Maximum penalty—60 penalty units.

- (2) In this section—

***barricade*** means a self-supporting fence, or a self-supporting series of continuous plastic, concrete or other solid barriers, usually temporary, erected or placed to restrict the entry of persons to a workplace.

*Examples of fences—*

- steel pickets joined by chain wire of appropriate height to restrict entry
- steel pickets joined by rows of wire at appropriate heights to restrict entry
- steel pickets joined by taut plastic webbing commonly known as para-webbing

[s 305B]

---

**hoarding** means a self-supporting structure, fully sheeted with timber, plywood, metal or sturdy synthetic sheets, or fully covered by chain wire or sturdy mesh, that is designed—

- (a) to prevent persons other than the person conducting a business or undertaking or workers from entering a workplace where excavation work is being carried out; and
- (b) to provide protection to those persons against objects or material approaching them from the side.

**305B Additional controls—ladders to trenches more than 1.5m deep**

- (1) This section applies if access to and from a trench more than 1.5m deep at the workplace is by ladders.
- (2) A person conducting a business or undertaking must ensure that at least 1 ladder giving access to and from the trench is installed in every 9m of the length of the trench in the part of the trench where a person will be.

Maximum penalty—60 penalty units.

**306 Additional controls—trenches**

- (1) A person conducting a business or undertaking, who proposes to excavate a trench at least 1.5m deep must ensure, so far as is reasonably practicable, that the work area is secured from unauthorised access (including inadvertent entry).

Maximum penalty—60 penalty units.

- (2) In complying with subsection (1), the person must have regard to all relevant matters including—
  - (a) risks to health and safety arising from unauthorised access to the work area; and
  - (b) the likelihood of unauthorised access occurring.

- 
- (3) In addition, the person must minimise the risk to any person arising from the collapse of the trench by ensuring that all sides of the trench are adequately supported by doing one or more of the following—
- (a) shoring by shielding or other comparable means;
  - (b) benching;
  - (c) battering.
- Maximum penalty—60 penalty units.
- (4) Subsection (3) does not apply if the person receives written advice from a geotechnical engineer that all sides of the trench are safe from collapse.
- (5) An advice under subsection (4)—
- (a) may be subject to a condition that stated natural occurrences may create a risk of collapse; and
  - (b) must state the period of time to which the advice applies.

## Division 4                      **Additional controls—construction work**

### Subdivision 1                **Definitions**

#### **306A Definitions**

In this division—

***anchorage point*** means a device or thing by which a lanyard, static line or other line may be attached to a building or other structure, and includes the part of the building or structure to which the device or thing is attached.

*Examples—*

- a stainless steel eyebolt, set in a concrete floor, to which a lanyard may be attached

[s 306A]

---

- a sling around a steel I beam, with padding under the sling, joined by a shackle or other joining device to which a lanyard may be attached
- a plate for a travel restraint system fixed by screws to a roof component to which a lanyard may be attached

***edge protection*** means a barrier to prevent a person falling erected along the edge of—

- (a) a building or other structure; or
- (b) an opening in a surface of a building or other structure; or
- (c) a fall arresting platform; or
- (d) the surface from which work is to be done.

***fall arrest harness system*** means a system that—

- (a) is designed to arrest the fall of a person using it and eliminate or minimise the risk of injury to the person as the fall is arrested; and
- (b) consists of a harness attached to—
  - (i) a device to absorb the energy of the falling person attached to a lanyard that is attached to a static line or anchorage point; or
  - (ii) a line that—
    - (A) has a device that automatically locks the line, and absorbs the energy of the falling person; and
    - (B) is attached to a static line or anchorage point; or
  - (iii) a lanyard that—
    - (A) has a device that travels along a line or rail, automatically locks onto the line or rail, and absorbs the energy of the falling person; and
    - (B) is attached to a static line or anchorage point.

---

***fall arresting platform*** means a platform installed to arrest the fall of a person who falls from a building or other structure.

***fall protection cover*** means a structure that—

- (a) is placed over an opening in a surface of a building or other structure to prevent a person falling through the opening; and
- (b) consists of solid sheets of sturdy material.

*Examples for paragraph (b)—*

solid sheets of sturdy timber, plywood, metal, mesh

***housing construction work*** means construction work that is work to erect, construct, extend or structurally alter—

- (a) any of the following dwellings that is not located above or below another dwelling or another part of a building, other than a part that is a private garage—
  - (i) a detached house;
  - (ii) an attached dwelling, separated from the dwelling to which it is attached by a fire-resisting wall, including, for example, a terrace house or town house;
  - (iii) a boarding house, guest house, hostel or similar building with a floor area of not more than 300m<sup>2</sup>;  
or
- (b) a building that is not designed for habitation but is ancillary to a building to which paragraph (a) applies.

*Example of an ancillary building—*

a private garage, carport or shed

***permitted work***, in relation to work involving a ladder, means work in which—

- (a) the weight, size or shape of any equipment or material the person using the ladder is carrying is not likely to—
  - (i) restrict the person's movement while the person is climbing or descending the ladder; or

[s 306A]

---

- (ii) cause the person to lose balance on the ladder while carrying out the work; and
- (b) the person's trunk is approximately centred over the centre of the space between the sides of the ladder from when the person is fully on the ladder to when the person is leaving the ladder; and
- (c) any equipment being used by the person can be operated using 1 hand unless a control measure designed to support the person's body is being worn or used.

*Example of a control measure—*

a strap, commonly known as a pole strap, that fits around a pole and is attached to a harness worn by the person

***static line*** means a flexible line, to which a lanyard is attached, supported by at least 2 anchorage points located so that the angle between the horizontal and an imaginary straight line between any anchorage point and the other or nearest anchorage point is—

- (a) if the manufacturer of the flexible line has specified the size of the angle—not more than the size specified; or
- (b) if the manufacturer has not specified the size of the angle—not more than 5°.

***travel restraint system*** means a system that—

- (a) consists of a harness or belt, attached to 1 or more lanyards, each of which is attached to a static line or anchorage point; and
- (b) is designed to restrict the travelling range of a person wearing the harness or belt so that the person can not get into a position where the person could fall off an edge of a surface or through a surface.



---

## **Subdivision 2 Falls**

### **306B Definition for sdiv 2**

In this subdivision—

*ladder* does not include a fixed ladder.

### **306C Risk of fall of less than 3m in housing construction work or less than 2m in other construction work or construction work on roof with slope not over 26°**

- (1) This section applies to—
  - (a) construction work that is housing construction work during which a person could fall less than 3m; or
  - (b) construction work that is not housing construction work during which a person could fall less than 2m; or
  - (c) construction work on a roof, or partly completed roof, surface with a slope not over 26°.
- (2) However, this section does not apply to construction work if a person could fall from—
  - (a) a ladder or fixed ladder; or
  - (b) a platform supported by trestle ladders; or
  - (c) scaffolding that the person is erecting or dismantling; or
  - (d) an area near a ladder that the person needs to use to get on or off the ladder.
- (3) If a person conducting a business or undertaking uses a control measure mentioned in this subdivision, the control measure and the use of the control measure must comply with this subdivision.  
Maximum penalty—60 penalty units.
- (4) However, a fall arresting platform used as a control measure need not comply with section 306H if the fall would be

[s 306D]

---

internal within formwork the person is erecting or dismantling.

**306D Risk of fall of at least 3m in housing construction work or at least 2m in other construction work or construction work on roof with a slope over 26°**

- (1) This section applies to—
  - (a) construction work that is housing construction work during which a person could fall at least 3m; or
  - (b) construction work that is not housing construction work during which a person could fall at least 2m; or
  - (c) construction work on a roof, or partly completed roof, surface with a slope over 26°.
- (2) However, this section does not apply to work if a person could fall from—
  - (a) a ladder or fixed ladder; or
  - (b) a platform supported by trestle ladders; or
  - (c) scaffolding that the person is erecting or dismantling; or
  - (d) an area near a ladder that the person needs to use to get on or off the ladder.
- (3) If a person conducting a business or undertaking uses a control measure mentioned in this subdivision, the control measure and the use of the control measure must comply with this subdivision.

Maximum penalty—60 penalty units.

- (4) However, a fall arresting platform used as a control measure need not comply with section 306H if the fall would be internal within formwork the person is erecting or dismantling.

---

### **306E Edge protection as control measure**

- (1) Edge protection used as a control measure must be erected in accordance with the instructions of—
  - (a) if the edge protection's manufacturer or supplier has given instructions about its installation—the manufacturer or supplier; or
  - (b) otherwise—an engineer or competent person.
- (3) The edge protection must be designed to withstand the downwards or outwards force of the impact of a fall against it of any person who may reasonably be expected to fall against it to ensure that the person does not fall from the surface from which work is to be done.
- (4) The edge protection must—
  - (a) have a rail, or another component that prevents the person from falling, fitted so that the top of the rail or component is at least—
    - (i) if the surface that is at the base of the edge protection is at least 1200mm wide—900mm higher than that surface; or
    - (ii) otherwise—
      - (A) if the surface from which work is to be done is sloped—900mm higher than where that surface, if extended downwards at that slope, would intersect with the edge protection; or
      - (B) if the surface from which work is to be done is not sloped—900mm higher than that surface; and
  - (b) have another rail or rails or sturdy mesh, sheeting or other material below the rail or component.
- (5) However, if the edge protection has rails, the edge protection must have—
  - (a) either—

[s 306F]

---

- (i) a bottom rail fitted at least 150mm but not over 250mm higher than the surface that is at the base of the edge protection; or
    - (ii) a toe board, for the surface that is at the base of the edge protection, at least 150mm high and fitted below all rails of the edge protection; and
  - (b) another rail or rails fitted so that there is not over 450mm between any rail and its nearest rail or between the lowest rail and any toe board for the surface that is at the base of the edge protection; and
  - (c) if the slope of the surface from which work is to be done is over 26°—sturdy mesh, sheeting or other material that extends upwards at least 900mm from—
    - (i) the surface that is at the base of the edge protection; or
    - (ii) the toe board.
- (6) A person conducting the business or undertaking must not use, or allow another person to use, the edge protection unless it is used in accordance with the instructions of—
- (a) if the edge protection’s manufacturer or supplier has given instructions about its use—the manufacturer or supplier; or
  - (b) otherwise—an engineer or competent person.
- (7) In this section—

*fall prevention device* see section 79(5).

*toe board* for a surface means an upright timber or metal board securely fixed in place at an edge of the surface.

### **306F Fall protection cover as control measure**

A fall protection cover used as a control measure must—

- 
- (a) be able to withstand the impact of a fall onto it of any person who may reasonably be expected to fall onto it to ensure that the person does not fall; and
  - (b) be securely fixed in place to prevent it being moved or removed accidentally.

### **306G Travel restraint system as control measure**

- (1) A travel restraint system used as a control measure must—
  - (a) be installed by a competent person; and
  - (b) have an anchorage point with a capacity to withstand any load that could be exerted on it in the normal operation of the system to restrain any person who may reasonably be expected to use the system.
- (2) A person conducting a business or undertaking must not use, or allow another person to use, the system unless the person who is to use the system has been trained in the safe and correct use of the system.
- (3) A person conducting a business or undertaking must not use, or allow another person to use, a component of the system that shows evidence of wear or weakness to an extent that may affect the system's safety.
- (4) A person conducting a business or undertaking must ensure that, at least once every 6 months, a competent person—
  - (a) inspects the system; and
  - (b) gives the person a written record of the inspection.
- (5) A person conducting a business or undertaking must keep the record for the lesser of the following—
  - (a) 4 years;
  - (b) the life of the system.

[s 306H]

---

### **306H Fall arresting platform as control measure**

- (1) A fall arresting platform used as a control measure must be able to withstand the impact of a fall onto it of any person who may reasonably be expected to fall onto it.
- (2) The platform of the fall arresting platform must provide an unobstructed landing area, for a falling person, at least 675mm wide for the length of the platform.
- (3) If the slope of the surface from which construction work is to be carried out is not over 26°, the fall arresting platform must be not over 1m lower than the surface.
- (4) If the slope of the surface from which construction work is to be carried out is over 26°, the fall arresting platform must be not over 300mm lower than the surface.
- (5) The fall arresting platform must have edge protection complying with section 306E erected—
  - (a) along the outer edge of the length of the fall arresting platform; and
  - (b) along the edge of each end of the fall arresting platform.
- (6) Subsection (7) applies if the gap between the following is over 225mm—
  - (a) the inner edge of the length of the platform;
  - (b) the face of a structure that is immediately beside the fall arresting platform.
- (7) A person conducting a business or undertaking must, in complying with section 306C or 306D, ensure that any control measures required to eliminate or minimise the risk of a person falling off the inner edge are used.

### **306I Fall arrest harness system as control measure**

- (1) Each anchorage point of a fall arrest harness system used as a control measure must be—

- 
- (a) designed by an engineer for the purpose for which it is intended to be used; or
    - (b) inspected and approved by a competent person before the anchorage point is first used by any person.
  - (2) Each anchorage point of the system, other than an anchorage point supporting a static line, must have a capacity of at least—
    - (a) if only 1 person is using the anchorage point and the person could have a limited free fall—12kN; or
    - (b) if only 1 person is using the anchorage point and the person could have a free fall—15kN; or
    - (c) if 2 persons are using the anchorage point—21kN.
  - (3) Each anchorage point of the system must be located so that a lanyard of the system can be attached to it before the person using the system moves into a position where the person could fall.
  - (4) The system's device to absorb the energy of a falling person must limit the force applied to the person by a fall to not more than 6kN.
  - (5) The system must be installed in accordance with the instructions of—
    - (a) if the system's manufacturer or supplier has given instructions about its installation—the manufacturer or supplier; and
    - (b) to the extent the system's manufacturer or supplier has not given instructions—an engineer or competent person.
  - (6) The system must be maintained in accordance with the instructions of—
    - (a) if the system's manufacturer or supplier has given instructions about its maintenance—the manufacturer or supplier; and

[s 306I]

---

- (b) to the extent the system's manufacturer or supplier has not given instructions—an engineer or competent person.
- (7) A person conducting a business or undertaking must ensure there is enough distance available for a person using the system to fall to prevent the person hitting an object, the ground or another surface, other than a vertical surface.
- Maximum penalty—60 penalty units.
- (8) For subsection (7), whether there is enough distance available must be worked out by taking the following into account—
- (a) the person's height;
  - (b) the height and position of the anchorage point;
  - (c) the length of the lanyard;
  - (d) any slack in the static line;
  - (e) any stretching of the lanyard or static line when extended by a fall;
  - (f) the length of the energy absorber when extended by a fall;
  - (g) any other relevant factor.
- (9) A person conducting a business or undertaking must ensure that—
- (a) no part of the system can come into contact with anything that could affect the safe use of the system; and  
*Examples of a thing that could affect the safe use of a system—*
    - an edge of a platform or beam over which a lanyard would tighten if a fall were to happen
    - part of an anchorage point that is not adequately padded
  - (b) a person using the system is trained in the safe and correct use of the system.
- (10) A person conducting a business or undertaking must ensure that—



- 
- (a) a component of the system is not used if it shows evidence of wear or weakness to an extent that may affect the system's safety; and
  - (b) if a competent person considers that an anchorage point of the system is worn or that its load bearing capacity may be impaired—
    - (i) the anchorage point is not used; and
    - (ii) appropriate measures are taken to prevent its use while it is worn or its load bearing capacity may be impaired; and
  - (c) at least once every 6 months, a competent person inspects the components of the system, other than each anchorage point, and gives the person a written record of the inspection; and
  - (d) the record is kept for the lesser of the following—
    - (i) 4 years;
    - (ii) the life of the system.
- (11) If the system has been used to arrest a fall, the system must not be used again unless its manufacturer or a competent person has inspected it and decided that it is fit for safe use.
- (12) A person conducting a business or undertaking must not use, or allow another person to use, the system unless it is used in accordance with the instructions of—
- (a) if the system's manufacturer or supplier has given instructions about its use—the manufacturer or supplier; or
  - (b) otherwise—an engineer or competent person.
- (13) A person conducting a business or undertaking must not use, or allow another person to use, the system while the person using the system is alone.
- (14) In this section—

[s 306J]

---

*free fall* means a fall in which the distance a person using a fall arrest harness system falls vertically before the system starts to take loading is more than 600mm but not more than 2m.

*limited free fall* means a fall in which the distance a person using a fall arrest harness system falls vertically before the system starts to take loading is not more than 600mm.

### **306J Safety net as control measure**

- (1) A safety net used as a control measure must—
  - (a) be designed by an engineer or competent person for the purpose for which it is intended to be used; and
  - (b) be made of material designed to minimise injury to a person falling into the net; and
  - (c) have energy absorbing characteristics to reduce the shock or injury to a person falling into the net.
- (2) The net must be installed—
  - (a) so that a person falling into the net will not hit anything below the net; and
  - (b) as close as possible below the surface from which the person who is to be protected by the net is to work, but not more than the distance below the surface specified by—
    - (i) if the net's manufacturer or supplier has specified the distance—the manufacturer or supplier; or
    - (ii) otherwise—an engineer or competent person.
- (3) The net must, subject to anything specified under subsection (2), be installed in accordance with the instructions of—
  - (a) if the net's manufacturer or supplier has given instructions about its installation—the manufacturer or supplier; or
  - (b) otherwise—an engineer or competent person.

- (4) A person conducting a business or undertaking must not use, or allow another person to use, the net unless it is used in accordance with the instructions, if any, of the net's manufacturer or supplier, an engineer or a competent person.
- (5) A person conducting a business or undertaking must ensure the net is inspected and maintained in accordance with the instructions, if any, of an engineer or competent person or the net's manufacturer or supplier.

### **Subdivision 3      Ladders and platforms supported by ladders**

#### **306K    What work may be done from single or extension ladder**

- (1) This section applies if a person conducting a business or undertaking intends to perform construction work that involves a single or extension ladder.
- (2) The person must not use, or allow another person to use, the ladder—
  - (a) to gain access to a place, unless the person using the ladder has at least 2 hands and 1 foot, or 2 feet and 1 hand, on the ladder from when the person is fully on the ladder to when the person is leaving the ladder; or
  - (b) to do construction work, other than to gain access to a place under paragraph (a), unless the work is permitted work.

Maximum penalty—60 penalty units.

#### **306L    Work on a ladder**

- (1) This section applies if a person conducting a business or undertaking intends to perform construction work that involves a ladder.
- (2) Subsection (3) applies if the construction work is permitted work, and, in doing the work, a person could fall—

[s 306L]

---

- (a) for housing construction work—at least 3m; or
  - (b) otherwise—at least 2m.
- (3) The person conducting the business or undertaking must not use, or allow another person to use, the ladder, if it is a single or extension ladder, unless—
- (a) the person using the ladder—
    - (i) has at least 3 limbs holding, wrapped around or standing on the ladder in any combination; or  
*Example—*
      - holding the ladder with 1 hand while standing on it with 2 feet
    - (ii) is prevented from falling by a control measure, for example, a strap commonly known as a pole strap; or
    - (iii) is using a fall arrest harness system that is not attached to the ladder; and
  - (b) the ladder is secured—
    - (i) at or near the top to prevent it moving; or  
*Examples—*
      - tying the top of the ladder to a plate fixed to the top of a wall frame
      - clamping the top of the ladder to structural steel
    - (ii) at or near the bottom to prevent it moving.  
*Examples—*
      - tying the bottom of the ladder to pegs in the ground
      - a person, other than the person using the ladder, holding the ladder in position near the bottom of the ladder

Maximum penalty—60 penalty units.

- (4) Despite subsection (3)(a)(i), the person using the ladder may hold a stable object with 1 or both hands instead of holding the ladder with 1 or both hands.

*Examples of stable objects—*

- guttering
  - a fascia board or timber stud
  - a plate fixed to the top of a wall frame
- (5) The person conducting the business or undertaking must ensure that the ladder, if it is a single or extension ladder, and is used against a pole to do construction work, has a device that—
- (a) is fitted at or near the top of the ladder between its sides; and
  - (b) helps to ensure the ladder's stability by partly accepting the shape of the pole.

*Example—*

a steel rope or steel hoop

Maximum penalty for subsection (5)—60 penalty units.

### **306M Ladders generally**

- (1) A person conducting a business or undertaking performing construction work must ensure that a ladder, other than a trestle ladder, used for the work—
- (a) has a load rating of at least 120kg; and
  - (b) is manufactured for industrial use; and
  - (c) is used only for the purpose for which it is designed; and
  - (d) is not used to support a weight greater than that for which it is designed; and
  - (e) is no longer than—
    - (i) for a single ladder—6.1m; or
    - (ii) for an extension ladder used to do electrical work within the meaning of the *Electrical Safety Act 2002*—9.2m; or

[s 306M]

---

(iii) for another extension ladder—7.5m.

Maximum penalty—60 penalty units.

- (2) However, subsection (1)(e) does not apply if the ladder is used for work in a confined space.

*Example of a confined space—*

a well

- (3) A ladder may be taken to have a load rating of at least 120kg if it appears to be marked by its manufacturer to show it has a load rating of at least 120kg.
- (4) A ladder may be taken to be manufactured for industrial use if it appears to be marked by its manufacturer to show it is for industrial use.
- (5) However, subsection (3) or (4) does not apply if the person knows or suspects that the marking is—
- (a) false; or
  - (b) not the manufacturer's marking.
- (6) The person must ensure that—
- (a) the bottom of the ladder is on a stable surface; and
  - (b) the rungs of the ladder are approximately level.

Maximum penalty—60 penalty units.

- (7) The person must not use, or allow another person to use, the ladder to support a platform.

Maximum penalty—60 penalty units.

- (8) The person must not use, or allow another person to use, the ladder, if it is a single or extension ladder, unless—
- (a) it is placed so that the angle between the ladder and the horizontal is at least 70° but not more than 80° when in use; and
  - (b) if it is being used as a temporary means of access to or from a surface—the ladder extends at least 1m above the surface.

Maximum penalty—60 penalty units.

- (9) However, the ladder may be placed so that the angle between the ladder and the horizontal is more than 80° if—
- (a) a lesser angle is impractical because the ladder is being used in a confined space; and
  - (b) control measures are used to prevent the ladder moving when in use.

*Example of a control measure—*

securing the top and bottom of the ladder to prevent it moving

- (10) Subsection (8)(b) does not apply if—
- (a) it is impractical to comply with it, for example, because the work is being done from a surface attached to a pole; and
  - (b) the person using the ladder is attached to a fall arrest harness system before the person moves from the ladder to the surface.

### **306N Work on platform supported by trestle ladders**

- (1) This section applies if a person conducting a business or undertaking intends to perform construction work that involves a platform supported by trestle ladders.
- (2) The person conducting the business or undertaking must ensure subsections (3) to (5) are complied with before the work starts if the work is—
- (a) housing construction work and the person could fall at least 3m from the platform; or
  - (b) not housing construction work and the person could fall at least 2m from the platform.

Maximum penalty—60 penalty units.

- (3) Each trestle ladder must be secured to prevent it moving.

[s 306O]

---

*Examples of how a trestle ladder must be secured—*

- tying the ladder to a sturdy wall
  - bracing the ladder to the ground
  - applying weights to the bottom of the ladder
- (4) Edge protection complying with section 306E must be erected along the outer edge of the length of the platform.
- (5) Any control measures required to eliminate or minimise the following risks must be used—
- (a) the risk of the person falling off the inner edge of the length of the platform, if the gap between that inner edge and the face of a building, or other structure, that is immediately beside the platform is over 225mm;
  - (b) the risk of the person falling off the edge of each end of the platform.

### **306O Platform supported by trestle ladders**

- (1) This section applies if a person conducting a business or undertaking is performing construction work on a platform supported by trestle ladders.
- (2) Subsection (3) applies if the construction work—
- (a) is housing construction work and a person doing the work could fall less than 3m from the platform; or
  - (b) is not housing construction work and a person doing the work could fall less than 2m from the platform.
- (3) The person conducting the business or undertaking must ensure the platform has an unobstructed surface that is—
- (a) if the work is light work—at least 225mm wide along the length of the platform; or
  - (b) if the work is not light work—at least 450mm wide along the length of the platform.

Maximum penalty—60 penalty units.



- 
- (4) Subsection (5) applies if the construction work—
- (a) is housing construction work and a person doing the work could fall at least 3m from the platform; or
  - (b) is not housing construction work and a person doing the work could fall at least 2m from the platform.
- (5) The person conducting the business or undertaking must ensure—
- (a) the platform has an unobstructed surface at least 450mm wide along the length of the platform; and
  - (b) the platform is not higher than 5m.

Maximum penalty—60 penalty units.

- (6) In this section—

***light work*** means work that is light having regard to the following—

- (a) the amount of physical exertion involved;
- (b) the physical capacity of the person doing the work;
- (c) the range of movement involved;
- (d) the weight or bulk of materials or equipment involved.

*Examples of light work—*

- painting
- installing a roof gutter, air-conditioning duct, metal fascia or lighting
- placing pine roof trusses in position on the roof of a low-set house
- performing inspections or tests
- installing an electrical connection

*Examples of work that is not light work—*

- fixing plaster board sheeting to an internal stairwell void
- fixing cladding to a gable end of a roof
- using a medium or heavy duty angle grinder or circular saw

[s 306P]

---

## **Subdivision 4      Scaffolding**

### **306P   Erecting scaffolding**

- (1) This section applies if a person conducting a business or undertaking intends to perform construction work that is the erecting of scaffolding.
- (2) The person must not erect, or allow another person to erect, the scaffolding if—
  - (a) the erection of the scaffolding is housing construction work and a person could fall at least 3m in erecting the scaffolding; or
  - (b) the erection of the scaffolding is not housing construction work and a person could fall at least 2m in erecting the scaffolding.

Maximum penalty—60 penalty units.

- (3) However, subsection (2) does not apply if—
  - (a) the person erecting the scaffolding—
    - (i) is prevented from falling from the scaffolding by a control measure; or
    - (ii) is using a fall arrest harness system; or
  - (b) subsection (4) is complied with.
- (4) This subsection is complied with if—
  - (a) each of the following things is installed immediately after enough components of the scaffolding have been erected to support the thing—
    - (i) a platform at least 450mm wide along the full length of the section of scaffolding, designed to support the platform, at the level the scaffolding has reached;

- (ii) edge protection across the space between the uprights forming the outer frame of the scaffolding at the level the scaffolding has reached;
  - (iii) a means of access to the level the scaffolding has reached; and
- Example of a means of access—*
- temporary stairs or a ladder
- (b) before the next level of the scaffolding is erected, a platform is installed below the level at a distance of not more than—
    - (i) if the erection of the scaffolding is housing construction work—3m; or
    - (ii) otherwise—2m.
- (5) A platform under subsection (4)(b) must cover the full length and width of the section of scaffolding designed to support the platform at the level at which it is installed, other than a part of the section required to raise planks or other components of the scaffolding between levels.
- (6) Subsection (4)—
- (a) does not require a platform to be installed on the bottom level of the scaffolding; and
  - (b) does not stop the person removing a platform after the person has started work 2 levels above the level from which the platform is to be removed.

### **306Q Dismantling scaffolding**

- (1) This section applies if a person conducting a business or undertaking intends to perform construction work that is the dismantling of scaffolding.
- (2) The person conducting the business or undertaking must not dismantle, or allow another person to dismantle, the scaffolding if—

[s 306Q]

---

- (a) the dismantling of the scaffolding is housing construction work and a person could fall at least 3m in dismantling the scaffolding; or
- (b) the dismantling of the scaffolding is not housing construction work and a person could fall at least 2m in dismantling the scaffolding.

Maximum penalty—60 penalty units.

- (3) However, subsection (2) does not apply if—
  - (a) the person dismantling the scaffolding is—
    - (i) prevented from falling from the scaffolding by a control measure; or
    - (ii) using a fall arrest harness system; or
  - (b) each of the following is complied with—
    - (i) any edge protection for the scaffolding and any means of access to the level that the dismantling has reached are kept in place while it is practicable to do so;
    - (ii) there is in place while it is practicable a platform at least 450mm wide at the level the dismantling has reached;
    - (iii) there is in place a platform at a level (the *lower level*) below the level the dismantling has reached at a distance of not more than—
      - (A) if the dismantling of the scaffolding is housing construction work—3m; or
      - (B) otherwise—2m.
- (4) The platform required under subsection (3)(b)(iii) must cover the full length and width of the section of scaffolding designed to support the platform at the lower level, other than a part of the section required to lower planks or other components of the scaffolding between levels.

---

## **Part 6.4 Additional duties of principal contractor**

### **Division 1 Application**

#### **307 Application of pt 6.4**

This part—

- (a) applies in relation to a construction project; and
- (b) imposes duties on the principal contractor for the project that are additional to the duties imposed under part 6.3.

*Note—*

As a principal contractor has management or control of a workplace, the principal contractor is also subject to duties imposed by the Act and this regulation on a person with management or control of a workplace.

### **Division 2 General duties**

#### **308 Specific control measure—signage identifying principal contractor**

The principal contractor for a construction project must ensure that signs are installed, that—

- (a) show the principal contractor's name and telephone contact numbers (including an after hours telephone number); and
- (b) show the location of the site office for the project, if any; and
- (c) are clearly visible from outside the workplace, or the work area of the workplace, where the construction project is being undertaken.

Maximum penalty—36 penalty units.

[s 309]

---

### **309    WHS management plan—preparation**

- (1) The principal contractor for a construction project must prepare a written WHS management plan for the workplace before work on the project commences.

Maximum penalty—60 penalty units.

- (2) A WHS management plan must include the following—
- (a) the names, positions and health and safety responsibilities of all persons at the workplace whose positions or roles involve specific health and safety responsibilities in connection with the project;
  - (b) the arrangements in place, between any persons conducting a business or undertaking at the workplace where the construction project is being undertaken, for consultation, cooperation and the coordination of activities in relation to compliance with their duties under the Act and this regulation;
  - (c) the arrangements in place for managing any work health and safety incidents that occur;
  - (d) any site-specific health and safety rules, and the arrangements for ensuring that all persons at the workplace are informed of these rules;
  - (e) the arrangements for the collection and any assessment, monitoring and review of safe work method statements at the workplace.

### **310    WHS management plan—duty to inform**

The principal contractor for a construction project must ensure, so far as is reasonably practicable, that each person who is to carry out construction work in connection with the project is, before commencing work, made aware of—

- (a) the content of the WHS management plan for the workplace; and

- (b) the person's right to inspect the WHS management plan under section 313.

Maximum penalty—36 penalty units.

### **311 WHS management plan—review**

- (1) The principal contractor for a construction project must review and, as necessary, revise the WHS management plan to ensure that it remains up-to-date.

Maximum penalty—36 penalty units.

- (2) The principal contractor for a construction project must ensure, so far as is reasonably practicable, that each person carrying out construction work in connection with the project is made aware of any revision to the WHS management plan.

Maximum penalty—36 penalty units.

### **312 High risk construction work—safe work method statements**

The principal contractor for a construction project must take all reasonable steps to obtain a copy of the safe work method statement relating to high risk construction work before the high risk construction work commences.

Maximum penalty—36 penalty units.

*Note—*

The WHS management plan contains arrangements for 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 section 309(2)(b) and (e).

### **313 Copy of WHS management plan must be kept**

- (1) Subject to subsection (2), the principal contractor for a construction project must ensure that a copy of the WHS management plan for the project is kept until the project to which it relates is completed.

[s 313]

---

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- (2) If a notifiable incident occurs in connection with the construction project to which the statement relates, the person must keep the WHS management plan for at least 2 years after the incident occurs.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- (3) The person must ensure that for the period for which the WHS management plan must be kept under this section, a copy is readily accessible to any who is to carry out construction work in connection with the construction project.

Maximum penalty—36 penalty units.

- (4) The person must ensure that for the period for which the WHS management plan must be kept under this section, a copy is available for inspection under the Act.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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



(5) In this section—

**WHS management plan** means the initial plan and all revised versions of the plan.

### **314 Further health and safety duties—specific sections**

The principal contractor for a construction project must put in place arrangements for ensuring compliance at the workplace with the following—

- (a) part 3.2, division 2;
- (b) part 3.2, division 3;
- (c) part 3.2, division 4;
- (d) part 3.2, division 5;
- (e) part 3.2, division 7;
- (f) part 3.2, division 8;
- (g) part 3.2, division 9;
- (h) part 3.2, division 10;
- (i) part 4.4.

Maximum penalty—60 penalty units.

*Note—*

All persons conducting a business or undertaking at the construction project workplace have these same duties, see part 3.2 of this regulation and section 19(3)(e) of the Act. Section 16 of the Act provides for situations in which more than one person has the same duty.

### **315 Further health and safety duties—specific risks**

The principal contractor for a construction project must under part 3.1 manage risks to health and safety associated with the following—

- (a) the storage, movement and disposal of construction materials and waste at the workplace;

[s 315A]

---

- (b) the storage at the workplace of plant that is not in use;
- (c) traffic in the vicinity of the workplace that may be affected by construction work carried out in connection with the construction project;
- (d) essential services at the workplace.

*Note—*

WHS Act—section 20 (see section 9).

### **315A Amenities**

- (1) Schedule 5A states particular duties of a principal contractor about amenities.
- (2) A principal contractor must ensure that an amenity provided under schedule 5A is maintained in a hygienic, safe and serviceable condition, including by ensuring that there is a system for—
  - (a) inspecting and cleaning the amenity; and
  - (b) if the amenity has facilities to dispose of sanitary items for females—the adequate and hygienic disposal of the sanitary items.

Maximum penalty for subsection (2)—60 penalty units.

## **Division 3                      Duties relating to falling objects**

### **315B Application of div 3**

This division applies to construction work if an object could fall on or otherwise hit persons during the work.

### **315C Definitions for div 3**

In this division—

---

***catch platform*** means a platform designed to provide overhead protection to persons by catching falling objects.

***civil construction work*** means construction work in relation to any of the following structures—

- (a) an underground works (including shafts and tunnels), pipe, pipeline, sea defence works, river works, earthworks or earth retaining construction or other construction designed to preserve or alter a natural feature;
- (b) a road or highway, footpath or driveway, railway line or siding, tramway line, airfield, dock or harbour, water storage or supply system (including a constructed lagoon), sewerage or drainage system, electricity or gas generation facility, transmission or distribution facility, gasholder, park or recreation ground (including, for example, a golf course, playing field, racecourse or swimming pool);
- (c) production, storage or distribution facilities for heavy industries;
- (d) a bridge;
- (e) a pumping station;
- (f) a refinery;
- (g) a telecommunications structure.

***gantry*** means a structure that has—

- (a) an overhead platform; and
- (b) a hoarding, at least 1800mm high that is fully sheeted with timber, plywood, metal or sturdy synthetic sheets, running along its length.

***hoarding*** means a self-supporting structure, fully sheeted with timber, plywood, metal or sturdy synthetic sheets, or fully covered by chain wire or sturdy mesh, that is designed—

- (a) to prevent persons other than the person conducting a business or undertaking or workers from entering a

[s 315D]

---

workplace where construction work is being performed;  
and

- (b) to provide protection to those persons against objects or material approaching them from the side.

**overhead platform** means a platform designed to provide overhead protection to persons against falling objects.

**perimeter containment screening** means a screen—

- (a) designed to stop objects falling on persons from a level of a building; or
- (b) to redirect a falling object onto a catch platform.

### **315D What is *mesh* for div 3**

- (1) **Mesh**, for this division, is mesh that complies with this section.
- (2) The mesh must be made of at least 2.5mm diameter steel with a tensile strength of at least 380MPa.
- (3) If the pattern of the openings within the mesh are a square or other rectangle, the openings within the mesh must not be over—
  - (a) for mesh with prescribed lining securely attached to the inside of the mesh—50mm by 50mm; or
  - (b) otherwise—
    - (i) if the openings are square, 25mm by 25mm; or
    - (ii) if the openings are not square, 25mm by 50mm.
- (4) If the pattern of the openings within the mesh are not a square or other rectangle, the openings within the mesh must not be over—
  - (a) if the mesh has prescribed lining securely attached to the inside of the mesh—50mm in any direction; or
  - (b) otherwise—25mm in any direction.
- (5) In this section—

*prescribed lining*, in relation to mesh, means intact shade cloth, or another intact lining, that when tested, wet or dry, in accordance with method A in AS 2001.2.4 (Methods of test for textiles—Physical tests—Determination of bursting pressure of textile fabrics—Hydraulic diaphragm method) has a mean bursting pressure of at least 1000kPa.

**315E Risk assessment and control measures for civil construction work and housing construction work**

- (1) This section applies to construction work that is—
  - (a) civil construction work; or
  - (b) housing construction work.
- (2) If a person conducting a business or undertaking uses a control measure—
  - (a) if the control measure is a hoarding—it must comply with the requirements for a hoarding under section 315F(6)(a) and (b); or
  - (b) if the control measure is perimeter containment screening—it must—
    - (i) comply with section 315I; and
    - (ii) if it is designed to stop objects falling on persons from a level of a structure—be erected along each part of a structure from which an object could fall in the adjoining area during the work; or
  - (c) if the control measure is a catch platform—it must comply with section 315J; or
  - (d) if the control measure is a gantry—it must comply with the requirements for a gantry under section 315K; or
  - (e) if the control measure is a closure of the adjoining area—it must be used in compliance with the requirements for a closure under section 315M.

Maximum penalty—60 penalty units.

[s 315F]

---

**315F Control measures for construction work that is not civil construction work or housing construction work**

- (1) This section applies to construction work that is not civil construction work or housing construction work.
- (2) A principal contractor must ensure that a relevant person—
  - (a) identifies and decides the line (the *proposed line*) along which any barricade or hoarding required under subsection (3) is to be erected; and
  - (b) measures the angle to the horizontal formed by an imaginary straight line drawn between—
    - (i) the highest point at which work is being done on the structure involved in the work during which an object could fall on or otherwise hit a person; and
    - (ii) the point on the ground, along the proposed line, that is closest to the highest point.

Maximum penalty—60 penalty units.

- (3) Before the work starts, the principal contractor must ensure that—
  - (a) if the measured angle is not more than 15°—a barricade or hoarding at least 900mm high that surrounds the structure is erected along the proposed line; or
  - (b) if the measured angle is more than 15° but not more than 30°—a hoarding at least 1800mm high is erected along the proposed line; or
  - (c) if the measured angle is more than 30° but less than 75°—a hoarding at least 1800mm high that is fully sheeted with timber, plywood, metal or sturdy synthetic sheets is erected along the proposed line; or
  - (d) if the measured angle is 75° or more—
    - (i) a hoarding at least 1800mm high that is fully sheeted with timber, plywood, metal or sturdy synthetic sheets and that is not part of a gantry is erected along the proposed line; or

(ii) a gantry is erected under section 285(3)(a).

Maximum penalty—60 penalty units.

- (4) A hoarding under subsection (3)(b), (c) or (d) must be erected adjacent to the sides of each part of the structure from which an object could fall.

Maximum penalty—60 penalty units.

- (5) If subsection (3) or (4) does not require part of the structure to have a hoarding erected adjacent to the side of the part, the principal contractor must ensure that a barricade or hoarding at least 900mm high is erected along the proposed line adjacent to the sides of the part of the structure.

Maximum penalty—60 penalty units.

- (6) A hoarding under subsection (3) must—
- (a) prevent an object that may reasonably be expected to hit it from entering the adjoining area; and
  - (b) be strong enough, and appropriately designed and erected, for the circumstances in which it is used, including the location of the workplace and the type of work to be carried out near the hoarding.

Maximum penalty—60 penalty units.

- (7) A hoarding under subsection (3)(c) or (d)—
- (a) must be able to withstand a horizontal force of—
    - (i) 500N per m<sup>2</sup> applied over 1m<sup>2</sup> at the top of the hoarding midway between any post and its nearest post without deforming permanently; and
    - (ii) 950N applied over 1500mm<sup>2</sup> at any point on the hoarding without fully penetrating the hoarding; and
  - (b) may have gaps to minimise wind resistance, if the gaps are no larger than are reasonably necessary; and

[s 315G]

---

- (c) if it is part of a gantry—must extend to the gantry’s overhead platform.

Maximum penalty for subsection (7)—60 penalty units.

**315G Additional control measures if measured angle is 75° or more, other than for demolition work or work erecting or dismantling formwork**

- (1) This section applies if the angle measured under section 315F(2)(b) is 75° or more.
- (2) This section does not apply to—
  - (a) demolition work; or
  - (b) work erecting or dismantling formwork on or for a structure.
- (3) The principal contractor must ensure that at least 1 of the following control measures is used before construction work starts—
  - (a) a gantry is erected along the proposed line adjacent to the sides of each part of the structure from which an object could fall;
  - (b) the adjoining area is closed under section 315M at least to the extent necessary to prevent objects falling on or otherwise hitting persons;
  - (c) a catch platform with perimeter containment screening complying with section 315I is installed—
    - (i) along the sides of each part of the structure from which an object could fall; and
    - (ii) not more than 1m below—
      - (A) if the structure has storeys—the storey of the structure from which an object could fall; or
      - (B) if the structure does not have storeys—the surface from which an object could fall.

Maximum penalty—60 penalty units.



- 
- (4) In this section—  
*formwork* includes a structure installed to support formwork.

### **315H Control measures for demolition work or work erecting or dismantling formwork**

- (1) This section applies to construction work that is—
- (a) demolition work; or
  - (b) work erecting or dismantling formwork.
- (2) A principal contractor must ensure that, before the construction work starts—
- (a) the adjoining area is closed under section 315M at least to the extent necessary to prevent objects falling on or otherwise hitting persons; or
  - (b) perimeter containment screening complying with section 315I is erected along each part of a structure from which an object could fall.

Maximum penalty—60 penalty units.

- (3) However, if the work is demolition work, the principal contractor must ensure that a control measure other than a control measure mentioned in subsection (2) is used before the work starts to prevent objects falling on or otherwise hitting persons if—
- (a) the adjoining area can not be closed under subsection (2)(a) because the person who controls the area withholds written approval to close the area; and
  - (b) perimeter containment screening can not be erected under subsection (2)(b).

Maximum penalty—60 penalty units.

- (4) If the principal contractor erects perimeter containment screening under subsection (2)(b), or extends or reduces perimeter containment screening erected under subsection (2)(b), the principal contractor must ensure that control

[s 315I]

---

measures are used to prevent a component of the screening falling on persons while the screening is being erected, extended or reduced.

Maximum penalty—60 penalty units.

(5) In this section—

*formwork* includes a structure installed to support formwork.

### **315I Perimeter containment screening as control measure**

- (1) Each screen of perimeter containment screening used as a control measure, and its supporting framework, must comply with this section.
- (2) If the perimeter containment screening is used to redirect a falling object onto a catch platform, each screen must be fitted vertically to the top of, or flush with, the outer edge of the catch platform to redirect a falling object, that may reasonably be expected to hit the perimeter containment screening, onto the catch platform.
- (3) If the perimeter containment screening is not used to redirect a falling object onto a catch platform, each screen must be designed to prevent an object, that may reasonably be expected to hit the perimeter containment screening, from falling on persons from the level at which the work is to be done.
- (4) Each screen must be made of mesh or of timber, plywood or metal sheeting.
- (5) Each of the following gaps must be not over 25mm—
  - (a) the gap, measured horizontally, between—
    - (i) screens immediately beside each other; or
    - (ii) a screen and the framework supporting it;
  - (b) the gap, measured vertically, between—
    - (i) a screen and another screen immediately above it; or

- (ii) a screen and the framework supporting it.
- (6) The framework supporting a screen must be able to bear the load of the screen.

### **315J Catch platform as control measure**

If a catch platform used or to be used as a control measure is installed, extended or reduced, the principal contractor must ensure that control measures are used to prevent a component of the platform falling on persons while the platform is being installed, extended or reduced.

Maximum penalty—60 penalty units.

### **315K Gantry as control measure**

- (1) A gantry used as a control measure must be designed by an engineer to withstand a downwards force of at least—
- (a) if light work, or work other than light work at a height of not more than 10m above the ground, is to be done—5kPa applied on its overhead platform; or
  - (b) if work, other than light work, at a height of more than 10m above the ground is to be done—10kPa applied on its overhead platform.
- (2) The gantry must—
- (a) be able to stop an object that may reasonably be expected to fall on it from falling; and
  - (b) have an overhead platform that is secured to prevent it lifting or coming apart; and
  - (c) have solid sheeting erected along the outer edge of its overhead platform to at least the higher of—
    - (i) 900mm above the platform; and
    - (ii) the height of any object stored on the platform; and

[s 315L]

---

- (d) if it is used to store materials or has a shed erected on it—be designed by an engineer to take the additional load involved; and
- (e) be able to stop water or dust falling on persons; and
- (f) have natural or other lighting of at least 50 lux illuminating all of the area below it; and
- (g) not tip over or rotate if a force that could reasonably be expected to be applied to it is applied to it.

*Example of a force mentioned in paragraph (g)—*

the force of a truck backing into the gantry

### **315L Load lifted over adjoining area**

- (1) This section applies to construction work that involves lifting a load over the adjoining area.
- (2) This section does not apply to construction work that is housing construction work.
- (3) A principal contractor must ensure that, before the work starts—
  - (a) the adjoining area is closed under section 315M at least to the extent necessary to prevent objects falling on or otherwise hitting persons in the adjoining area; or
  - (b) a gantry is erected that provides adequate protection to persons in the adjoining area against falling objects if the load were to fall.

Maximum penalty—60 penalty units.

- (4) Without limiting subsection (3)(b), the gantry must at least comply with section 315K.

*Example—*

If a pallet of scaffolding components is to be lifted over an adjoining area, the downwards force that the gantry's overhead platform must be able to withstand is—

- (a) if the force applied by the pallet and components is less than or equal to 10kPa—10kPa; or
- (b) if the force applied by the pallet and components is greater than 10kPa—the force applied by the pallet and components.

### **315M Closure of part or all of adjoining area**

If an adjoining area is to be closed, a principal contractor must, before construction work starts, do each of the following—

- (a) ensure that written approval to close the area is obtained from the authority or other person who controls the area;

*Examples of an authority—*

- a local government
- the Department of Main Roads
- the Queensland Police Service

- (b) if an authority controls the area, use any measures for the closure required by the authority.

*Examples of measures for the closure—*

- physical barriers to prevent use of a footpath or road
- signs about the closure
- signs directing pedestrians to use another footpath
- traffic controllers to direct pedestrians or other traffic

Maximum penalty—60 penalty units.

[s 316]

---

## **Part 6.5                      General construction induction training**

### **Division 1                      General construction induction training requirements**

#### **316      Duty to provide general construction induction training**

A person conducting a business or undertaking must ensure that general construction induction training is provided to a worker engaged by the person who is to carry out construction work, if the worker—

- (a) has not successfully completed general construction induction training; or
- (b) successfully completed general construction induction training more than 2 years previously and has not carried out construction work in the preceding 2 years.

Maximum penalty—36 penalty units.

#### **317      Duty to ensure worker has been trained**

- (1) A person conducting a business or undertaking must not direct or allow a worker to carry out construction work unless—
  - (a) the worker has successfully completed general construction induction training; and
  - (b) if the worker completed the training more than 2 years previously—the worker has carried out construction work in the preceding 2 years.

Maximum penalty—36 penalty units.

- (2) The person conducting the business or undertaking must ensure that—
  - (a) the worker holds a general construction induction training card; or

- (b) if the worker has applied for but not yet been issued with a general construction induction training card, the worker holds a general construction induction training certification, issued within the preceding 60 days.

### **318 Recognition of general construction induction training cards issued in other jurisdictions**

- (1) In this division, a reference to a general construction induction card includes a reference to a similar card—
  - (a) that was issued by a corresponding regulator under a corresponding WHS law; and
  - (b) that is being used in accordance with the terms and conditions under which it was granted.
- (2) Subsection (1) does not apply to a card that is suspended or cancelled or has expired in the corresponding jurisdiction.

## **Division 2 General construction induction training cards**

### **319 Issue of card**

- (1) A person who has successfully completed general construction induction training in Queensland may apply to the regulator for a general construction induction training card.
- (2) The application must be made in the way and in the form approved by the regulator.
- (3) The application must include the following—
  - (a) the applicant's name and any evidence of identity required by the regulator;
  - (b) either—
    - (i) a general construction induction training certification issued to the applicant; or

[s 320]

---

- (ii) a written declaration by the person who provided the general construction induction training on behalf of the relevant RTO that the applicant has successfully completed general construction induction training;
- (c) be accompanied by the relevant fee.
- (4) The application must be made—
  - (a) within 60 days after the issue of the general construction induction training certification; or
  - (b) if the application is accompanied by a declaration mentioned in subsection (2)(b)(ii), at any time after completion of the general construction induction training.
- (5) The regulator must issue a general construction induction training card to the applicant if—
  - (a) the application has been made under this section; and
  - (b) the regulator is satisfied that the applicant has successfully completed general construction induction training.
- (6) The regulator must make a decision on the application as soon as practicable.
- (7) If the regulator has not decided on the application within 60 days, the applicant is taken to hold a general construction induction training card until a decision is made.

### **320 Content of card**

A general construction induction training card must—

- (a) state the following—
  - (i) that the card holder has completed general construction induction training;
  - (ii) the name of the card holder;
  - (iii) the date on which the card was issued;



- (iv) a unique identifying number;
  - (v) the jurisdiction in which the card was issued; and
- (b) contain the card holder's signature.

### **321 Replacement card**

- (1) If a general construction induction training card issued by the regulator is lost, stolen or destroyed, the card holder may apply to the regulator for a replacement card.

*Note—*

A card holder is required to keep the card available for inspection under section 326.

- (2) An application for a replacement general construction induction training card must be made in the way and in the form approved by the regulator.
- (3) The application must—
- (a) include a declaration about the circumstances in which the card was lost, stolen or destroyed; and
  - (b) be accompanied by the relevant fee.
- (4) The regulator may issue a replacement card if satisfied that the original general construction induction training card has been lost, stolen or destroyed.

### **322 Refusal to issue or replace card**

The regulator may refuse to issue a general construction induction training card or a replacement general construction induction training card if satisfied that the applicant—

- (a) gave information that was false or misleading in a material particular; or
- (b) failed to give information that should have been given;  
or

[s 323]

---

- (c) produced a general construction induction training certification that had been obtained on the basis of the giving of false or misleading information by any person or body.

*Note—*

A decision to refuse to issue or replace a general construction induction training card is a reviewable decision, see section 676.

### **323 Cancellation of card—grounds**

The regulator may cancel a general construction induction training card issued by the regulator if satisfied that the card holder, when applying for the card—

- (a) gave information that was false or misleading in a material particular; or
- (b) failed to give information that should have been given; or
- (c) produced a general construction induction training certification that had been obtained on the basis of the giving of false or misleading information by any person or body.

*Note—*

A decision to cancel a general construction induction training card is a reviewable decision, see section 676.

### **324 Cancellation of card—process**

- (1) The regulator must, before cancelling a general construction induction training card, give the card holder—
  - (a) written notice of the proposed cancellation that outlines all relevant allegations, facts and circumstances known to the regulator; and
  - (b) a reasonable opportunity to make submissions to the regulator in relation to the proposed cancellation.

- 
- (2) On cancelling a general induction card, the regulator must give the card holder a written notice of its decision, stating—
    - (a) when the cancellation takes effect; and
    - (b) the reasons for the cancellation; and
    - (c) when the card must be returned to the regulator.

### **325 RTO may enter agreement to issue cards**

- (1) The regulator may enter into an agreement with an RTO that empowers the RTO to exercise the functions and powers of the regulator under sections 319, 321 and 322, with any necessary alterations.
- (2) If an RTO with whom the regulator has entered an agreement under this section exercises functions and powers of the regulator in accordance with the agreement, the exercise of those functions and powers has the same effect as if they had been exercised by the regulator.
- (3) Without limiting subsection (2)—
  - (a) a decision of an RTO in exercising a function or power of the regulator in accordance with the agreement is taken to be a decision of the regulator; and
  - (b) a general construction induction training card issued by the RTO is taken to have been issued by the regulator.
- (4) Nothing in an agreement under this section prevents the regulator from exercising its functions and powers under this division.

## **Division 3 Duties of workers**

### **326 Duties of workers**

- (1) A worker carrying out construction work must keep available for inspection under the Act—

[s 327]

---

- (a) his or her general construction induction training card;  
or
- (b) in the circumstances set out in section 319(4), a general induction training certification held by the worker, until a decision is made on the application for the general construction induction training card.

Maximum penalty—36 penalty units.

- (2) A card holder, on receiving a cancellation notice under section 324(2), must return the card in accordance with the notice.

Maximum penalty—36 penalty units.

- (3) Subsection (1)(a) does not apply if the card is not in the possession of the worker (*card holder*) because—
  - (a) it has been lost, stolen or destroyed; and
  - (b) the card holder has applied for, but has not received, a replacement card under section 320.

### **327 Alteration of general construction induction training card**

A person who holds a general construction induction training card must not intentionally or recklessly alter the card.

Maximum penalty—36 penalty units.

---

## Chapter 7 Hazardous chemicals

### Part 7.1 Hazardous chemicals

*Note—*

Most of the obligations in this part apply to persons conducting businesses or undertakings at a workplace. However, some obligations apply to persons in different capacities, for example importers and suppliers of hazardous chemicals.

#### Division 1 Application of part 7.1

##### 328 Application of pt 7.1

- (1) This part applies to—
  - (a) the use, handling and storage of hazardous chemicals at a workplace and the generation of hazardous substances at a workplace; and
  - (b) a pipeline used to convey a hazardous chemical; and
  - (c) the handling or storage of dangerous goods listed in column 2 of table 328, other than at a workplace, if the quantity of the dangerous goods is more than the relevant threshold mentioned in column 3 of the table.
- (2) This part does not apply to a pipeline that is regulated under the *Petroleum and Gas (Production and Safety) Act 2004*.
- (3) This part does not apply to hazardous chemicals, and explosives within the meaning of the *Explosives Act 1999*, being transported by road, rail, sea or air if the transport is regulated under—
  - (a) the *Explosives Act 1999*; or
  - (b) the *Transport Operations (Marine Safety) Act 1994*; or

[s 328]

---

- (c) the *Transport Operations (Road Use Management) Act 1995*; or
  - (d) *Transport (Rail Safety) Act 2010*.
- (4) This part does not apply to the following hazardous chemicals in the circumstances described—
- (a) hazardous chemicals in batteries when incorporated in plant;
  - (b) fuel, oils or coolants in a container fitted to a vehicle, vessel, aircraft, mobile plant, appliance or other device, if the fuel, oil or coolant is intended for use in the operation of the device;
  - (c) fuel in the fuel container of a domestic or portable fuel burning appliance, if the quantity of fuel does not exceed 25kg or 25L;
  - (d) hazardous chemicals in portable firefighting or medical equipment for use in a workplace;
  - (e) hazardous chemicals that form part of the integrated refrigeration system of refrigerated freight containers;
  - (f) potable liquids that are consumer products at retail premises.
- (5) This part, other than the following sections and schedule 7, does not apply to articles, substances and mixtures categorised as explosives under the GHS—
- (a) section 329;
  - (b) section 330;
  - (c) section 339;
  - (d) section 344;
  - (e) section 345.
- (6) This part does not apply to the following—
- (a) food and beverages within the meaning of the Food Standards Australia New Zealand Food Standards Code

that are in a package and form intended for human consumption; or

- (b) tobacco or products made of tobacco.

**Table 328**

<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—500L (water capacity)
2	Compressed gas of class 2.1 (excluding LP gas), class 2.2 or compressed oxygen	If— (a) each is in one or more containers in an aggregate capacity not exceeding 50L; and (b) the dangerous goods as a whole form part of a welding set or are used or intended to be used with a portable flame torch.  Compressed oxygen or air that is used or intended to be used for medical purposes.
3	Dangerous goods class 3	250L
4	Pool chlorine and spa sanitising agents	100kg or L
5	Sodium hypochlorite designated by UN number 1791	100L
6	Dangerous goods class 9	100kg or L
7	Dangerous goods packing group 1	5kg or L
8	C1 combustible liquids	1000L

[s 329]

---

<b>Column 1 Item</b>	<b>Column 2 Dangerous Goods</b>	<b>Column 3 Threshold quantities</b>
9	Dangerous goods class 2.3	Nil kg or L
10	Goods too dangerous to be transported	Nil kg or L
11	Any dangerous goods other than those stated above	100kg or L

## **Division 2                      Obligations relating to safety data sheets and other matters**

### **Subdivision 1                Obligations of manufacturers and importers**

*Notes—*

- 1 A manufacturer or importer of hazardous chemicals may also be a person conducting a business or undertaking at a workplace.
- 2 A manufacturer or importer is defined in section 23 or 24 of the Act as a person conducting a business or undertaking of manufacturing or importing.

#### **329      Classification of hazardous chemicals**

The manufacturer or importer of a substance, mixture or article must, before first supplying it to a workplace—

- (a) determine whether the substance, mixture or article is a hazardous chemical; and



- 
- (b) if the substance, mixture or article is a hazardous chemical—ensure that the hazardous chemical is correctly classified under schedule 9, part 1.

Maximum penalty—60 penalty units.

### **330 Manufacturer or importer to prepare and provide safety data sheets**

- (1) A manufacturer or importer of a hazardous chemical must prepare a safety data sheet for the hazardous chemical—
  - (a) before first manufacturing or importing the hazardous chemical; or
  - (b) if that is not practicable—as soon as practicable after first manufacturing or importing the hazardous chemical and before first supplying it to a workplace.

Maximum penalty—60 penalty units.

- (2) The safety data sheet must comply with schedule 7, section 1 unless section 331 applies.
- (3) The manufacturer or importer of the hazardous chemical must—
  - (a) review the safety data sheet at least once every 5 years; and
  - (b) amend the safety data sheet whenever necessary to ensure that it contains correct and current information.

Maximum penalty—60 penalty units.

- (4) The manufacturer or importer of the hazardous chemical must provide the current safety data sheet for the hazardous chemical to any person, if the person—
  - (a) is likely to be affected by the hazardous chemical; and
  - (b) asks for the safety data sheet.

Maximum penalty—60 penalty units.

[s 331]

---

- (5) Subsections (3) and (4) do not apply to a manufacturer or importer of a hazardous chemical who has not manufactured or imported the hazardous chemical in the past 5 years.

**331 Safety data sheets—research chemical, waste product or sample for analysis**

- (1) This section applies if—
- (a) a hazardous chemical is a research chemical, waste product or sample for analysis; and
  - (b) it is not reasonably practicable for a manufacturer or importer of the hazardous chemical to comply with schedule 7, section 1.
- (2) The manufacturer or importer must prepare a safety data sheet for the hazardous chemical that complies with schedule 7, section 2.

Maximum penalty—60 penalty units.

**332 Emergency disclosure of chemical identities to registered medical practitioner**

- (1) This section applies if a registered medical practitioner—
- (a) reasonably believes that knowing the chemical identity of an ingredient of a hazardous chemical may help to treat a patient; and
  - (b) requests the manufacturer or importer of the hazardous chemical to give the registered medical practitioner the chemical identity of the ingredient; and
  - (c) gives an undertaking to the manufacturer or importer that the chemical identity of the ingredient will be used only to help treat the patient; and
  - (d) gives an undertaking to the manufacturer or importer to give the manufacturer or importer as soon as practicable a written statement about the need to obtain the chemical identity of the ingredient.

- 
- (2) The manufacturer or importer of a hazardous chemical must give the registered medical practitioner the chemical identity of an ingredient of the hazardous chemical as soon as practicable.

Maximum penalty—60 penalty units.

### **333 Emergency disclosure of chemical identities to emergency service worker**

The manufacturer or importer of a hazardous chemical must give an emergency service worker the chemical identity of an ingredient of the hazardous chemical as soon as practicable after the worker requests it.

Maximum penalty—60 penalty units.

### **334 Packing hazardous chemicals**

The manufacturer or importer of a hazardous chemical must ensure that the hazardous chemical is correctly packed, under schedule 9, part 2, as soon as after manufacturing or importing the hazardous chemical.

Maximum penalty—60 penalty units.

### **335 Labelling hazardous chemicals**

- (1) The manufacturer or importer of a hazardous chemical must ensure that the hazardous chemical is correctly labelled as soon as practicable after manufacturing or importing the hazardous chemical.

Maximum penalty—60 penalty units.

- (2) A hazardous chemical is *correctly labelled* if the selection and use of label elements is in accordance with the GHS and it complies with schedule 9, part 3.
- (3) This section does not apply to a hazardous chemical if—

[s 335]

---

- (a) the hazardous chemical is a consumer product that is labelled in accordance with the Standard for the Uniform Scheduling of Medicines and Poisons 2011 published by the Commonwealth, as in force or remade from time to time; and
  - (b) the container for the hazardous chemical has its original label; and
  - (c) it is reasonably foreseeable that the hazardous chemical will be used in a workplace only in—
    - (i) a quantity that is consistent with household use; and
    - (ii) a way that is consistent with household use; and
    - (iii) a way that is incidental to the nature of the work carried out by a worker using the hazardous chemical.
- (4) This section does not apply to hazardous chemicals in transit.
- (5) This section does not apply to a hazardous chemical that—
- (a) is human therapeutic goods within the meaning of the *Therapeutic Goods Act 1989* (Cwlth); and
  - (b) is in a form intended for human consumption, for administration to or by a person or use by a person for therapeutic purposes; and
  - (c) is labelled under that Act or an order made under that Act.
- (6) This section does not apply to cosmetics and toiletries.

## **Subdivision 2      Obligations of suppliers**

*Notes—*

- 1 A supplier of hazardous chemicals may also be a person conducting a business or undertaking at a workplace.

- 2 A supplier is defined in section 25 of the Act as a person who conducts a business or undertaking of supplying.
- 3 An operator of a major hazard facility is required to notify certain quantities of hazardous chemicals under part 9.2.

### **336 Restriction on age of person who can supply hazardous chemicals**

A person conducting a business or undertaking must not direct or allow a worker to supply a hazardous chemical that is a flammable gas or flammable liquid to another person into any container or vehicle provided by that other person unless the worker is at least 16 years of age.

*Examples—*

- decanting fuel into a fuel container
- refuelling a car

Maximum penalty—36 penalty units.

### **337 Retailer or supplier packing hazardous chemicals**

- (1) The supplier of a hazardous chemical must not supply the hazardous chemical for use at another workplace if the supplier knows or ought reasonably to know that the hazardous chemical is not correctly packed.

Maximum penalty—36 penalty units.

- (2) A retailer who supplies a hazardous chemical in a container provided by the person supplied with the chemical must ensure that the hazardous chemical is correctly packed.

Maximum penalty—36 penalty units.

### **338 Supplier labelling hazardous chemicals**

The supplier of a hazardous chemical must not supply the hazardous chemical to another workplace if the supplier

[s 339]

---

knows or ought reasonably to know that the hazardous chemical is not correctly labelled under section 335.

Maximum penalty—36 penalty units.

### **339 Supplier to provide safety data sheets**

- (1) The supplier of a hazardous chemical to a workplace must ensure that the current safety data sheet for the hazardous chemical is provided with the hazardous chemical—
  - (a) when the hazardous chemical is first supplied to the workplace; and
  - (b) if the safety data sheet for the hazardous chemical is amended—when the hazardous chemical is first supplied to the workplace after the safety data sheet is amended.

Maximum penalty—60 penalty units.

- (2) A hazardous chemical is taken to be *first supplied* to a workplace if the supply is the first supply of the hazardous chemical to the workplace for 5 years.
- (3) The supplier of a hazardous chemical to a workplace must ensure that the current safety data sheet for the hazardous chemical is provided to a person at the workplace if the person asks for the safety data sheet.

Maximum penalty—60 penalty units.

- (4) This section does not apply to a supplier of a hazardous chemical if—
  - (a) the hazardous chemical is a consumer product; or
  - (b) the supplier is a retailer.

*Note—*

A manufacturer or importer is required to prepare a safety data sheet under section 330.

---

### **340 Supply of prohibited and restricted carcinogens**

- (1) The supplier of a prohibited carcinogen or restricted carcinogen mentioned in an item in schedule 10, table 10.1 must not supply the substance unless the person to be supplied with the substance gives the supplier evidence that—
- (a) the substance is to be used, handled or stored for genuine research or analysis; and
  - (b) either—
    - (i) the regulator has authorised the person to use, handle or store the substance under section 384; or
    - (ii) the regulator has granted an exemption under part 11.2 to the person to use, handle or store the substance.

Maximum penalty—60 penalty units.

- (2) The supplier of a prohibited or restricted carcinogenic substance mentioned in an item in schedule 10, table 10.2, column 2 must not supply the substance for a use mentioned in column 3 for the item unless the person to be supplied with the substance gives the supplier evidence that—
- (a) the regulator has authorised the person to use, handle or store the substance under section 384; or
  - (b) the regulator has granted an exemption to the person under part 11.2 to use, handle or store the substance.

Maximum penalty—60 penalty units.

- (3) A supplier under subsection (1) or (2) must keep a record of—
- (a) the name of the person supplied; and
  - (b) the name and quantity of the substance supplied.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

[s 341]

---

*Note—*

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

- (4) The supplier must keep the record for 5 years after the substance was last supplied to the person.

Maximum penalty—

- (a) for an individual—12½ penalty units; or  
(b) for a body corporate—60 penalty units.

*Note—*

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

### **Subdivision 3      Obligations of persons conducting businesses or undertakings**

#### **341      Labelling hazardous chemicals—general requirement**

A person conducting a business or undertaking at a workplace must ensure that a hazardous chemical used, handled or stored at the workplace is correctly labelled under section 335.

Maximum penalty—60 penalty units.

#### **342      Labelling hazardous chemicals—containers**

- (1) A person conducting a business or undertaking at a workplace must ensure that a hazardous chemical is correctly labelled under section 335 if the hazardous chemical is—

- (a) manufactured at the workplace; or  
(b) transferred or decanted from its original container at the workplace.

Maximum penalty—60 penalty units.

- (2) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that a



---

container that stores a hazardous chemical is correctly labelled under section 335 while the container contains the hazardous chemical.

- (3) A person conducting a business or undertaking at a workplace must ensure that a container labelled for a hazardous chemical is used only for the use, handling or storage of the hazardous chemical.

Maximum penalty—60 penalty units.

- (4) This section does not apply to a container if—
- (a) the hazardous chemical in the container is used immediately after it is put in the container; and
  - (b) the container is thoroughly cleaned immediately after the hazardous chemical is used, handled or stored so that the container is in the condition it would be in if it had never contained the hazardous chemical.

### **343 Labelling hazardous chemicals—pipe work**

A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that a hazardous chemical in pipe work is identified by a label, sign or another way on or near the pipe work.

Maximum penalty—60 penalty units.

### **344 Person conducting business or undertaking to obtain and give access to safety data sheets**

- (1) A person conducting a business or undertaking at a workplace must obtain the current safety data sheet for a hazardous chemical prepared under this regulation from the manufacturer, importer or supplier of the hazardous chemical in the following circumstances—
- (a) either—
    - (i) when the hazardous chemical is first supplied for use at the workplace; or

[s 344]

---

- (ii) if the person is not able to obtain the safety data sheet under subparagraph (i)—as soon as practicable after the hazardous chemical is first supplied to the workplace but before the hazardous chemical is used at the workplace;
- (b) if the safety data sheet for the hazardous chemical is amended either—
  - (i) not later than when the hazardous chemical is first supplied to the workplace after the safety data sheet is amended; or
  - (ii) if the person is not able to obtain the amended safety data sheet under subparagraph (i)—as soon as practicable after the hazardous chemical is first supplied to the workplace after the safety data sheet is amended and before the hazardous chemical supplied is used at the workplace.

Maximum penalty—60 penalty units.

- (2) The hazardous chemical is taken to be *first supplied* to a workplace if the supply is the first supply of the hazardous chemical to the workplace for 5 years.
- (3) The person must ensure that the current safety data sheet for the hazardous chemical is readily accessible to—
  - (a) a worker who is involved in using, handling or storing the hazardous chemical at the workplace; and
  - (b) an emergency service worker, or anyone else, who is likely to be exposed to the hazardous chemical at the workplace.

Maximum penalty—36 penalty units.

- (4) Subsections (1) and (3) do not apply to a hazardous chemical that—
  - (a) is in transit; or
  - (b) if the person conducting the business or undertaking at the workplace is a retailer—is—

- 
- (i) a consumer product; and
  - (ii) intended for supply to other premises; and
  - (iii) not intended to be opened on the person's premises; or
- (c) is a consumer product and it is reasonably foreseeable that the hazardous chemical will be used at the workplace only—
- (i) in quantities that are consistent with household use; and
  - (ii) in a way that is consistent with household use.
- (5) In the circumstances mentioned in subsection (4), the person must ensure that sufficient information about the safe use, handling and storage of the hazardous chemical is readily accessible to—
- (a) a worker at the workplace; and
  - (b) an emergency service worker, or anyone else, who is likely to be exposed to the hazardous chemical at the workplace.

Maximum penalty—36 penalty units.

- (6) The person must ensure that the current safety data sheet for the hazardous chemical is readily accessible to a person at the workplace if the person—
- (a) is likely to be affected by the hazardous chemical; and
  - (b) asks for the safety data sheet.

Maximum penalty for subsection (6)—36 penalty units.

### **345 Changes to safety data sheets**

A person conducting a business or undertaking at a workplace may change a safety data sheet for a hazardous chemical only if—

- (a) the person—

[s 346]

---

- (i) is an importer or manufacturer of the hazardous chemical; and
  - (ii) changes the safety data sheet in a way that is consistent with the duties of the importer or manufacturer under section 330; or
- (b) the change is only the attachment of a translation of the safety data sheet, and clearly states that the translation is not part of the original safety data sheet.

Maximum penalty—60 penalty units.

*Note—*

The manufacturer or importer of a hazardous chemical must amend a safety data sheet as necessary to ensure the information is correct and current, see section 330(3)(b).

## **Division 3                      Register and manifest of hazardous chemicals**

### **Subdivision 1                Hazardous chemicals register**

#### **346      Hazardous chemicals register**

- (1) A person conducting a business or undertaking at a workplace must ensure that—
- (a) a register of hazardous chemicals used, handled or stored at the workplace is prepared and kept at the workplace; and
  - (b) the register is maintained to ensure the information in the register is up to date.

Maximum penalty—60 penalty units.

- (2) The register must include—
- (a) a list of hazardous chemicals used, handled or stored; and

- 
- (b) the current safety data sheet for each hazardous chemical listed.
- (3) The person must ensure that the register is readily accessible to—
- (a) a worker involved in using, handling or storing a hazardous chemical; and
  - (b) anyone else who is likely to be affected by a hazardous chemical at the workplace.

Maximum penalty—36 penalty units.

- (4) This section does not apply to a hazardous chemical if—
- (a) the hazardous chemical is in transit, unless there is a significant or frequent presence of the hazardous chemical in transit at the workplace; or
  - (b) the hazardous chemical is—
    - (i) a consumer product; and
    - (ii) the person is not required to obtain a safety data sheet for the hazardous chemical under section 344.

*Note—*

See section 344(4).

## **Subdivision 2      Manifest of schedule 11 hazardous chemicals**

*Note—*

Section 361 requires an emergency plan to be prepared if the quantity of hazardous chemicals used, handled or stored at a workplace exceeds the manifest quantity for that hazardous chemical.

[s 347]

---

### **347 Manifest of hazardous chemicals**

- (1) A person conducting a business or undertaking at a workplace must, if the quantity of a schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals used, handled or stored at the workplace exceeds the manifest quantity for the schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals—
  - (a) prepare a manifest of schedule 11 hazardous chemicals; and
  - (b) amend the manifest as soon as practicable if—
    - (i) the type or quantity of schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals that must be listed in the manifest changes; or
    - (ii) there is a significant change in the information required to be recorded in the manifest.

Maximum penalty—60 penalty units.

- (2) A manifest of schedule 11 hazardous chemicals must comply with schedule 12.
- (3) The person must keep the manifest—
  - (a) in a place determined in agreement with the primary emergency service organisation; and
  - (b) available for inspection under the Act; and
  - (c) readily accessible to the emergency service organisation.

Maximum penalty for subsection (3)—36 penalty units.

### **348 Regulator must be notified if manifest quantities to be exceeded**

- (1) A person conducting a business or undertaking at a workplace must ensure that the regulator is given written notice if a quantity of a schedule 11 hazardous chemical or group of

---

schedule 11 hazardous chemicals that exceeds the manifest quantity is used, handled or stored, or is to be used, handled or stored, at the workplace.

Maximum penalty—60 penalty units.

- (2) The notice under subsection (1) must be given—
- (a) immediately after it is known that the schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals is to be first used, handled or stored at the workplace or at least 14 days before that first use handling or storage (whichever is earlier); and
  - (b) immediately after the person knows that there will be a significant change in the risk of using, handling or storing the schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals at the workplace or at least 14 days before that change (whichever is earlier); and
  - (c) as soon as practicable after the schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals is no longer used, stored or handled at the workplace and it is not likely to be used, handled or stored at the workplace in the future.
- (3) The notice under subsection (1) must include the following—
- (a) the name and ABN of the person conducting the business or undertaking;
  - (b) the type of business or undertaking conducted;
  - (c) if the workplace was previously occupied by someone else—the name of the most recent previous occupier, if known;
  - (d) the activities of the business or undertaking that involve using, handling or storing schedule 11 hazardous chemicals;
  - (e) the manifest prepared by the person conducting the business or undertaking under section 347;

[s 349]

---

(f) in the case of a notice under subsection (2)(b)—details of the changes to the manifest.

- (4) A person conducting a business or undertaking at a workplace must ensure that the regulator is given written notice as soon as practicable after the schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals ceases to be used, stored or handled at the workplace if it is not likely to be used, handled or stored at the workplace in the future.

Maximum penalty—60 penalty units.

- (5) The notice under subsection (4) must include the information mentioned in subsection (3)(a), (b) and (d).

- (6) If the regulator asks for any further information in relation to the manifest quantity of a schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals, the person must ensure that the information is given to the regulator.

Maximum penalty for subsection (6)—60 penalty units.

## **Division 4                      Placards**

### **349      Outer warning placards—requirement to display**

- (1) A person conducting a business or undertaking at a workplace must ensure that an outer warning placard is prominently displayed at the workplace if the total quantity of a schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals used, handled or stored at the workplace exceeds the placard quantity for the schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals.

Maximum penalty—60 penalty units.

- (2) An outer warning placard must comply with schedule 13.
- (3) This section does not apply to a workplace if—
- (a) the workplace is a retail outlet; and



- 
- (b) the schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals is used to refuel a vehicle, and is either—
    - (i) a flammable gas; or
    - (ii) a flammable liquid.

### **350 Placard—requirement to display**

- (1) A person conducting a business or undertaking at a workplace must ensure that a placard is prominently displayed at the workplace if the total quantity of a schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals stored at the workplace exceeds the placard quantity for the schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals.

Maximum penalty—60 penalty units.

- (2) A placard must comply with schedule 13.
- (3) This section does not apply to a schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals if—
  - (a) the schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals is in bulk in a container, including an IBC, that is intended for transport and a placard is displayed on the container in accordance with the ADG Code; or
  - (b) the schedule 11 hazardous chemical or group of schedule 11 hazardous chemicals is a flammable liquid stored in an underground tank at a retail outlet and used to refuel a vehicle.

[s 351]

---

## **Division 5                      Control of risk—obligations of persons conducting businesses or undertakings**

### **Subdivision 1                General obligations relating to management of risk**

#### **351      Management of risks to health or safety**

- (1) A person conducting a business or undertaking must manage, under part 3.1, risks to health and safety associated with using, handling, generating or storing a hazardous chemical at a workplace.

*Note—*

WHS Act—section 19 (see section 9).

- (2) In managing risks the person must have regard to the following—
- (a) the hazardous properties of the hazardous chemical;
  - (b) any potential hazardous chemical or physical reaction between the hazardous chemical and another substance or mixture, including a substance that may be generated by the reaction;
  - (c) the nature of the work to be carried out with the hazardous chemical;
  - (d) any structure, plant or system of work—
    - (i) that is used in the use, handling, generation or storage of the hazardous chemical; or
    - (ii) that could interact with the hazardous chemical at the workplace.

---

### **352 Review of control measures**

In addition to the circumstances in section 38, a person conducting a business or undertaking at a workplace must ensure that any measures implemented to control risks in relation to a hazardous chemical at the workplace are reviewed and, as necessary, revised in any of the following circumstances—

- (a) following any change to the safety data sheet for the hazardous chemical or the register of hazardous chemicals;
- (b) if the person obtains a health monitoring report for a worker under division 6 that contains—
  - (i) test results that indicate that the worker has been exposed to the hazardous chemical and has an elevated level of metabolites in his or her body for that hazardous chemical; or
  - (ii) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the work using, handling, generating or storing the hazardous chemical that triggered the requirement for health monitoring; or
  - (iii) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out the work using, handling, generating or storing the hazardous chemical that triggered the requirement for health monitoring;
- (c) if monitoring carried out under section 34 determines that the airborne concentration of the hazardous chemical at the workplace exceeds the relevant exposure standard;
- (d) at least once every 5 years.

Maximum penalty—60 penalty units.

### **353 Safety signs**

- (1) This section applies if a safety sign is required to control an identified risk in relation to using, handling, generating or storing hazardous chemicals at a workplace.
- (2) A person conducting a business or undertaking at the workplace must display a safety sign at the workplace to—
  - (a) warn of a particular hazard associated with the hazardous chemicals; or
  - (b) state the responsibilities of a particular person in relation to the hazardous chemicals.

Maximum penalty—60 penalty units.

- (3) The person must ensure that the safety sign is—
  - (a) located next to the hazard; and
  - (b) clearly visible to a person approaching the hazard.
- (4) In this section—  
*safety sign* does not include a placard.

### **354 Identification of risk of physical or chemical reaction**

- (1) A person conducting a business or undertaking at a workplace must identify any risk of a physical or chemical reaction in relation to a hazardous chemicals used, handled, generated or stored at a workplace.

Maximum penalty—60 penalty units.

- (2) Subsection (1) does not apply if the hazardous chemical undergoes the physical or chemical reaction in a manufacturing process or as part of a deliberate process or activity at the workplace.
- (3) A person conducting a business or undertaking at a workplace must take all reasonable steps to ensure that a hazardous chemical is used, handled, generated or stored so as not to contaminate food, food packaging or personal use products.

---

*Examples* of personal use products—

- cosmetics
- face washer

Maximum penalty—60 penalty units.

### **355 Specific control—fire and explosion**

A person conducting a business or undertaking at a workplace must, if there is a possibility of fire or explosion in a hazardous area being caused by an ignition source being introduced into the area, ensure that the ignition source is not introduced into the area (from outside or within the space).

Maximum penalty—60 penalty units.

### **356 Keeping hazardous chemicals stable**

- (1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that a hazardous chemical used, handled or stored at the workplace does not become unstable, decompose or change so as to—
  - (a) create a hazard that is different from the hazard originally created by the hazardous chemical; or
  - (b) significantly increase the risk associated with any hazard in relation to the hazardous chemical.

Maximum penalty—60 penalty units.

- (2) A person conducting a business or undertaking at a workplace must ensure that—
  - (a) if the stability of a hazardous chemical used, handled or stored at the workplace is dependent on the maintenance of the proportions of the ingredients of the hazardous chemical—the proportions are maintained as stated in the safety data sheet for the chemical or by the manufacturer of the hazardous chemical; and

[s 357]

---

- (b) if a hazardous chemical used, handled or stored at the workplace is known to be unstable above a particular temperature—the hazardous chemical is used, handled or stored at or below that temperature.

Maximum penalty—60 penalty units.

- (3) This section does not apply if—
  - (a) the hazardous chemical is changed or allowed to become unstable, without risk to health or safety, as part of a deliberate process or activity at the workplace; or
  - (b) the hazardous chemical undergoes a chemical reaction in a manufacturing process or as part of a deliberate process or activity at the workplace.

## **Subdivision 2      Spills and damage**

### **357      Containing and managing spills**

- (1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that where there is a risk from a spill or leak of a hazardous chemical in a solid or liquid form, provision is made in each part of the workplace where the hazardous chemical is used, handled, generated or stored for a spill containment system that contains within the workplace any part of the hazardous chemical that spills or leaks, and any resulting effluent.

Maximum penalty—60 penalty units.

- (2) The person must ensure that the spill containment system would not create a hazard by bringing together different hazardous chemicals that are not compatible.

Maximum penalty—60 penalty units.

- (3) The person must ensure that the spill containment system provides for the cleanup and disposal of a hazardous chemical that spills or leaks, and any resulting effluent.

Maximum penalty—60 penalty units.

(4) In this section—

*compatible*, for 2 or more substances, mixtures or items, means that the substances, mixtures or items do not react together to cause a fire, explosion, harmful reaction or evolution of flammable, toxic or corrosive vapour.

### **358 Protecting hazardous chemicals from damage**

A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that containers of hazardous chemicals and any associated pipe work or attachments are protected against damage caused by an impact or excessive loads.

Maximum penalty—60 penalty units.

## **Subdivision 3 Emergency plans and safety equipment**

### **359 Fire protection and firefighting equipment**

- (1) A person conducting a business or undertaking at a workplace must ensure the following—
- (a) the workplace is provided with fire protection and firefighting equipment that is designed and built for the types of hazardous chemicals at the workplace in the quantities in which they are used, handled, generated or stored at the workplace, and the conditions under which they are used, handled, generated or stored, having regard to—
    - (i) the fire load of the hazardous chemicals; and
    - (ii) the fire load from other sources; and
    - (iii) the compatibility of the hazardous chemicals with other substances and mixtures at the workplace;

[s 360]

---

- (b) the fire protection and firefighting equipment is compatible with firefighting equipment used by the primary emergency services organisation;
- (c) the fire protection and firefighting equipment is properly installed, tested and maintained;
- (d) a dated record is kept of the latest testing results and maintenance until the next test is conducted.

Maximum penalty—60 penalty units.

- (2) If a part of the fire protection and firefighting equipment provided at the workplace becomes unserviceable or inoperative, the person must ensure that—
  - (a) the implications of the equipment being unserviceable or inoperative are assessed; and
  - (b) for risks that were controlled by the equipment when functioning fully, alternative measures are taken to manage the risks.

Maximum penalty—60 penalty units.

- (3) The person must ensure that the fire protection and firefighting equipment is returned to full operation as soon as practicable.

Maximum penalty—60 penalty units.

### **360 Emergency equipment**

A person conducting a business or undertaking at a workplace that uses, handles, generates or stores hazardous chemicals must ensure that equipment is always available at the workplace for use in an emergency.

Maximum penalty—60 penalty units.

*Note—*

A person conducting a business or undertaking must comply with part 3.2, division 4.



---

### **361 Emergency plans**

- (1) This section applies if the quantity of a schedule 11 hazardous chemical used, handled, generated or stored at a workplace exceeds the manifest quantity for that hazardous chemical.
- (2) A person conducting a business or undertaking at the workplace must give a copy of the emergency plan prepared under part 3.2, division 4 for the workplace to the primary emergency service organisation.

Maximum penalty—60 penalty units.

- (3) If the primary emergency service organisation gives the person a written recommendation about the content or effectiveness of the emergency plan, the person must revise the plan in accordance with the recommendation.

Maximum penalty—60 penalty units.

### **362 Safety equipment**

- (1) This section applies if safety equipment is required to control an identified risk in relation to using, handling, generating or storing hazardous chemicals at a workplace.
- (2) A person conducting a business or undertaking at the workplace must ensure that the safety equipment is provided, maintained and readily accessible to persons at the workplace.

Maximum penalty—60 penalty units.

## **Subdivision 4 Storage and handling systems**

### **363 Control of risks from storage or handling systems**

- (1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that a system used at the workplace for the use, handling or storage of hazardous chemicals—

[s 364]

---

- (a) is used only for a purpose for which it was designed, manufactured, modified, supplied or installed; and
- (b) is operated, tested, maintained, installed, repaired and decommissioned having regard to the health and safety of workers and other persons at the workplace.

Maximum penalty—60 penalty units.

- (2) The person must ensure that sufficient information, training and instruction is given to a person who operates, tests, maintains or decommissions a system used at a workplace for the use, handling or storage of hazardous chemicals for the activity to be carried out safely.

Maximum penalty—60 penalty units.

*Example—*

information provided at a training course

### **364 Containers for hazardous chemicals used, handled or stored in bulk**

A person conducting a business or undertaking at a workplace must ensure that a container in which a hazardous chemical is used, handled or stored in bulk and any associated pipe work or attachments—

- (a) have stable foundations and supports; and
- (b) are secured to the foundations and supports to prevent any movement between the container and the associated pipe work or attachments to prevent—
  - (i) damage to the container, the associated pipe work or attachments; and
  - (ii) a notifiable incident.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

### **365 Stopping use and disposing of handling systems**

- (1) This section applies to a system used at a workplace for the use, handling or storage of hazardous chemicals if a person conducting a business or undertaking at the workplace intends that the system no longer be used for the use, handling or storage of the hazardous chemicals or be disposed of.
- (2) The person must ensure, so far as is reasonably practicable, that the system is free of the hazardous chemicals when the system stops being used for the use, handling or storage of the hazardous chemicals or is disposed of.

Maximum penalty—60 penalty units.

- (3) If it is not reasonably practicable to remove the hazardous chemicals from the system, the person must correctly label the system.

Maximum penalty—60 penalty units.

*Note—*

For correctly labelling hazardous chemicals, see division 2, subdivision 3.

### **366 Stopping use of underground storage and handling systems**

- (1) This section applies to a system used at a workplace for the use, handling or storage of hazardous chemicals underground if a person conducting a business or undertaking at the workplace intends that the system no longer be used for the use, handling or storage of the hazardous chemicals or be disposed of.
- (2) The person must ensure, so far as is reasonably practicable, that the system is removed.

[s 367]

---

Maximum penalty—60 penalty units.

- (3) If it is not reasonably practicable to remove the system, the person must ensure, so far as is reasonably practicable, that the system is without risks to health and safety.

Maximum penalty—60 penalty units.

### **367 Notification of abandoned tank**

- (1) This section applies to a person conducting a business or undertaking at a workplace if—

- (a) the person controls or manages a tank at the workplace that is underground, partially underground or fully mounded; and  
(b) the tank was used to store flammable gases and flammable liquids.

- (2) The tank is taken to be abandoned if—

- (a) the tank has not been used to store flammable gases or flammable liquids for 2 years; or  
(b) the person does not intend to use the tank to store flammable gases or flammable liquids again.

- (3) The person must notify the regulator of the abandonment of the tank as soon as practicable after the tank is abandoned.

Maximum penalty—60 penalty units.

- (4) In this section—

***tank*** means a container, other than an IBC designed to use, handle or store hazardous chemicals in bulk, and includes fittings, closures and other equipment attached to the container.

---

## Subdivision 5      Spray painting

### 367A Definitions for sdiv 5

In this subdivision—

*spray painting* means—

- (a) the process in which either of the following are sprayed onto a surface to produce a film of required thickness and texture—
  - (i) a liquid coating substance that is converted into an aerosol or mist;
  - (ii) a powder coating substance; or
- (b) an activity directly related to the process mentioned in paragraph (a), whether carried out before, during or after the process.

*Examples of paragraph (b)—*

paint mixing, paint matching and cleaning a spray gun

*spray painting booth* means a room or enclosure designed solely for the purpose of spray painting.

### 367B Manufacturing or importing a spray painting booth

- (1) This section applies to a manufacturer or importer of a spray painting booth—
  - (a) for use at a workplace; and
  - (b) in which a hazardous chemical is likely to be used.

*Examples of hazardous chemicals for paragraph (b)—*

enamels, lacquers, powders, solvents, varnishes

- (2) The manufacturer or importer must ensure the booth—
  - (a) is constructed to be safe and without risk to health when used properly; and

[s 367B]

---

- (b) is able to prevent or control the escape of a hazardous chemical that might be a risk to health; and
  - (c) undergoes appropriate testing and examination to ensure it complies with paragraphs (a) and (b).
- (3) The manufacturer or importer must ensure the booth is fitted with an effective ventilation system that incorporates—
- (a) a filtration system to remove airborne residue produced during a spray painting process; and  
*Example of airborne residue for paragraph (a)—*
    - paint particles from overspray
  - (b) an exhaust capture system—
    - (i) to prevent the exposure of a person in an adjoining work area to a hazardous chemical produced by a spray painting process; and
    - (ii) if prevention is not practicable—to reduce the exposure to as low a level as is practicable, but in any case the exposure must not be more than the national exposure standard for the relevant period for the substance.

- (4) In this section—

***former NOHSC*** means the National Occupational Health and Safety Commission under the repealed *National Occupational Health and Safety Commission Act 1985* (Cwlth).

***national exposure standard*** means the exposure standard for hazardous chemicals in the Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational Environment contained in former NOHSC document entitled ‘Exposure Standards for Atmospheric Contaminants in the Occupational Environment’.

***relevant period*** means the exposure period stated in former NOHSC document entitled ‘Exposure Standards for Atmospheric Contaminants in the Occupational Environment’.

### 367C Supplying a spray painting booth

- (1) This section applies to a supplier of a spray painting booth—
  - (a) for use at a workplace; and
  - (b) in which a hazardous chemical is likely to be used.

*Examples of hazardous chemicals for paragraph (b)—*

enamels, lacquers, powders, solvents, varnishes

- (2) The supplier must take all reasonable steps to ensure the person who is supplied with the booth is given the following information—
  - (a) the use for which the booth has been designed and tested;
  - (b) how the booth is to be used safely and without risk to health;
  - (c) the maintenance procedures for the booth, including the maintenance procedures for any filters.

### 367D Protecting persons from spray painting

- (1) A person conducting a business or undertaking must ensure that the risk of a person's exposure to a hazardous chemical used in or for spray painting is—
  - (a) eliminated; or
  - (b) if elimination is not practicable—minimised to as low a level as is practicable, but in any case the exposure must not be more than the relevant national exposure standard for the relevant period for the substance.
- (2) In this section—

*former NOHSC* means the National Occupational Health and Safety Commission under the repealed *National Occupational Health and Safety Commission Act 1985* (Cwlth).

*national exposure standard* means the exposure standard for hazardous chemicals in the Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational

[s 367E]

---

Environment contained in former NOHSC document entitled ‘Exposure Standards for Atmospheric Contaminants in the Occupational Environment’.

*relevant period* means the exposure period stated in former NOHSC document entitled ‘Exposure Standards for Atmospheric Contaminants in the Occupational Environment’.

### **367E Spray painting to be done in spray painting booth**

- (1) A person conducting a business or undertaking must ensure any spray painting using a hazardous chemical is done in a spray painting booth.

*Examples of hazardous chemicals for this subsection—*

acrylic lacquers, 2 pack polyurethane paint, conventional epoxy paint, powders, solvents

- (2) However, a spray painting booth is not required if—

- (a) it is not practical to do the painting in a booth; or

*Examples for paragraph (a)—*

- painting a bridge, building or tower
- painting a large boat that can not be easily placed in a booth because of its size

- (b) the painting involves spotting, touching up or other minor work.

*Example of spotting or touching up—*

occasionally painting a scratch, small dent or stone chip on a car door

*Example of what is minor work for paragraph (b)—*

occasionally painting a car panel with an acrylic lacquer

*Examples of what is not minor work for paragraph (b)—*

- consecutively painting a number of car panels with an acrylic lacquer
- painting a whole car panel with 2 pack polyurethane paint



---

### **367F Controlling exposure from spray painting**

- (1) This section applies if a person conducting a business or undertaking can not eliminate or minimise someone's exposure to a hazardous chemical used in or for spray painting other than by using personal protective equipment.
- (2) The person must ensure that—
  - (a) anyone who may be exposed—
    - (i) is given the appropriate personal protective equipment; and
    - (ii) is properly instructed in how to use the equipment; and
    - (iii) uses the equipment when there is a risk of being exposed to the substance; and
  - (b) personal protective equipment given to someone is effectively maintained.

### **367G Maintaining a spray painting booth**

- (1) This section applies if a spray painting booth is used by a person conducting a business or undertaking for spray painting.
- (2) The person must ensure the booth is—
  - (a) regularly inspected by a competent person to ascertain whether the booth can be used safely and without risk to health; and
  - (b) appropriately maintained by a competent person.

*Example of appropriately maintained for paragraph (b)—*

maintained in accordance with the procedures supplied by the supplier of the booth
- (3) To work out how often to inspect the booth, the person must consider the following things—
  - (a) the inspection intervals recommended by the manufacturer, importer or supplier of the booth;

[s 367H]

---

- (b) the types of spray painting processes done in the booth;
- (c) how often the booth is used;
- (d) the types of substances, and the volumes of them, used in the booth.

### **367H Minimum air movement for booths**

- (1) This section applies if a spray painting booth is used by a person conducting a business or undertaking for spray painting.
- (2) The person must ensure the booth's ventilation system can produce and keep an air movement of—
  - (a) for a full down draught booth—not less than 0.3 metres per second; or
  - (b) for a booth used only for electrostatic spray painting—not less than 0.4 metres per second; or
  - (c) for any other booth—not less than 0.5 metres per second;

averaged over the area of the booth where the spray painting is done.

- (3) For subsection (2), the air movement must be measured—
  - (a) when the booth is empty; and
  - (b) during the booth's spray cycle; and
  - (c) in the area of the booth where the painting is done; and
  - (d) for a booth that is not fully contained or enclosed—at the opening in the booth where the internal environment in the booth and the external environment meet.

*Example of a booth that is not fully contained—*

a tunnel booth that is not fitted with vapour barriers

*Example of a booth that is not fully enclosed—*

an open face booth

(4) In this section—

*spray cycle* of a spray painting booth means the time during the booth's operation when the booth may be used for spray painting.

## Division 6 Health monitoring

### 368 Duty to provide health monitoring

A person conducting a business or undertaking must ensure that health monitoring is provided to a worker carrying out work for the business or undertaking if—

- (a) the worker is carrying out ongoing work at a workplace using, handling, generating or storing hazardous chemicals and there is a significant risk to the worker's health because of exposure to a hazardous chemical mentioned in schedule 14, table 14.1, column 2; or
- (b) the person identifies that because of ongoing work carried out by a worker using, handling, generating or storing hazardous chemicals there is a significant risk that the worker will be exposed to a hazardous chemical (other than a hazardous chemical mentioned in schedule 14, table 14.1) and either—
  - (i) valid techniques are available to detect the effect on the worker's health; or
  - (ii) a valid way of determining biological exposure to the hazardous chemical is available and it is uncertain, on reasonable grounds, whether the exposure to the hazardous chemical has resulted in the biological exposure standard being exceeded.

Maximum penalty—60 penalty units.

*Note—*

The biological exposure standard is published by Safe Work Australia.

[s 369]

---

**369 Duty to inform of health monitoring**

A person conducting a business or undertaking who is required to provide health monitoring to a worker must give information about the health monitoring requirements to—

- (a) a person who is likely to be engaged to carry out work using, handling, generating or storing a hazardous chemical; and
- (b) a worker for the business or undertaking, before the worker commences work using, handling, generating or storing a hazardous chemical.

Maximum penalty—36 penalty units.

**370 Duty to ensure that appropriate health monitoring is provided**

A person conducting a business or undertaking must ensure that health monitoring of a worker mentioned in section 368 includes health monitoring of a type mentioned in an item in schedule 14, table 14.1, column 3 in relation to a hazardous chemical mentioned in column 2 for the item, unless—

- (a) an equal or better type of health monitoring is available; and
- (b) the use of that other type of monitoring is recommended by a registered medical practitioner with experience in health monitoring.

Maximum penalty—60 penalty units.

**371 Duty to ensure health monitoring is supervised by registered medical practitioner with experience**

- (1) A person conducting a business or undertaking must ensure that the health monitoring of a worker mentioned in section 368 is carried out by or under the supervision of a registered medical practitioner with experience in health monitoring.

Maximum penalty—60 penalty units.

- 
- (2) The person must consult the worker in relation to the selection of the registered medical practitioner.

Maximum penalty—36 penalty units.

### **372 Duty to pay costs of health monitoring**

- (1) A person conducting a business or undertaking must pay all expenses relating to health monitoring mentioned in section 368.

Maximum penalty—36 penalty units.

- (2) If 2 or more persons conducting businesses or undertakings have a duty to provide health monitoring for a worker and have arranged for one of them to commission the health monitoring, the costs of the health monitoring for which any of those persons is liable must be apportioned equally between each of those persons unless they agree otherwise.

### **373 Information that must be provided to registered medical practitioner**

A person conducting a business or undertaking who commissions health monitoring for a worker must provide the following information to the registered medical practitioner carrying out or supervising the health monitoring—

- (a) the name and address of the person conducting the business or undertaking;
- (b) the name and date of birth of the worker;
- (c) the work that the worker is, or will be, carrying out that has triggered the requirement for health monitoring;
- (d) if the worker has started that work—how long the worker has been carrying out that work.

Maximum penalty—36 penalty units.

[s 374]

---

### **374 Duty to obtain health monitoring report**

- (1) A person conducting a business or undertaking who commissions health monitoring mentioned in section 368 must take all reasonable steps to obtain a health monitoring report from the registered medical practitioner who carried out or supervised the monitoring as soon as practicable after the monitoring is carried out in relation to a worker.

Maximum penalty—60 penalty units.

- (2) The health monitoring report must include the following—
- (a) the name and date of birth of the worker;
  - (b) the name and registration number of the registered medical practitioner;
  - (c) the name and address of the person conducting the business or undertaking who commissioned the health monitoring;
  - (d) the date of the health monitoring;
  - (e) any test results that indicate whether or not the worker has been exposed to a hazardous chemical;
  - (f) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the work that triggered the requirement for health monitoring;
  - (g) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out the type of work that triggered the requirement for health monitoring;
  - (h) whether medical counselling is required for the worker in relation to the work that triggered the requirement for health monitoring.

---

**375 Duty to provide health monitoring report to worker**

The person conducting a business or undertaking who commissioned health monitoring for a worker must give a copy of the health monitoring report to the worker as soon as practicable after the person obtains the report.

Maximum penalty—60 penalty units.

**376 Duty to provide health monitoring report to regulator**

A person conducting a business or undertaking for which a worker is carrying out work for which health monitoring is required must give a copy of the health monitoring report relating to a worker to the regulator as soon as practicable after obtaining the report if the report contains—

- (a) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the work using, handling, generating or storing hazardous chemicals that triggered the requirement for health monitoring; or
- (b) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out the work using, handling, generating or storing hazardous chemicals that triggered the requirement for health monitoring.

Maximum penalty—60 penalty units.

**377 Duty to provide health monitoring report to relevant persons conducting business or undertakings**

The person who commissioned health monitoring for a worker under section 368 must give a copy of the health monitoring report to all other persons conducting businesses or undertakings who have a duty to provide health monitoring

[s 378]

---

for the worker as soon as practicable after obtaining the report.

Maximum penalty—60 penalty units.

### **378 Health monitoring records**

- (1) A person conducting a business or undertaking must ensure that health monitoring reports in relation to a worker carrying out work for the business or undertaking are kept as a confidential record—

- (a) identified as a record in relation to the worker; and
- (b) for at least 30 years after the record is made.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- (2) The person must ensure that the health monitoring report and results of a worker are not disclosed to another person without the worker's written consent.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

- (3) Subsection (2) does not apply if the record is disclosed under section 376 or 377 or to a person who must keep the record confidential under a duty of professional confidentiality.



---

## **Division 7                      Induction, information, training and supervision**

### **379      Duty to provide supervision**

- (1) A person conducting a business or undertaking at a workplace must provide any supervision to a worker that is necessary to protect the worker from risks to the worker's health and safety arising from the work if, at the workplace, the worker—
- (a) uses, handles, generates or stores a hazardous chemical; or
  - (b) operates, tests, maintains, repairs or decommissions a storage or handling system for a hazardous chemical; or
  - (c) is likely to be exposed to a hazardous chemical.

Maximum penalty—60 penalty units.

- (2) The person must ensure that the supervision of the worker is suitable and adequate having regard to—
- (a) the nature of the risks associated with the hazardous chemical; and
  - (b) the information, training and instruction required under section 39.

*Note—*

In addition, section 19(3)(f) of the Act requires the provision of information, training, instruction and supervision.

## **Division 8                      Prohibition, authorisation and restricted use**

### **380      Using, handling and storing prohibited carcinogens**

A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the

[s 381]

---

workplace to use, handle or store, a prohibited carcinogen mentioned in schedule 10, table 10.1, column 2 unless—

- (a) the prohibited carcinogen is used, handled or stored for genuine research or analysis; and
- (b) the regulator has authorised the use, handling or storage of the prohibited carcinogen under section 384.

*Note—*

See section 43 of the Act.

### **381 Using, handling and storing restricted carcinogens**

A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, a restricted carcinogen mentioned in an item in schedule 10, table 10.2, column 2 for a purpose mentioned in column 3 for the item unless the regulator has authorised the use, handling or storage of the restricted carcinogen under section 384.

*Note—*

See section 43 of the Act.

### **382 Using, handling and storing restricted hazardous chemicals**

- (1) A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, a restricted hazardous chemical mentioned in an item in schedule 10, table 10.3, column 2 for a purpose mentioned in column 3 for the item.
- (2) A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, polychlorinated biphenyls (PCBs) unless the use, handling or storage is—
  - (a) in relation to existing electrical equipment or construction material; or

- (b) for disposal purposes; or
- (c) for genuine research and analysis.

*Note—*

See section 43 of the Act.

### **383 Application for authorisation to use, handle or store prohibited and restricted carcinogens**

- (1) A person conducting a business or undertaking at a workplace may apply in writing to the regulator for authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen mentioned in schedule 10 at the workplace.
- (2) The application must include the following information—
  - (a) the applicant's name and business address;
  - (b) if the applicant conducts the business or undertaking under a business name, that business name;
  - (c) the name and address of the supplier of the carcinogen;
  - (d) the address where the carcinogen will be used, handled or stored;
  - (e) the name of the carcinogen;
  - (f) the quantity of the carcinogen to be used, handled or stored at the workplace each year;
  - (g) the purpose and activity for which the carcinogen will be used, handled or stored;
  - (h) the number of workers that may be exposed to the carcinogen;
  - (i) information about how the person will manage risks to health and safety, including a summary of the steps taken, or to be taken, by the person in relation to the following—
    - (i) hazard identification;
    - (ii) control measures;

[s 384]

---

- (iii) if elimination or substitution of the carcinogen is not reasonably practicable—why the elimination or substitution is not reasonably practicable;
- (j) any other information requested by the regulator.

### **384 Authorisation to use, handle or store prohibited carcinogens and restricted carcinogens**

- (1) If a person applies under section 383, the regulator may grant an authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen under this section.
- (2) The regulator may authorise the person to use, handle or store a prohibited carcinogen mentioned in an item in schedule 10, table 10.1 at the workplace only if the carcinogen will be used, handled or stored only for genuine research or analysis.
- (3) The regulator may authorise the person to use, handle or store a restricted carcinogen mentioned in an item in schedule 10, table 10.2 at the workplace only if the carcinogen will be used, handled or stored only for a use mentioned in column 3 for the item.
- (4) The regulator may impose any conditions on the authorisation that the regulator considers necessary to achieve the objectives of the Act or this regulation.
- (5) The regulator must refuse to authorise the use, handling or storage of the carcinogen for a use not mentioned in this section.

*Note—*

A decision to refuse an authorisation is a reviewable decision, see section 676.

### **385 Changes to information in application to be reported**

A person who applies under section 383 for authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen must give the regulator written notice of any change in the information given in the application before the

---

change or as soon as practicable after the person becomes aware of the change.

Maximum penalty—36 penalty units.

### **386 Regulator may cancel authorisation**

The regulator may cancel an authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen given under section 384 if satisfied that—

- (a) the person granted the authorisation has not complied with a condition on the authorisation; or
- (b) the risk to the health or safety of a worker that may be affected by using, handling or storing the carcinogen has changed since the authorisation was granted.

*Note—*

A decision to cancel an authorisation is a reviewable decision, see section 676.

### **387 Statement of exposure to be provided to workers**

- (1) This section applies if—
  - (a) a person conducting a business or undertaking at a workplace is authorised under section 384 to use, handle or store a prohibited carcinogen or restricted carcinogen at the workplace; and
  - (b) a worker at the workplace uses, handles or stores the prohibited carcinogen or restricted carcinogen at the workplace.
- (2) The person must give to the worker, at the end of the worker's engagement by the person, a written statement of the following—
  - (a) the name of the prohibited or restricted carcinogen to which the worker may have been exposed during the engagement;

[s 388]

---

- (b) the time the worker may have been exposed;
- (c) how and where the worker may obtain records of the possible exposure;
- (d) whether the worker should undertake regular health assessments, and the relevant tests to undertake.

Maximum penalty—36 penalty units.

### **388 Records to be kept**

- (1) This section applies if a person conducting a business or undertaking at a workplace is authorised under section 384 to use, handle or store a prohibited carcinogen or restricted carcinogen at the workplace.
- (2) The person must—
  - (a) record the full name, date of birth and address of each worker likely to be exposed to the prohibited carcinogen or restricted carcinogen during the period of authorisation; and
  - (b) keep a copy of each authorisation given to the person including any conditions imposed on the authorisation.

Maximum penalty—36 penalty units.

- (3) The person must keep the records for 30 years after the authorisation ends.

Maximum penalty—36 penalty units.

## **Division 9 Pipelines**

### **389 Management of risk by pipeline owner**

- (1) The owner of a pipeline used to transfer hazardous chemicals must manage risks associated with the transfer of the hazardous chemicals through that pipeline.

Maximum penalty—60 penalty units.

*Example—*

risks associated with the testing, installation, commissioning, operation, maintenance and decommissioning of the pipeline

- (2) The owner of a pipeline used to transfer hazardous chemicals must ensure, so far as is reasonably practicable, that an activity, structure, equipment or substance that is not part of the pipeline does not affect the hazardous chemicals or the pipeline in a way that increases risk.

Maximum penalty—60 penalty units.

### **390 Pipeline builder's duties**

- (1) This section applies to a person who intends to build a pipeline that will—
  - (a) cross into a public place; and
  - (b) be used to transfer a schedule 11 hazardous chemical.
- (2) The person must ensure that, before the building of the pipeline commences, the regulator is given the following information—
  - (a) the name of the pipeline's intended owner and operator;
  - (b) the pipeline's specifications;
  - (c) the intended procedures for the operation, maintenance, renewal and relaying of the pipeline;
  - (d) any public place that the pipeline will cross;
  - (e) the intended emergency response procedures.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

[s 391]

---

- (3) The person must ensure that the regulator is given the information in each of the following circumstances—
- (a) before the pipeline is commissioned;
  - (b) before the pipeline is likely to contain a hazardous chemical;
  - (c) if there is any change in the information given under subsection (2)—when the information changes;
  - (d) if part of the pipeline is to be repaired—before the pipeline is repaired;
  - (e) if part of the pipeline is removed, decommissioned, closed or abandoned—when the removal, decommissioning, closure or abandonment occurs.

Maximum penalty—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

### **391 Management of risks to health and safety by pipeline operator**

- (1) A person conducting a business or undertaking at a workplace who is the operator of a pipeline (the *operator*) used to transfer hazardous chemicals must manage, under part 3.1 risks to health and safety arising from the transfer of the hazardous chemicals through the pipeline.
- (2) The operator of a pipeline used to transfer a hazardous chemical must ensure, so far as is reasonably practicable, that the hazardous chemical transferred is identified by a label, sign or another way on or near the pipeline.

Maximum penalty—60 penalty units.



- 
- (3) The operator of a pipeline that transfers a schedule 11 hazardous chemical into a public place must ensure that the regulator is notified of—
- (a) the supplier of the hazardous chemical; and
  - (b) the receiver of the hazardous chemical; and
  - (c) the correct classification of the hazardous chemical.

Maximum penalty—

- (a) for an individual—12<sup>1</sup>/<sub>2</sub> penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

## Part 7.2                      Lead

*Note—*

In workplaces where lead processes are carried out, this part applies in addition to part 7.1.

### Division 1                      Lead process

#### 392      Meaning of *lead process*

For this part, a *lead process* consists of any of the following carried out at a workplace—

- (a) work that exposes a person to lead dust or lead fumes arising from the manufacture or handling of dry lead compounds;
- (b) work in connection with the manufacture, assembly, handling or repair of, or parts of, batteries containing

[s 392]

---

- lead that involves the manipulation of dry lead compounds, or pasting or casting lead;
- (c) breaking up or dismantling batteries containing lead, or sorting, packing and handling plates or other parts containing lead that are removed or recovered from the batteries;
  - (d) spraying molten lead metal or alloys containing more than 5% by weight of lead metal;
  - (e) melting or casting lead alloys containing more than 5% by weight of lead metal in which the temperature of the molten material exceeds 450°C;
  - (f) recovering lead from its ores, oxides or other compounds by thermal reduction process;
  - (g) dry machine grinding, discing, buffing or cutting by power tools alloys containing more than 5% by weight of lead metal;
  - (h) machine sanding or buffing surfaces coated with paint containing more than 1% by dry weight of lead;
  - (i) a process by which electric arc, oxyacetylene, oxy gas, plasma arc or a flame is applied for welding, cutting or cleaning, to the surface of metal coated with lead or paint containing more than 1% by dry weight of lead metal;
  - (j) radiator repairs that may cause exposure to lead dust or lead fumes;
  - (k) fire assays if lead, lead compounds or lead alloys are used;
  - (l) hand grinding and finishing lead or alloys containing more than 50% by dry weight of lead;
  - (m) spray painting with lead paint containing more than 1% by dry weight of lead;
  - (n) melting lead metal or alloys containing more than 50% by weight of lead metal if the exposed surface area of

- 
- the molten material exceeds 0.1m<sup>2</sup> and the temperature of the molten material does not exceed 450°C;
- (o) using a power tool, including abrasive blasting and high pressure water jets, to remove a surface coated with paint containing more than 1% by dry weight of lead and handling waste containing lead resulting from the removal;
  - (p) a process that exposes a person to lead dust or lead fumes arising from manufacturing or testing detonators or other explosives that contain lead;
  - (q) a process that exposes a person to lead dust or lead fumes arising from firing weapons at an indoor firing range;
  - (r) foundry processes involving—
    - (i) melting or casting lead alloys containing more than 1% by weight of lead metal in which the temperature of the molten material exceeds 450°C; or
    - (ii) dry machine grinding, discing, buffing or cutting by power tools lead alloys containing more than 1% by weight of lead metal;
  - (s) a process decided by the regulator to be a lead process under section 393.

### **393 Regulator may decide lead process**

- (1) The regulator may decide that a process to be carried out at a workplace is a lead process.
- (2) The regulator must not decide that the process is a lead process unless the regulator is satisfied on reasonable grounds that the process creates a risk to the health of a worker at the workplace having regard to blood lead levels of workers, or airborne lead levels, at the workplace.

[s 394]

---

*Note—*

A decision that a process is a lead process is a reviewable decision, see section 676.

- (3) The regulator must, within 14 days after a decision is made under subsection (1), give written notice of the decision to the person conducting a business or undertaking at the workplace.

### **394 Meaning of *lead risk work***

In this part, *lead risk work* means work carried out in a lead process that is likely to cause the blood lead level of a worker carrying out the work to exceed—

- (a) for a female of reproductive capacity—10µg/dL (0.48µmol/L); or
- (b) in any other case—30µg/dL (1.45µmol/L).

### **395 Duty to give information about health risks of lead process**

- (1) A person conducting a business or undertaking that carries out a lead process must give information about the lead process to—
  - (a) a person who is likely to be engaged to carry out the lead process—before the person is engaged; and
  - (b) a worker for the business or undertaking—before the worker commences the lead process.

Maximum penalty—60 penalty units.

- (2) If work is identified as lead risk work after a worker commences the work, the person conducting a business or undertaking must give information about the lead process to the worker as soon as practicable after it is identified as lead risk work and before health monitoring of the worker is provided under division 4 of this part.

Maximum penalty—60 penalty units.

- 
- (3) The information that must be given is—
- (a) information about the health risks and toxic effects associated with exposure to lead; and
  - (b) if the lead process involves lead risk work—the need for, and details of, health monitoring under division 4 of this part.

## **Division 2                      Control of risk**

### **396      Containment of lead contamination**

A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that contamination by lead is confined to a lead process area at the workplace.

Maximum penalty—60 penalty units.

### **397      Cleaning methods**

- (1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that a lead process area at the workplace is kept clean.

Maximum penalty—60 penalty units.

- (2) The person must ensure that the methods used to clean a lead process area—
- (a) do not create a risk to the health of persons in the immediate vicinity of the area; and
  - (b) do not have the potential to spread the contamination of lead.

Maximum penalty—60 penalty units.

[s 398]

---

### **398 Prohibition on eating, drinking and smoking**

- (1) A person conducting a business or undertaking at a workplace must take all reasonable steps to ensure that a person does not eat, drink, chew gum, smoke or carry materials used for smoking in a lead process area at the workplace.

Maximum penalty—60 penalty units.

- (2) A person conducting a business or undertaking at a workplace must provide workers with an eating and drinking area that, so far as is reasonably practicable, cannot be contaminated with lead from a lead process.

Maximum penalty—60 penalty units.

### **399 Provision of changing and washing facilities**

- (1) A person conducting a business or undertaking at a workplace must provide and maintain in good working order changing rooms and washing, showering and toilet facilities at the workplace so as to—

- (a) minimise secondary lead exposure from contaminated clothing; and
- (b) minimise ingestion of lead; and
- (c) avoid the spread of lead contamination.

Maximum penalty—60 penalty units.

- (2) The person must ensure, so far as is reasonably practicable, that workers at the workplace remove clothing and equipment that is or is likely to be contaminated with lead, and wash their hands and faces, before entering an eating or drinking area at the workplace.

Maximum penalty—60 penalty units.

---

**400 Laundering, disposal and removal of personal protective equipment**

- (1) A person conducting a business or undertaking at a workplace must ensure that personal protective equipment that is likely to be contaminated with lead dust—
- (a) is sealed in a container before being removed from the lead process area; and
  - (b) so far as is reasonably practicable, is disposed of on the completion of the lead process work at a site equipped to accept lead-contaminated equipment; and
  - (c) if it is not reasonably practicable to dispose of the personal protective equipment that is clothing—
    - (i) is laundered at a laundry, whether on-site or off-site, equipped to launder lead-contaminated clothing; or
    - (ii) if it is not practicable to launder the clothing—is kept in the sealed container until it is re-used for lead process work; and
  - (d) if it is not reasonably practicable to dispose of the personal protective equipment that is not clothing—
    - (i) is decontaminated before it is removed from the lead process area; or
    - (ii) if it is not practicable to decontaminate the equipment in the lead process area—is kept in the sealed container until it is re-used for lead process work.

*Example—*

work boots

Maximum penalty—60 penalty units.

- (2) The person must ensure that a sealed container mentioned in subsection (1) is decontaminated before being removed from the lead process area.

Maximum penalty—60 penalty units.

[s 401]

---

*Note—*

Section 335 also requires the container to be labelled to indicate the presence of lead.

- (3) The person must take all reasonable steps to ensure that clothing contaminated with lead-dust is not removed from the workplace unless it is to be—
  - (a) laundered in accordance with this section; or
  - (b) disposed of.

Maximum penalty—60 penalty units.

#### **401 Review of control measures**

- (1) A person conducting a business or undertaking at a workplace must ensure that any measures implemented to control health risks from exposure to lead at the workplace are reviewed and, as necessary, revised in the following circumstances—
  - (a) a worker is removed from carrying out lead risk work at the workplace under section 415;
  - (b) the person obtains a health monitoring report for a worker under division 4 that contains—
    - (i) test results that indicate that the worker has reached or exceeded the relevant blood lead level for that worker under section 415; or
    - (ii) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the lead risk work that triggered the requirement for health monitoring; or
    - (iii) any recommendation that the person conducting the business or undertaking take remedial measures, including a recommendation that the worker be removed from carrying out lead risk work at the workplace;



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

*Examples—*

- results of any monitoring
  - a notifiable incident occurs because of the risk
- (d) before a change at the workplace that is likely to give rise to a new or different risk to health or safety that the measure may not effectively control;
- (e) a new relevant hazard or risk is identified;
- (f) the results of consultation by the person under the Act or this regulation indicate that a review is necessary;
- (g) a health and safety representative requests the review under subsection (3);
- (h) the regulator requires the review;
- (i) at least once every 5 years.

Maximum penalty—36 penalty units.

- (2) Without limiting subsection (1)(d), a change at the workplace includes—
- (a) a change to the workplace itself or any aspect of the work environment; or
  - (b) a change to a system of work, a process or a procedure.
- (3) A health and safety representative at a workplace may request a review of a control measure if the representative reasonably believes that—
- (a) a circumstance mentioned in subsection (1)(a), (b), (c), (d), (e) or (f) affects or may affect the health and safety of a member of the work group represented by the health and safety representative; and
  - (b) the duty holder has not adequately reviewed the control measure in response to the circumstance.

## **Division 3                      Lead risk work**

### **402      Identifying lead risk work**

- (1) A person conducting a business or undertaking at a workplace must assess each lead process carried out by the business or undertaking at the workplace to determine if lead risk work is carried out in the process.

Maximum penalty—60 penalty units.

- (2) In assessing a lead process, the person must have regard to the following—
  - (a) past biological monitoring results of workers;
  - (b) airborne lead levels;
  - (c) the form of lead used;
  - (d) the tasks and processes required to be undertaken with lead;
  - (e) the likely duration and frequency of exposure to lead;
  - (f) possible routes of exposure to lead;
  - (g) any information about incidents, illnesses or diseases in relation to the use of lead at the workplace.
- (3) In assessing a lead process, the person must not have regard to the effect of using personal protective equipment on the health and safety of workers at the workplace.
- (4) If a person conducting a business or undertaking at a workplace is unable to determine whether lead risk work is carried out in a lead process at the workplace, the process is taken to include lead risk work until the person determines that lead risk work is not carried out in the process.

### **403      Notification of lead risk work**

- (1) Subject to subsection (5), if a person conducting a business or undertaking at a workplace determines that work at the

---

workplace is lead risk work, the person must give the regulator written notice within 7 days that the work is lead risk work.

Maximum penalty—36 penalty units.

- (2) A notice under this section must state the kind of lead process being carried out that includes the lead risk work.
- (3) The person must—
  - (a) keep a copy of the notice given to the regulator while the lead risk work is carried out at the workplace; and
  - (b) ensure that a copy of the notice is readily accessible to a worker who is likely to be exposed to lead, and the worker's health and safety representative.

Maximum penalty—36 penalty units.

- (4) Subsection (5) applies to an emergency service organisation in relation to work carried out by an emergency service worker who, at the direction of the emergency service organisation, is—
  - (a) rescuing a person; or
  - (b) providing first aid to a person.
- (5) The emergency service organisation must give notice under subsection (1) as soon as practicable after determining that the work is lead risk work.

#### **404 Changes to information in notification of lead risk work**

- (1) A person conducting a business or undertaking at a workplace must give the regulator written notice of any change in the information given in a notice under section 403 before the change or as soon as practicable after the person becomes aware of the change.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

[s 405]

---

*Note—*

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

- (2) The person must—
- (a) keep a copy of the notice given to the regulator while the lead risk work is carried out at the workplace; and
  - (b) ensure that a copy of the notice is readily accessible to a worker who is likely to be exposed to lead, and the worker's health and safety representative.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

## **Division 4                      Health monitoring**

### **405      Duty to provide health monitoring before first commencing lead risk work**

- (1) A person conducting a business or undertaking at a workplace must ensure that health monitoring is provided to a worker—
- (a) before the worker first commences lead risk work for the person; and
  - (b) 1 month after the worker first commences lead risk work for the person.

Maximum penalty—60 penalty units.

- (2) If work is identified as lead risk work after a worker commences the work, the person conducting the business or undertaking must ensure that health monitoring of the worker is provided—

- 
- (a) as soon as practicable after the lead risk work is identified; and
  - (b) 1 month after the first monitoring of the worker under paragraph (a).

Maximum penalty—60 penalty units.

#### **406 Duty to ensure that appropriate health monitoring is provided**

Subject to section 407, a person conducting a business or undertaking must ensure that health monitoring of a worker mentioned in section 405 includes health monitoring of a type mentioned in an item in schedule 14, table 14.2 unless—

- (a) an equal or better type of health monitoring is available; and
- (b) the use of that other type of monitoring is recommended by a registered medical practitioner with experience in health monitoring.

Maximum penalty—60 penalty units.

#### **407 Frequency of biological monitoring**

- (1) A person conducting a business or undertaking at a workplace must arrange for biological monitoring of each worker who carries out lead risk work for the person to be carried out at the following times—
  - (a) for females not of reproductive capacity and males—
    - (i) if the last monitoring shows a blood lead level of less than 30µg/dL (1.45µmol/L)—6 months after the last biological monitoring of the worker; or
    - (ii) if the last monitoring shows a blood lead level of 30µg/dL (1.45µmol/L) or more but less than 40µg/dL (1.93µmol/L)—3 months after the last biological monitoring of the worker; or

[s 407]

---

- (iii) if the last monitoring shows a blood lead level of 40µg/dL (1.93µmol/L) or more—6 weeks after the last biological monitoring of the worker;
- (b) for females of reproductive capacity—
  - (i) if the last monitoring shows a blood lead level of less than 10µg/dL (0.48µmol/L)—3 months after the last biological monitoring of the worker; or
  - (ii) if the last monitoring shows a blood lead level of 10µg/dL (0.48µmol/L) or more—6 weeks after the last biological monitoring of the worker.

Maximum penalty—60 penalty units.

- (2) The person must increase the frequency of biological monitoring of a worker who carries out lead risk work if the worker carries out an activity that is likely to significantly change the nature or increase the duration or frequency of the worker's lead exposure.

Maximum penalty—60 penalty units.

- (3) The regulator may determine a different frequency for biological monitoring of workers at a workplace, or a class of workers, carrying out lead risk work having regard to—
  - (a) the nature of the work and the likely duration and frequency of the workers' lead exposure; and
  - (b) the likelihood that the blood lead level of the workers will significantly increase.
- (4) The regulator must give a person conducting a business or undertaking written notice of a determination under subsection (3) within 14 days after making the determination.
- (5) The person conducting a business or undertaking at the workplace must arrange for biological monitoring to be carried out at the frequency stated in a determination notified to the person under subsection (4).

Maximum penalty for subsection (5)—60 penalty units.

*Note—*

A determination of a different frequency for biological monitoring is a reviewable decision, see section 676.

**408 Duty to ensure health monitoring is supervised by registered medical practitioner with relevant experience**

- (1) A person conducting a business or undertaking must ensure that the health monitoring of a worker mentioned in this division is carried out by or under the supervision of a registered medical practitioner with experience in health monitoring.

Maximum penalty—60 penalty units.

- (2) The person must consult the worker in relation to the selection of the registered medical practitioner.

Maximum penalty—60 penalty units.

**409 Duty to pay costs of health monitoring**

- (1) A person conducting a business or undertaking must pay all expenses relating to health monitoring mentioned in this division.

Maximum penalty—36 penalty units.

- (2) If 2 or more persons conducting businesses or undertakings have a duty to provide health monitoring for a worker and have arranged for one of them to commission the health monitoring, the costs of the health monitoring for which any of those persons is liable must be apportioned equally between each of those persons unless they agree otherwise.

Maximum penalty—36 penalty units.

**410 Information that must be provided to registered medical practitioner**

A person conducting a business or undertaking who commissions health monitoring for a worker must provide the

[s 411]

---

following information to the registered medical practitioner carrying out or supervising the health monitoring—

- (a) the name and address of the person conducting the business or undertaking;
- (b) the name and date of birth of the worker;
- (c) the lead risk work that the worker is, or will be, carrying out that has triggered the requirement for health monitoring;
- (d) if the worker has started that work, how long the worker has been carrying out that work.

#### **411 Duty to obtain health monitoring report**

- (1) A person conducting a business or undertaking who commissioned health monitoring mentioned in this division must take all reasonable steps to obtain a health monitoring report from the registered medical practitioner who carried out or supervised the monitoring as soon as practicable after the monitoring is carried out in relation to a worker.

Maximum penalty—60 penalty units.

- (2) The health monitoring report must include the following—
  - (a) the name and date of birth of the worker;
  - (b) the name and registration number of the registered medical practitioner;
  - (c) the name and address of the person conducting the business or undertaking who commissioned the health monitoring;
  - (d) the date of health monitoring;
  - (e) if a blood sample is taken—the date the blood sample is taken;
  - (f) the results of biological monitoring that indicate blood lead levels in the worker's body;



- 
- (g) the name of the pathology service used to carry out tests;
  - (h) any test results that indicate that the worker has reached or exceeded the relevant blood lead level for that worker under section 415;
  - (i) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the lead risk work that triggered the requirement for health monitoring;
  - (j) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out the type of work that triggered the requirement for health monitoring;

*Note—*

The duty under section 415 to remove a worker from carrying out lead risk work applies even if there is no recommendation of a registered medical practitioner to do so.

- (k) whether medical counselling is required for the worker in relation to the work that triggered the requirement for health monitoring.

#### **412 Duty to provide health monitoring report to worker**

A person conducting a business or undertaking who commissioned health monitoring for a worker must give a copy of the health monitoring report to the worker as soon as practicable after the person obtains the report.

Maximum penalty—60 penalty units.

#### **413 Duty to provide health monitoring report to regulator**

A person conducting a business or undertaking for which a worker is carrying out work for which health monitoring is required must give a copy of the health monitoring report

[s 414]

---

relating to the worker to the regulator as soon as practicable after obtaining the report if the report contains—

- (a) test results that indicate that the worker has reached or exceeded the relevant blood lead level for that person under section 415; or
- (b) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the work that triggered the requirement for health monitoring; or
- (c) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out the work that triggered the requirement for health monitoring.

Maximum penalty—60 penalty units.

#### **414 Duty to provide health monitoring report to relevant persons conducting business or undertakings**

A person conducting a business or undertaking who commissioned health monitoring for a worker under this division must give a copy of the health monitoring report to all other persons conducting businesses or undertakings who have a duty to provide health monitoring for the worker as soon as practicable after obtaining the report.

Maximum penalty—60 penalty units.

#### **415 Removal of worker from lead risk work**

- (1) A person conducting a business or undertaking for which a worker is carrying out work must immediately remove the worker from carrying out lead risk work if following health monitoring—
  - (a) biological monitoring of the worker shows that the worker's blood lead level is, or is more than—

- 
- (i) for females not of reproductive capacity and males—50µg/dL (2.42µmol/L); or
  - (ii) for females of reproductive capacity—20µg/dL (0.97µmol/L); or
  - (iii) for females who are pregnant or breastfeeding—15µg/dL (0.72µmol/L); or
- (b) the registered medical practitioner who supervised the health monitoring recommends that the worker be removed from carrying out the lead risk work; or
  - (c) there is an indication that a risk control measure has failed and, as a result, the worker's blood lead level is likely to reach the relevant level for the worker mentioned in paragraph (a).

Maximum penalty—60 penalty units.

- (2) The person must notify the regulator as soon as practicable if a worker is removed from carrying out lead risk work under subsection (1).

Maximum penalty—36 penalty units.

#### **416 Duty to ensure medical examination if worker removed from lead risk work**

- (1) This section applies if a worker is removed from carrying out lead risk work under section 415.
- (2) The person conducting the business or undertaking who removes the worker from carrying out lead risk work must arrange for the worker to be medically examined by a registered medical practitioner with experience in health monitoring within 7 days after the day the worker is removed.

Maximum penalty—60 penalty units.

- (3) The person must consult the worker in the selection of the registered medical practitioner.

Maximum penalty—60 penalty units.

[s 417]

---

#### **417 Return to lead risk work after removal**

- (1) This section applies if—
  - (a) a worker is removed from carrying out lead risk work under section 415; and
  - (b) the person conducting a business or undertaking at the workplace who removed the worker expects the worker to return to carrying out lead risk work at the workplace.
- (2) The person conducting the business or undertaking must arrange for health monitoring under the supervision of a registered medical practitioner with experience in health monitoring at a frequency decided by the practitioner to determine whether the worker's blood lead level is low enough for the worker to return to carrying out lead risk work.

Maximum penalty—60 penalty units.

- (3) The person conducting the business or undertaking must ensure that the worker does not return to carrying out lead risk work until—
  - (a) the worker's blood lead level is less than—
    - (i) for females not of reproductive capacity and males—40µg/dL (1.93µmol/L); or
    - (ii) for females of reproductive capacity—10µg/dL (0.48µmol/L); and
  - (b) a registered medical practitioner with experience in health monitoring is satisfied that the worker is fit to return to carrying out lead risk work.

Maximum penalty—60 penalty units.

#### **418 Health monitoring records**

- (1) A person conducting a business or undertaking must ensure that health monitoring reports in relation to a worker carrying out work for the business or undertaking are kept as a confidential record—

- 
- (a) identified as a record in relation to the worker; and
  - (b) for at least 30 years after the record is made.
- (2) The person must ensure that the health monitoring report and results of a worker are not disclosed to another person without the worker's written consent.
- (3) Subsection (2) does not apply if the record is disclosed under section 412, 413 or 414 or to a person who must keep the record confidential under a duty of professional confidentiality.

Maximum penalty—

- (a) for an individual—12½ penalty units; or
- (b) for a body corporate—60 penalty units.

*Note—*

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

## Chapter 8 Asbestos

### Part 8.1 Prohibitions and authorised conduct

#### 419 Work involving asbestos or ACM—prohibitions and exceptions

- (1) A person conducting a business or undertaking must not carry out, or direct or allow a worker to carry out, work involving asbestos.

Maximum penalty—60 penalty units.

[s 419]

---

- (2) For this section, work *involves* asbestos if the work involves manufacturing, supplying, transporting, storing, removing, using, installing, handling, treating, disposing of or disturbing asbestos or ACM.
- (3) Subsection (1) does not apply if the work involving asbestos is any of the following—
  - (a) genuine research and analysis;
  - (b) sampling and identification under this regulation;
  - (c) maintenance of, or service work on, non-friable asbestos or ACM, fixed or installed before 31 December 2003, under this regulation;
  - (d) removal or disposal of asbestos or ACM, including demolition, under this regulation;
  - (e) the transport and disposal of asbestos or asbestos waste under the *Environmental Protection Act 1994*;
  - (f) demonstrations, education or practical training in relation to asbestos or ACM;
  - (g) display, or preparation or maintenance for display, of an artefact or thing that is, or includes, asbestos or ACM;
  - (h) management under this regulation of in situ asbestos that was installed or fixed before 31 December 2003;
  - (i) work that disturbs asbestos during mining operations that involve the extraction of, or exploration for, a mineral other than asbestos;
  - (j) laundering asbestos contaminated clothing under this regulation.
- (4) Subsection (1) does not apply if the regulator approves the method adopted for managing risk associated with asbestos.
- (5) Subsection (1) does not apply to—
  - (a) soil that a competent person has determined—
    - (i) does not contain any visible ACM or friable asbestos; or

- (ii) if friable asbestos is visible—does not contain more than trace levels of asbestos determined in accordance with AS 4964:2004 (Method for the qualitative identification of asbestos in bulk samples);
- (b) naturally occurring asbestos managed in accordance with an asbestos management plan prepared under section 432.

## Part 8.2                      General duty

### 420      Exposure to airborne asbestos at workplace

- (1) A person conducting a business or undertaking at a workplace must ensure that—
  - (a) exposure of a person at the workplace to airborne asbestos is eliminated so far as is reasonably practicable; and
  - (b) if it not reasonably practicable to eliminate exposure to airborne asbestos—exposure is minimised so far as is reasonably practicable.

*Note—*

WHS Act—section 19 (see section 9).

- (2) A person conducting a business or undertaking at a workplace must ensure that the exposure standard for asbestos is not exceeded at the workplace.

Maximum penalty—60 penalty units.

- (3) Subsections (1)(a) and (2) do not apply in relation to an asbestos removal area—

[s 420]

---

- (a) that is enclosed to prevent the release of respirable asbestos fibres in accordance with section 477; and
- (b) in which negative pressure is used under that section.