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Occupational Health and Safety
Regulations 2017

S.R. No. 22/2017

Authorised Version incorporating amendments as at
29 September 2020

Chapter 1—Preliminary

Part 1.1—Introductory matters

1 Objectives

The objectives of these Regulations are—

- (a) to further the objects of the **Occupational Health and Safety Act 2004** by—
 - (i) providing for health and safety in relation to workplaces and hazards, activities and things at workplaces; and
 - (ii) providing for the management of asbestos-containing materials in workplaces, the removal of asbestos, and the licensing of asbestos removalists; and
 - (iii) providing for the safe operation of major hazard facilities and mines in order to reduce the likelihood of a serious incident occurring; and
 - (iv) specifying training requirements for certain persons engaged in construction work at workplaces; and
 - (v) providing for the licensing of certain persons engaged in high risk work at workplaces; and

- (vi) providing procedures for the resolution of health and safety issues at workplaces; and
 - (vii) specifying the information to be included in entry permits issued under Part 8 of the Act; and
 - (viii) providing for other matters that are required or permitted by the Act or that are necessary to give effect to the Act; and
- (b) to further the objects of the **Dangerous Goods Act 1985** by—
- (i) prohibiting the use of asbestos; and
 - (ii) providing for the protection of property from damage from the use of dangerous goods at major hazard facilities.

2 Authorising provisions

- (1) This Chapter, Division 1 of Part 4.4, Division 1 of Part 5.2 and Chapter 7 are made under section 158 of the **Occupational Health and Safety Act 2004** and section 52 of the **Dangerous Goods Act 1985**.
- (2) The remaining provisions of these Regulations (except Division 4 of Part 4.4 and Division 7 of Part 5.2 and Chapter 9) are made under section 158 of the **Occupational Health and Safety Act 2004**.
- (3) Division 4 of Part 4.4, Division 7 of Part 5.2 and Chapter 9 are made under section 52 of the **Dangerous Goods Act 1985**.

3 Commencement

- (1) These Regulations (except regulation 376(c), clause 19 of Schedule 3, clause 1.6(g) of Schedule 16 and clause 10(b) of Schedule 17) come into operation on 18 June 2017.
- (2) Regulation 376(c), clause 19 of Schedule 3, clause 1.6(g) of Schedule 16 and clause 10(b) of Schedule 17 come into operation on 18 June 2018.

4 Revocation of existing Regulations

The Regulations set out in Schedule 1 are **revoked**.

5 Definitions

In these Regulations—

A-weighted means a measure using a filter designed to reflect the response of the human ear at low sound pressure levels;

Act compliance provision means a provision of a kind referred to in regulation 7;

ADG Code has the same meaning as in the **Dangerous Goods Act 1985**;

administrative control means a system of work or a work procedure that is designed to eliminate or reduce a risk, but does not include—

- (a) a physical control; or
- (b) the use of personal protective equipment;

air-supplied respiratory protective equipment means a device that supplies air to the wearer from a source other than the ambient atmosphere;

alter, in relation to plant, means to change the design of, add to, or take away from the plant in a way that may affect health or safety, but does not include routine maintenance, repairs or replacements;

AMBSC Code means Australian Miniature Boiler Safety Committee Code Parts 1, 2, 3 and 4 published by the Australian Miniature Boiler Safety Committee;

Ambulance Service—Victoria has the same meaning as in the **Ambulance Services Act 1986**;

amusement structure means powered equipment operated for hire or reward that provides entertainment or amusement through movement of the equipment, or part of the equipment, or when passengers travel on, around or along the equipment;

approved asbestos laboratory means a laboratory approved—

- (a) by NATA to perform asbestos fibre counting or to identify asbestos in samples; or
- (b) by a scheme determined by the Authority under regulation 6;

AS 2030—Gas Cylinders means—

- (a) AS 2030.1 Gas cylinders, Part 1: General requirements; and
- (b) AS 2030.2 The verification, filling, inspection, testing and maintenance of cylinders for the storage and transport of compressed gases, Part 2: Cylinders for dissolved acetylene; and

(c) AS 2030.4 The verification, filling, inspection, testing and maintenance of cylinders for the storage and transport of compressed gases, Part 4: Welded cylinders—Insulated; and

(d) AS 2030.5 Gas cylinders, Part 5: Filling, inspection and testing of refillable cylinders;

AS 2593 means Australian Standard AS 2593—Boilers - Safety management and supervision systems, sections 1, 2 and 3;

asbestos means—

(a) the asbestiform varieties of mineral silicates belonging to the serpentine or amphibole groups of rock-forming minerals, including—

(i) actinolite asbestos; and

(ii) anthophyllite asbestos; and

(iii) chrysotile ("white asbestos"); and

(iv) crocidolite ("blue asbestos"); and

(v) grunerite asbestos (or amosite) ("brown asbestos"); and

(vi) tremolite asbestos; or

(b) any material or object, whether natural or manufactured, that contains one or more of the mineral silicates referred to in paragraph (a);

Notes

- 1 The mineral silicates set out in paragraph (a)(i), (ii), (v) and (vi) use the same name for both the asbestiform and non-asbestiform varieties. The word "asbestos" has been included here to emphasise that only the asbestiform habit of these minerals is regulated as asbestos by these Regulations.
-

- 2 A substance that contains both non-asbestiform mineral silicates and a hazardous substance is a hazardous substance to which Part 4.1 (Hazardous substances) applies.

asbestos-containing material means any manufactured material or object that, as part of its design, contains one or more of the mineral silicates referred to in paragraph (a) of the definition of ***asbestos*** (other than plant in which asbestos is fixed or installed);

asbestos-contaminated dust means dust that is, or is assumed under Part 4.4 (Asbestos) to be, contaminated with asbestos;

asbestos exposure standard means 0.1 f/ml of air measured in a person's breathing zone and expressed as a time weighted average fibre concentration of asbestos calculated over an 8 hour working day and measured over a minimum period of 4 hours in accordance with—

- (a) the Membrane Filter Method; or
- (b) a method determined by the Authority under regulation 6;

asbestos occupational health and safety management system means an occupational health and safety management system that is—

- (a) related to asbestos removal work; and
- (b) accredited or approved by JAS-ANZ or determined by the Authority under regulation 6;

asbestos paraoccupational air monitoring means a procedure by which air is sampled to estimate the airborne asbestos fibre concentration in the occupational environment, taken at fixed locations,

usually between 1 and 2 metres above floor level, in accordance with—

- (a) the Membrane Filter Method; or
- (b) a method determined by the Authority under regulation 6;

asbestos register means the asbestos register kept under regulation 227 as revised in accordance with Part 4.4 (Asbestos);

asbestos-related activities has the meaning given by regulation 302;

asbestos removal licence means—

- (a) a Class A asbestos removal licence; or
- (b) a Class B asbestos removal licence;

asbestos removal licence holder means an employer or self-employed person who is the holder of an asbestos removal licence issued under Part 6.1 (Licences);

asbestos removal supervisor means a person who is appointed by an asbestos removal licence holder to oversee asbestos removal work in accordance with regulation 266;

asbestos removal work, means the removal of asbestos that is present at a workplace, building, structure, ship or plant so that the asbestos is no longer present in that workplace, building, structure, ship or plant, up to the point of containment;

asbestos waste means asbestos removed and disposable items used during asbestos removal work or asbestos-related activities, including plastic sheeting and disposable personal protective clothing and disposable protective equipment including tools;

assessment of competency means an assessment under Division 3 of Part 3.6 (High risk work);

atmospheric monitoring means a procedure by which air is sampled within the breathing zone of a person to measure and evaluate the person's exposure to airborne contaminants;

audiological examination means the testing and examination of a person's ear, and hearing threshold, for the purpose of establishing the type and cause of any hearing disorder;

audiometric test means the measurement of a person's air conduction hearing threshold levels by means of an electro-acoustic instrument (audiometer), equipped with earphones, that provides pure tones of specified discrete frequencies at known hearing levels;

Australian Qualifications Framework has the same meaning as *AQF* has in the **Education and Training Reform Act 2006**;

authorised assessor means a person who is authorised by the Authority under regulation 139 to carry out assessments of competency in relation to one or more classes of high risk work;

biological monitoring means the measurement and evaluation of a substance, or its metabolites, in the body tissue, fluids or exhaled air of a person exposed to the substance;

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

boiler means—

- (a) in Part 3.6 (High risk work) and Schedules 3 and 4—
 - (i) a vessel, or an arrangement of vessels, and interconnecting parts in which steam or other vapour is generated, or water or another liquid is heated at a pressure above that of the atmosphere by the application of fire, the products of combustion or similar means (other than electrical power); and
 - (ii) the following equipment if directly associated with those vessels—
 - (A) pre-heaters, re-heaters, superheaters and economisers;
 - (B) boiler piping, boiler setting, supports, mountings, valves, gauges, fittings and controls up to, and including, the first connection point after the first valve or valve assembly;

but does not include—

- (iii) a fully flooded or pressurised system in which water or other liquid is heated to a temperature lower than the normal atmospheric boiling temperature of the liquid;
or

- (iv) any vessel if the design of the vessel enables it to operate deprived of all liquid or vapour that is intended to be heated, without affecting the structure or operation of the vessel; or
- (v) a direct-fired process heater; and
- (b) in any other case, a boiler within the meaning of AS/NZS 1200 Pressure equipment with a hazard level A, B, C or D as determined by AS 4343 Pressure equipment—Hazard levels;

boom-type elevating work platform means a powered telescoping device (including vertical and inclined), hinged device or articulated device or any combination of those devices used to support a platform on which persons, equipment and materials may be elevated to perform work, but does not include an industrial lift truck;

breathing zone means a hemisphere of 300 millimetres radius extending in front of a person's face measured from the mid-point of an imaginary straight line joining the ears;

bridge crane means a crane that—

- (a) consists of one or more bridge beams mounted at each end to an end carriage; and
- (b) is capable of travelling along elevated runways; and
- (c) has one or more hoisting mechanisms that are able to travel across the bridge beam or beams;

building maintenance equipment means a suspended platform, including a building maintenance unit or a swing stage, that incorporates permanently installed overhead supports to provide access to the faces of a building for maintenance, but does not include a suspended scaffold;

building maintenance unit means a powered appliance with a suspended platform, permanently installed or intended to be permanently installed on a building and specifically designed to provide access to the faces of the building for a person working from the platform;

carcinogens licence means—

- (a) a licence to use a Schedule 10 carcinogenic substance at a laboratory;
or
- (b) a licence to use a Schedule 11 carcinogenic substance at a laboratory;
or
- (c) a licence to use a Schedule 11 carcinogenic substance at a workplace other than a laboratory;

CAS number means the unique identifier allocated to a particular chemical substance by the Chemical Abstracts Service;

chairlift means an aerial powered ropeway that incorporates either elevated open chairs or closed cabins (gondola-type);

Chemical Abstracts Service (or ***CAS***) is a division of the American Chemical Society;

chemical identity means a name that gives a chemical a unique chemical identity and that—

- (a) accords with the nomenclature systems of the International Union of Pure and Applied Chemistry or the Chemical Abstracts Service; or
- (b) is a name that is—
 - (i) ordinarily used to identify the chemical; and
 - (ii) recognised by the scientific community;

Class, in Schedule 14, has the same meaning as in the ADG Code;

Class A asbestos removal licence means a licence granted under Part 6.1 (Licences) that permits the holder to perform asbestos removal work in accordance with regulations 264 and 265;

Class A asbestos removal work, means asbestos removal work (other than limited asbestos removal work) involving the removal of—

- (a) friable asbestos; or
- (b) asbestos-contaminated dust (other than asbestos-contaminated dust associated with or derived from the removal of non-friable asbestos);

Class B asbestos removal licence means a licence granted under Part 6.1 (Licences) that permits the holder to perform asbestos removal work in accordance with regulation 265;

Class B asbestos removal work, means asbestos removal work (other than limited asbestos removal work) involving the removal of—

- (a) non-friable asbestos; or
- (b) asbestos-contaminated dust associated with or derived from the removal of non-friable asbestos;

Classification Code has the same meaning as in the ADG Code;

competency standard means the standard set under the unit of competency for the specified VET course for a licence to perform a class of high risk work;

concrete-placing boom means powered mobile truck-mounted plant incorporating a knuckle boom that is capable of power-operated slewing and luffing to place concrete by way of pumping concrete through a pipeline attached to, or forming part of, the boom of the plant;

confined space means a space in any vat, tank, pit, pipe, duct, flue, oven, chimney, silo, reaction vessel, container, receptacle, underground sewer or well, or any shaft, trench or tunnel or other similar enclosed or partially enclosed structure, if the space—

- (a) is, or is intended to be, or is likely to be, entered by any person; and
- (b) has a limited or restricted means for entry or exit that makes it physically difficult for a person to enter or exit the space; and
- (c) is, or is intended to be, at normal atmospheric pressure while any person is in the space; and

(d) contains, or is intended to contain, or is likely to contain—

- (i) an atmosphere that has a harmful level of any contaminant; or
- (ii) an atmosphere that does not have a safe oxygen level; or
- (iii) any stored substance, except liquids, that could cause engulfment—

but does not include a shaft, trench or tunnel that is a mine or is part of the workings of a mine;

confined space entry permit means a confined space entry permit issued by an employer in accordance with regulation 63;

construction excavation, in Part 5.1 (Construction), means the following—

- (a) a trench if the excavated depth is more than 1.5 metres;
- (b) a shaft if the excavated depth is more than 2 metres;
- (c) a tunnel;

construction induction card means a construction induction card issued by the Authority under regulation 346;

construction induction training means a unit of competency of general occupational health and safety induction training to the construction industry endorsed or accredited under the Australian Qualifications Framework;

Construction Industry Basic Induction training course means the Construction Industry Basic Induction training course conducted under the auspices of the tripartite industry forum, Foundations for Safety Construction Industry Training Agreement commencing 1 February 2001;

construction project means a project involving construction work and includes preparation and planning of the proposed construction work;

construction RTO means an RTO whose registration allows delivery of—

- (a) construction induction training; or
- (b) the Construction Industry Basic Induction training course;

construction statement of attainment means a certification issued by a construction RTO stating that the person to whom it is issued has completed—

- (a) construction induction training; or
- (b) the Construction Industry Basic Induction training course—

but does not include a certification issued by a construction RTO, or an RTO in a class of construction RTOs, determined by the Authority under regulation 6, if the certification is issued after the determination takes effect;

construction work has the meaning given by regulation 321;

consumer package means a package that is intended for retail display and sale;

container, in Part 4.1 (Hazardous substances), means anything in or by which a hazardous substance is or has been wholly or partly encased, covered, enclosed, contained or packed (whether empty, partially full or full), but does not include the fuel tank of a vehicle;

contaminant means any substance that may be harmful to health or safety;

conveyor means equipment (including the superstructure, gear and auxiliary equipment used in connection with the equipment) by which loads are, or are capable of being, raised, lowered, transported or continuously driven, by—

- (a) an endless belt, rope or chain or other similar means; or
- (b) buckets, trays or other containers or fittings moved by an endless belt, rope, chain or similar means; or
- (c) a rotating screw; or
- (d) a vibration or walking beam; or
- (e) a powered roller conveyor if the rollers are driven by an endless belt, rope or chain or other similar means;

Country Fire Authority has the same meaning as **Authority** has in the **Country Fire Authority Act 1958**;

crane means an appliance intended for raising or lowering a load and moving it horizontally (including the supporting structure of the appliance and its foundations), but does not include any of the following—

- (a) an industrial lift-truck;

- (b) earthmoving machinery;
- (c) an amusement structure;
- (d) a tractor;
- (e) an industrial robot;
- (f) a conveyor;
- (g) building maintenance equipment;
- (h) a suspended scaffold;
- (i) a lift;

current safety data sheet, in relation to a hazardous substance, means—

- (a) the safety data sheet prepared for the substance by the manufacturer or importing supplier of the substance under regulation 144(1) or equivalent legislation; or
- (b) if the safety data sheet referred to in paragraph (a) has been revised by the manufacturer or importing supplier of the substance, the safety data sheet as revised;

C-weighted means a measure using a filter designed to reflect the response of the human ear at high sound pressure levels;

dangerous goods means dangerous goods within the meaning of the **Dangerous Goods Act 1985**;

decommissioning, in relation to plant, includes performing necessary adjustments, tests and inspections before the plant ceases operation and during the process of ceasing operation;

demolition, in Part 5.1 (Construction), means the complete or partial dismantling of a building or structure by planned and controlled methods or procedures;

derrick crane means a powered slewing strut-boom crane with its boom pivoted at the base of a mast and—

- (a) the mast is either guyed (guyed-derrick) or held by backstays (stiff-legged derrick); and
- (b) the boom is capable of luffing under load;

direct-fired process heater means an arrangement of tubes comprising one or more coils located in the radiant zone or convection zone or both of a combustion chamber, the primary purpose of which is to raise the temperature of a process fluid circulated through the coils to allow distillation, fractionation, reaction or other petrochemical process of the process fluid, whether the fluid is liquid or gas, or a combination of liquid and gas;

Division, in Schedule 14, has the same meaning as in the ADG Code;

dogging work means one or both of the following—

- (a) the application of slinging techniques, including the selection or inspection of lifting gear, to sling a load;
- (b) the directing of a crane or hoist operator in the movement of a load when the load is out of the operator's view;

domestic premises means domestic premises used solely for domestic purposes;

earthmoving machinery means powered plant used to excavate, load, transport, compact or spread earth, overburden, rubble, spoil, aggregate or similar material, but does not include a tractor or industrial lift truck or a vehicle designed to be used primarily as a means of transport on public roads;

emergency plan means—

- (a) in Part 5.2 (Major hazard facilities), an emergency plan prepared under regulation 375; or
- (b) in Part 5.3 (Mines), an emergency plan prepared under regulation 433;

emergency procedures means—

- (a) in Part 3.3 (Prevention of falls), the procedures established by an employer under regulation 49; or
- (b) in Part 3.4 (Confined spaces), the procedures established by an employer under regulation 69; or
- (c) in Part 4.4 (Asbestos), the procedures documented under regulation 247; or
- (d) in Part 5.1 (Construction), the procedures referred to in regulation 331; or
- (e) in Part 5.2 (Major hazard facilities), the procedures referred to in regulation 398;

emergency service means—

- (a) Ambulance Service—Victoria; or
- (b) the Country Fire Authority; or

- (c) the Metropolitan Fire and Emergency Services Board; or
- (d) Victoria Police; or
- (e) the Victoria State Emergency Service Authority;

emergency service employee means any of the following, other than a volunteer—

- (a) an officer or member of a metropolitan fire brigade;
- (b) an officer or member of an urban fire brigade or rural fire brigade within the meaning of the **Country Fire Authority Act 1958**;
- (c) an employee of Ambulance Service—Victoria;
- (d) a member of the Victoria State Emergency Service;
- (e) a police officer;

Note

Section 23 of the Act requires the employer to ensure, so far as is reasonably practicable, that persons, other than employees of the employer, are not exposed to risks to their health or safety. This includes volunteers.

emergency stop device means a device that immediately stops, or effectively isolates the hazardous operation of, an item of plant and requires manual resetting;

Note

An emergency stop device is not an operational stop control (see the definition of ***operational stop control***).

emergency work, in Part 5.1 (Construction), means work that is required to be immediately undertaken to rectify an

unexpected breakdown of an essential service (including gas, water, sewerage, electricity and telecommunications) to enable continuance of that service;

employer's asbestos register means the employer's asbestos register kept under regulation 235 as revised in accordance with Part 4.4 (Asbestos);

engineering control means a physical control of any kind that is designed to eliminate or reduce a risk, but does not include—

- (a) a system of work or procedure; or
- (b) the use of personal protective equipment;

Environment Protection Authority has the same meaning as ***Authority*** has in the **Environment Protection Act 1970**;

equivalent legislation means legislation of another State or Territory or the Commonwealth relating to the use of hazardous substances at a workplace;

Example

Laws of another State or Territory or the Commonwealth relating to work health and safety.

evidence of licence document, in relation to a licence, means the document given to the licence holder by the Authority under regulation 456 and includes any replacement document issued under Part 6.1 (Licences);

explosive-powered tool means an implement used to drive fasteners (including nails, bolts and screws) against, into or through material by means of explosive charges, and includes every attachment to, and accessory of, the implement, but does not include a firearm

within the meaning of the **Firearms Act 1996**;

exposure standard means an exposure standard set out in the Workplace Exposure Standards for Airborne Contaminants, published by SafeWork Australia on its Internet site;

facility means any building or other structure on land—

- (a) that is a workplace; and
- (b) at which Schedule 14 materials are present or likely to be present;

fall, in Part 3.3 (Prevention of falls), means a person's involuntary fall of more than 2 metres;

fall arrest system means equipment or material, or a combination of equipment and material, that is designed to arrest the fall of a person;

Example

Industrial safety net, catch platform or safety harness system (other than a travel restraint system).

fatigue, in relation to an employee at a mine, means an acute or ongoing state of tiredness that exposes the employee or any other person at the mine to a risk to health or safety;

f/ml means fibres per millilitre;

forklift truck, in Part 3.6 (High risk work) and Schedule 3, means a powered industrial truck equipped with a mast and an elevating load carriage to which is attached a pair of fork arms or other loadholding attachment, but does not include the following—

- (a) a pedestrian-operated industrial truck;

- (b) a pallet truck that is unable, by design, to raise its fork arms 900 mm or more above the ground;
- (c) an order-picking forklift truck;
- (d) a tractor fitted with a pair of fork arms or other loadholding attachment;

friable means, when dry—

- (a) may be crumbled, pulverised or reduced to powder by hand pressure; or
- (b) as a result of a work process becomes such that it may be crumbled, pulverised or reduced to powder by hand pressure;

gantry crane means—

- (a) in Part 3.6 (High risk work) and Schedule 3 a powered crane that—
 - (i) consists of one or more bridge beams supported at each end by legs mounted on end carriages; and
 - (ii) is capable of travelling on supporting surfaces or deck levels, whether fixed or not; and
 - (iii) has a crab with one or more hoisting units that are able to travel across the bridge beam or beams; or
- (b) in any other case a powered crane that—
 - (i) consists of a bridge beam or beams that are supported at one or both ends by legs mounted to end carriages; and

(ii) is capable of travelling along runways; and

(iii) has one or more hoisting mechanisms;

gas cylinder means a rigid vessel not exceeding 3000 litres water capacity and without openings or integral attachments on the shell other than at the ends, designed for the storage and transport of gas under pressure and to which AS 2030—Gas Cylinders applies;

Notes

- 1 See the definition of *AS 2030—Gas Cylinders* which encompasses AS 2030.1, AS 2030.2, AS 2030.4 and AS 2030.5.
- 2 A gas cylinder may be of any shape.

generic name, in relation to a substance, means a name that describes the category or group of chemicals to which the substance belongs;

GHS means the Globally Harmonized System of Classification and Labelling of Chemicals, Third revised edition, Fourth revised edition or Fifth revised edition, published by the United Nations, as modified by Schedule 7;

Note

See regulation 17.

glove bag means a single-use bag constructed from transparent, heavy duty polyethylene with built-in arms and access ports;

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

hazard class means the nature of a physical, health or environmental hazard under the GHS;

hazardous manual handling means work requiring the use of force exerted by a person to lift, lower, push, pull, carry or otherwise move, hold or restrain—

- (a) a thing if the work involves one or more of the following—
 - (i) repetitive or sustained application of force;
 - (ii) sustained awkward posture;
 - (iii) repetitive movement;
 - (iv) application of high force involving a single or repetitive use of force that it would be reasonable to expect that a person in the workforce may have difficulty undertaking;
 - (v) exposure to sustained vibration;
- (b) live persons or animals;
- (c) unstable or unbalanced loads or loads that are difficult to grasp or hold;

hazard pictogram means a graphical composition, including a symbol combined with other graphical elements, that is assigned in the GHS to a hazard class or hazard category;

hazard statement means a statement assigned in the GHS to a hazard class or hazard category describing the nature of the hazards of a hazardous substance including, if appropriate, the degree of hazard;

hazardous substance means a substance that satisfies the criteria for hazard classification set out in Part 3 (Health Hazards) of the GHS, but does not include a substance that

satisfies the criteria solely for one of the following hazard classes—

- (a) acute toxicity—oral—category 5;
- (b) acute toxicity—dermal—category 5;
- (c) acute toxicity—inhalation—category 5;
- (d) skin corrosion/irritation—category 3;
- (e) serious eye damage/eye irritation—category 2B;
- (f) aspiration hazard—category 2;

health monitoring of a person means monitoring the person to identify changes in the person's health status and may include audiometric testing, medical examinations (including audiological examinations) and biological monitoring;

Note

"Health" includes psychological health (see section 5 of the Act).

hearing protector means a device that is designed for the purpose of protecting a person's hearing and that—

- (a) is inserted into the ear canal; or
- (b) covers the ear canal entrance; or
- (c) covers the entire ear;

HEPA filter means a high efficiency particulate air filter that is a disposable, extended media, dry type filter, in a rigid frame, with a minimum filtration efficiency of 99.97% filtration for nominal 0.3 micrometres (μm) diameter thermally generated dioctylphthalata particles or an equivalent efficiency for a specified alternative aerosol and with an initial

maximum resistance to airflow of
250 pascals when tested at its rated
airflow capacity;

high risk construction work has the meaning
given by regulation 322;

high risk work means any work set out in
Schedule 3 as being within the scope of a
high risk work licence;

high risk work licence means any of the licences
listed in Schedule 3;

hire, in Part 3.5 (Plant), does not include
hire under a hire-purchase agreement or
hire-purchase contract;

hoist means an appliance intended for raising
or lowering persons or a load and includes
a mast climbing work platform, a personnel
and materials hoist, a scaffolding hoist and a
serial hoist, but does not include a lift or
building maintenance equipment;

importing supplier, in relation to a substance,
means a person who first supplies or intends
to first supply the substance in Victoria for
use at a workplace, but does not include—

- (a) a person who manufactures the
substance in Victoria; or
- (b) a wholesaler or retailer who has been
supplied with the substance by another
supplier in Victoria; or
- (c) a retail warehouse operator;

independent person, in Part 4.4 (Asbestos), has
the meaning given by regulation 207;

industrial lift truck means powered mobile
plant (other than a crane or earthmoving
machinery) comprising a mast with an

elevating carriage to which a pair of fork arms or other loadholding attachment is attached, including—

- (a) a truck on which the operator is raised with the attachment for order-picking; and
- (b) a truck where the frame and lift unit straddle, raise, lower, move or stack the load;

industrial robot means plant that is a multifunctional manipulator and its controllers, capable of handling materials, parts or tools or specialised devices, through variable programmed motions for the performance of a variety of tasks;

industrial rope access system means a system designed for the purpose of performing work on a building or structure by a person and consists of—

- (a) equipment that enables the person to manually raise or lower themselves in a harness or seat supported by one or more fibre ropes; and
- (b) equipment used to anchor the ropes;

ingredient means any component of a substance (including an impurity);

JAS-ANZ means the Joint Accreditation System of Australia and New Zealand;

laboratory means a building, room or designated area where a scheduled carcinogenic substance is used for—

- (a) scientific analysis or investigation; or
- (b) research; or
- (c) practical teaching;

laser means plant that produces a beam of electromagnetic radiation in the wavelength range from 100 nanometres to 1 millimetre that is used for cutting, alignment, scanning or measurement, but does not include plant that produces light beams at these wavelengths for the primary purpose of illumination;

lead means lead metal, lead alloys or inorganic lead compounds (including lead salts of organic acids);

lead exposure standard means the maximum airborne concentration of lead dust, lead mist or lead fumes referred to in regulation 186;

Reg. 5 def. of
*lead exposure
standard*
amended by
S.R. No.
71/2018
reg. 4(a).

lead process has the meaning given by regulation 178;

lead-risk work has the meaning given by regulation 193;

licence means—

- (a) a high risk work licence; or
- (b) an asbestos removal licence; or
- (c) a carcinogens licence; or
- (d) a major hazard facility licence;

licence holder, in relation to a major hazard facility licence, means—

- (a) the person who was granted the licence, unless that person has transferred the licence; or
- (b) if the licence has been transferred, the last person to whom the licence was transferred;

lift means permanent plant, or plant intended to be permanently installed, in or attached to a building or structure in which persons, goods or materials may be raised or lowered within a car, chair or cage or on a platform and the movement of which is restricted by a guide or guides and includes an escalator, a moving walk and a stairway lift;

limited asbestos removal work, means asbestos removal work which is permitted under regulation 250;

local area, in relation to a major hazard facility, means the area surrounding the major hazard facility, as indicated on the map forming part of the emergency plan for the major hazard facility prepared in accordance with clause 1.2 of Schedule 16;

local community, in relation to a major hazard facility, means—

- (a) persons who reside in the local area for the facility; and
- (b) persons who have the management or control of workplaces, or of places where persons gather for recreational, cultural or sporting purposes, located in the local area for the facility;

major hazard facility means a facility—

- (a) at which Schedule 14 materials are present or likely to be present in a quantity exceeding their threshold quantity; or
- (b) determined by the Authority under regulation 363 or 364 to be a major hazard facility;

major hazard facility licence means a licence granted under Part 6.1 (Licences) to operate a major hazard facility;

major incident means an uncontrolled incident, including an emission, loss of containment, escape, fire, explosion or release of energy, that—

- (a) involves Schedule 14 materials; and
- (b) poses a serious and immediate risk to health or safety;

major incident hazard means an activity, procedure, plant, process, substance, situation or any other circumstance that could cause, or contribute to causing, a major incident;

major mining hazard means a mining hazard that has the potential to cause an incident that would cause, or pose a significant risk of causing, more than one death;

mast climbing work platform means plant with a working platform used to support and elevate persons, equipment and materials by means of a drive system that moves along an extendable mast, but does not include a lift or building maintenance equipment;

materials platform hoist means a powered builder's hoist that—

- (a) consists of a car, bucket or platform cantilevered from, and travelling up and down externally to, a face of the support structure; and
- (b) is used only to raise or lower goods or materials, not persons;

mechanical loadshifting equipment includes cranes, hoists, cableways, flying foxes, winches, blocks and purchases which incorporate sheaves, jacks and air bags;

Membrane Filter Method means the method for estimating airborne asbestos fibres in accordance with the "Guidance Note on the Membrane Filter Method for Estimating Airborne Asbestos Fibres" prepared by the National Health and Safety Commission and published in 2005;

Metropolitan Fire and Emergency Services

Board has the same meaning as ***Board*** has in the **Metropolitan Fire Brigades Act 1958**;

mine has the meaning given by regulation 399;

mine modification, in Part 5.3 (Mines), in relation to a mine, means a change to any workings, processes or plant, including the introduction of new workings, processes or plant, that has the effect of—

- (a) creating a mining hazard that has not previously been identified; or
- (b) increasing the risk associated with a mining hazard;

mining hazard has the meaning given by regulation 400;

mobile crane means a crane capable of travelling over a supporting surface without the need for fixed runways;

modification, in Part 5.2 (Major hazard facilities), in relation to a major hazard facility, includes the following—

- (a) a change to any plant, processes or substances used in processes, including the introduction of new plant, processes or substances;
- (b) a change to the quantity of Schedule 14 materials present or likely to be present, including the introduction of any new Schedule 14 materials;
- (c) a change in the safety role of employees;
- (d) a change to the safety management system—

that has the effect of—

- (e) creating a major incident hazard that has not previously been identified; or
- (f) increasing the likelihood of a major incident occurring; or
- (g) in relation to any major incident that might occur, increasing—
 - (i) its magnitude; or
 - (ii) the severity of its consequences to persons both on-site and off-site;

musculoskeletal disorder means an injury, illness or disease that arises in whole or in part from hazardous manual handling, whether occurring suddenly or over a prolonged period, but does not include an injury caused by crushing, entrapment or cutting resulting primarily from the mechanical operation of plant;

NATA means the National Association of Testing Authorities (Australia);

negative air enclosure means an enclosed asbestos removal area that is maintained under negative air pressure to approximately 12 pascals;

noise exposure standard means—

- (a) the 8 hour equivalent continuous sound pressure level of 85 decibels (A) measured in A-weighted-decibels referenced to 20 micropascals at an employee's ear position; or
- (b) the C-weighted peak hold sound pressure level reading of 140 decibels (C) measured in decibels referenced to 20 micropascals at an employee's ear position;

non-slewing mobile crane means a powered mobile crane with a capacity of more than 3 tonnes and which incorporates a boom or jib that is not capable of being slewed, including an articulated type mobile crane and a locomotive crane, but does not include a crane engaged in vehicle tow truck operations;

notice of assessment means a written notice given by an authorised assessor under regulation 134;

notice of assessment (satisfactory) means a notice of assessment given by an authorised assessor under regulation 134(2)(a), but does not include a notice of assessment issued by an authorised assessor determined by the Authority under regulation 6 if that notice is issued after the determination takes effect;

Reg. 5 def. of
*notice of
assessment
(satisfactory)*
amended by
S.R. No.
71/2018
reg. 4(b).

occupational health and safety auditor

means a person who has the knowledge, experience and skills required for an occupational health and safety auditor under JAS-ANZ Procedure No. 02, Part 1, Issue 3: Requirements for Bodies Providing Audit and Certification of Occupational Health and Safety Management Systems, dated 18 August 2011;

operational stop control means a device used to stop an item of plant under normal operation, but does not include an emergency stop device;

operator means—

- (a) in Part 5.2 (Major hazard facilities), in relation to a facility, the employer who has management or control of the facility; and
- (b) in Part 5.3 (Mines), in relation to a mine (including a prescribed mine), the employer who has management or control of the mine;

operator controls includes an operational stop control and an emergency stop device;

operator protective device includes roll-over protection, falling object protective structure, operator restraining device and seat belt;

order-picking forklift truck means a powered industrial truck with a mast and elevating load carriage to which is attached a pair of fork arms or other loadholding attachment and where the operator's controls are incorporated with the load carriage or lifting media and elevate with it;

pallet truck means a non-counterbalanced industrial truck where the operator is intended to control the truck while riding on the truck and where the truck is designed to handle pallets and palletized loads by means of a fork (a pair of fork arms) which is adjustable in elevation;

passive fall prevention device means material or equipment, or a combination of material and equipment, that is designed for the purpose of preventing a fall and that, after initial installation, does not require any ongoing adjustment, alteration or operation by any person to ensure the integrity of the device to perform its function;

Examples

Temporary work platform, roof safety mesh or guard railing.

perform, in relation to work, includes carry out;

person who commissioned the asbestos removal work means the person managing or controlling a workplace or the employer who arranged for asbestos removal work to be performed;

personal protective equipment includes respiratory protective equipment and personal protective clothing;

personnel and materials hoist, in Part 3.6 (High risk work) and Schedule 3, means a powered builder's hoist—

- (a) by which persons, goods or materials may be raised or lowered; and
- (b) which comprises a car, structure, machinery or other equipment associated with the hoist; and

(c) which may be any of the following—

- (i) a cantilevered hoist;
- (ii) a tower hoist ;
- (iii) a multiple winch operation;

portal boom crane means a powered jib or boom crane mounted on a portal frame that is supported on runways along which the crane may travel;

powered mobile plant means plant that is provided with some form of self-propulsion that is ordinarily under the direct control of an operator;

precautionary statement means a phrase prescribed by the GHS that describes measures that are recommended to be taken to prevent or minimise—

- (a) the adverse effects of exposure to a hazardous substance; or
- (b) improper handling of a hazardous substance;

presence-sensing safeguarding system includes—

- (a) a sensing system that—
 - (i) is an electro-sensitive or pressure sensitive system that employs optoelectronic or pressure sensitive devices to perform a sensing and a control function; or
 - (ii) uses other technologies to perform a sensing and a control function;
- and

- (b) the interface between the final switching devices of the sensing system and the machine primary control elements; and
- (c) the machine stopping capabilities, by which the presence of a person or part of a person within the sensing field will cause the dangerous parts of a machine to be brought to a safe state before the person can reach the dangerous parts;

prescribed mine has the meaning given by regulation 401;

pressure equipment means—

- (a) in Part 3.6 (High risk work) and Schedules 3 and 4, a boiler, a turbine or a reciprocating steam engine; and
- (b) in any other case, boilers, pressure vessels and pressure piping;

pressure piping means pressure piping within the meaning of AS/NZS 1200 Pressure equipment, with a hazard level A, B, C or D as determined by AS 4343 Pressure equipment—Hazard levels, but does not include pressure piping that is regulated under—

- (a) the **Gas Safety Act 1997**; or
- (b) the **Petroleum Act 1998**; or
- (c) the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**; or
- (d) the **Water Industry Act 1994**; or
- (e) the **Pipelines Act 2005**; or
- (f) any other Act (other than the **Occupational Health and Safety Act 2004**) that imposes statutory

controls over pressure piping
comparable to those listed in
paragraphs (a) to (e);

pressure vessel means—

- (a) a pressure vessel within the meaning of AS/NZS 1200 Pressure equipment, with a hazard level A, B, C or D as determined by AS 4343 Pressure equipment—Hazard levels; or
- (b) a fired heater; or
- (c) a gas cylinder—

but does not include a boiler or pressure piping;

principal contractor has the meaning given by regulation 333;

process review has the meaning given by regulation 525;

product identifier means the name or number used to identify a product;

published technical standard means a document that gives technical information, guidance or advice on plant, that is published by—

- (a) a corresponding Authority; or
- (b) Standards Australia; or
- (c) the British Standards Institute; or
- (d) the International Organisation for Standardisation (ISO); or
- (e) an organisation with substantially equivalent objectives in relation to the publication of technical information, guidance or advice on plant to the organisations listed in paragraphs (a) to (d);

reach stacker means powered mobile plant that—

- (a) incorporates a non-slewing boom with a permanently fitted lifting frame where the only means of lifting is by twist locks; and
- (b) is designed for raising and lowering shipping containers and moving them horizontally—

but does not include a shore-based container handling gantry crane;

reciprocating steam engine means steam plant where the steam acts on a piston under pressure and causes the piston to move, but does not include an expanding (steam) reciprocating engine with any piston diameter of 250 millimetres or less;

recognised evidence of construction induction training means evidence of general occupational health and safety training to the construction industry completed outside Victoria and recognised by the corresponding Authority of the jurisdiction in which the training was completed, but does not include evidence of a class determined by the Authority under regulation 6 if the training is completed after the determination takes effect;

registered major hazard facility means a major hazard facility registered under Part 6.2 (Registration);

relevant employee, in Part 3.4 (Confined spaces), means—

- (a) any employee required to enter a confined space; or

- (b) any employee who has any function in relation to work in a confined space or the emergency procedures established under regulation 69, but who is not required to enter the space; or
- (c) any person supervising any employee referred to in paragraph (a) or (b);

relevant occupational health and safety legislation means any of the following—

- (a) the Act or any regulations made under the Act;
- (b) the **Occupational Health and Safety Act 1985** or any regulations made under that Act;
- (c) the **Dangerous Goods Act 1985** or any regulations made under that Act;
- (d) the **Equipment (Public Safety) Act 1994** or any regulations made under that Act;
- (e) any equivalent Act of another Australian jurisdiction or any regulations made under such an Act;

Note

Equivalent Acts and regulations of other Australian jurisdictions would include the Work Health and Safety legislation in those jurisdictions.

retail warehouse operator means a person who operates a warehouse where packaged goods intended for retail sale are held on the premises;

retailer, in relation to a substance, means a person who supplies the substance to another person otherwise than for the purpose of re-supply;

reviewable decision has the meaning given by regulation 524;

rigging work means—

- (a) the use of mechanical loadshifting equipment and associated gear—
 - (i) to move, place or secure a load including plant, equipment or members of a building or structure; and
 - (ii) to ensure the stability of members of a building or structure; or
- (b) the setting up or dismantling of cranes and hoists—

but does not include the setting up of a crane or hoist which only requires the positioning of integral outriggers or stabilisers;

roll-over protection means a structure to protect the operator of a tractor or other powered mobile plant against injury as a result of the tractor or plant rolling over in any direction;

rope access equipment means equipment used to manually lower or raise a person in a harness or seat, supported by one or more fibre ropes and includes the equipment used to anchor or haul the rope or ropes while the person is lowered and raised;

RTO has the same meaning as in the **Education and Training Reform Act 2006**;

safe oxygen level means an oxygen content in air under normal atmospheric pressure that—

- (a) is equal to or greater than 19.5% by volume (equivalent to a partial pressure of oxygen of 19.8 kilopascals)—

but—

- (b) is equal to or less than 23.5% by volume (equivalent to a partial pressure of oxygen of 23.9 kilopascals);

Safe Work Australia means Safe Work Australia established by section 5 of the Safe Work Australia Act 2008 of the Commonwealth;

safe work method statement has the meaning given by regulation 324;

safety assessment means—

- (a) in Part 5.2 (Major hazard facilities), a safety assessment conducted under regulation 369; or
- (b) in Part 5.3 (Mines), a safety assessment conducted under regulation 421;

safety case means a safety case prepared or revised under Division 8 of Part 5.2 (Major hazard facilities);

safety data sheet, in relation to a hazardous substance, means a safety data sheet—

- (a) required to be prepared for the substance under regulation 144; or
- (b) prepared for the substance by the manufacturer or the importing supplier in accordance with equivalent legislation;

safety management system means—

- (a) in Part 5.2 (Major hazard facilities), a safety management system established under regulation 372; or
- (b) in Part 5.3 (Mines), a safety management system established under regulation 418;

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

scaffolding work means the erection, alteration or dismantling of a scaffold, if the scaffold is such that a person or object could fall more than 4 metres from the scaffold;

Schedule 10 carcinogenic substance means a substance (or any of its salts) listed in Schedule 10 used—

- (a) as a pure substance; or
- (b) in a mixture containing 0.1% or more of that substance (or any of its salts), determined as a weight/weight (w/w) concentration for solids or liquids and a volume/volume (v/v) concentration for gases;

Schedule 11 carcinogenic substance means—

- (a) benzene as listed in Schedule 11; or
- (b) any other substance (or any of its salts) listed in Schedule 11 used—
 - (i) as a pure substance; or
 - (ii) in a mixture containing 0.1% or more of that substance (or any of its salts), determined as a weight/weight (w/w) concentration for solids or

liquids and a volume/volume (v/v)
concentration for gases;

Schedule 14 material means a material referred to
in Table 1 of Schedule 14 or a material that
can be characterised as one or more of the
materials set out in Table 2 of Schedule 14;

scheduled carcinogenic substance means a
Schedule 10 carcinogenic substance or a
Schedule 11 carcinogenic substance;

self-erecting tower crane means a tower crane
where—

- (a) the tower structure and boom or jib
elements are not disassembled into
component sections; and
- (b) the crane can be transported between
sites as a complete unit; and
- (c) erection and dismantling processes are
an inherent part of the crane's function;

shaft means—

- (a) in Part 5.1 (Construction), a vertical
or inclined way or opening from
the surface downwards or from
any underground working and the
dimensions of which (excluding the
perimeter) are less than its depth; and
- (b) in Part 5.3 (Mines), any opening
extending downwards from the surface
or from a location underground that—
 - (i) has an inclination to the horizontal
of more than 15 degrees; and
 - (ii) is used for the purposes of raising
or lowering persons or materials
or for the intake or outlet of
ventilation;

shaft conveyance means a cage, skip, kibble or other contrivance in or on which persons ride up or down a shaft, but does not include any attachments to that cage, skip, kibble or other contrivance;

signal words means words such as "dangerous", "poison", "warning", "danger" or "caution" that are clearly and prominently displayed on labels of substances to indicate the relative severity of the hazard;

slewing mobile crane means a powered mobile crane incorporating a boom or jib that is capable of being slewed, but does not include the following, when configured for crane operation—

- (a) a front-end loader;
- (b) a backhoe;
- (c) an excavator;
- (d) similar equipment to that listed in paragraphs (a), (b) and (c);

slinging techniques means those slinging techniques that require the exercise of judgment in relation to the suitability and condition of lifting gear, and the method of slinging, by consideration of the nature of the load, its mass and its centre of gravity;

solid construction in Part 3.3 (Prevention of falls) means an area that has each of the following—

- (a) a surface that is structurally capable of supporting persons, material and any other loads intended to be applied to it;
- (b) barriers around its perimeter, and any open penetrations, to prevent a fall from the area;

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

(d) a safe means of entry and exit;

sound power level means the total sound energy radiated per unit time, measured as decibels referenced to 1 picowatt using octave bands or an A-weighting;

sound pressure level expressed in decibels, means the pressure fluctuations in air calculated as 20 times the logarithm to the base 10 of the ratio of the root mean square sound pressure (in pascals) to the reference sound pressure of 20 micropascals;

special provision, in Schedule 14, has the same meaning as in the ADG Code;

specified VET course means the relevant VET course specified in column 3 of the table in Schedule 5;

structure—

(a) in Part 4.4 (Asbestos), means any construction, including a bridge, tunnel, shaft, dam, pipe or access pit, or any part of a construction, but does not include a building, ship or plant; or

(b) in Part 5.1 (Construction), has the meaning given by regulation 323;

suspended scaffold means a scaffold incorporating a suspended platform that is capable of being raised or lowered when in use;

task, in Part 3.3 (Prevention of falls), includes moving to and from a task;

temporary access equipment means the following—

- (a) rope access equipment;
- (b) a work box;
- (c) an industrial safety net;
- (d) equipment incorporating a harness that is used or intended to be used to arrest the fall of a person wearing the harness;

temporary work platform means the following—

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

the Act means the **Occupational Health and Safety Act 2004**;

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

threshold quantity, in relation to Schedule 14 materials, means—

- (a) the threshold quantity for a specific material determined under clause 2 of Schedule 14; or
- (b) the aggregate threshold quantity of more than one material as determined under clause 3 of Schedule 14;

tower crane means a powered boom or jib crane mounted on a tower structure but, in Schedule 3, does not include a self-erecting tower crane;

tractor means a powered vehicle primarily designed to haul and provide power for agricultural or horticultural machinery or implements by way of a power-takeoff rotating shaft or other mechanical means, but does not include—

- (a) earthmoving machinery; or
- (b) a passenger vehicle;

travel restraint system means equipment that is worn by, or attached to, a person and is designed for the purpose of physically restraining the person from reaching an edge or elevated surface from which the person may fall;

Example

A system in which a harness is attached to one or more lanyards, each attached in turn to a static line or anchor point.

trench, in Part 5.1 (Construction), means a horizontal or inclined way or opening commencing at and extending below the surface of the ground and open to the surface along its length, the length of which is

greater than its width and greater than or equal to its depth, and is used or to be used for the laying, removal or repair of a pipe or cable;

tunnel, in Part 5.1 (Construction), means an underground passage or opening in an approximate horizontal plane and which begins at the surface or from an excavation of any sort;

turbine means—

- (a) in Part 3.5 (Plant) and Schedule 3, any plant where steam acts on a turbine or rotor to cause a rotary motion, but does not include steam turbines and expansion turbines with a power output of less than 500 kilowatts;
- (b) in any other case, a rotary motor or rotary engine driven by a flow of water, steam or gas primarily intended for the production of electricity;

type of asbestos-containing material means a description of asbestos-containing material;

Example

Asbestos-containing cement sheeting, cement pipes, vinyl tiles, sprayed insulation, telecommunications pits and pipes, pipe lagging, millboard and gaskets.

UN number has the same meaning as in the ADG Code;

unprotected edge means the edge of a surface from which there is a horizontal gap, void or space of more than 300 millimetres and which is not provided with a barrier to prevent a fall;

vehicle hoist means a hoist that is permanently installed or designed to be permanently installed at a workplace to elevate a vehicle to allow work to be performed on the vehicle;

vehicle loading crane means a powered slewing crane mounted on a vehicle for the principal purpose of loading and unloading the vehicle;

Reg. 5 def. of
*vehicle
loading crane*
amended by
S.R. No.
71/2018
reg. 4(c).

VET course has the same meaning as in the National Vocational Education and Training Regulator Act 2011 of the Commonwealth;

Victoria Police has the same meaning as in the **Victoria Police Act 2013**;

Victoria State Emergency Service means the Service continued by the **Victoria State Emergency Service Act 2005**;

Victoria State Emergency Service Authority means the Authority established under the **Victoria State Emergency Service Act 2005**;

wholesaler, in relation to a substance, means a person who supplies the substance for the purpose of re-supply;

winder means an electrical or compressed air or hydraulic or other power drive unit, single or multi drum, which by use of ropes, sheave wheels and a shaft conveyance, is used to raise or lower persons or materials from level to level, and includes a friction winder;

work box means a device for carrying persons, designed to be suspended from a crane, to provide a working area for persons elevated by and working from the device;

work in a confined space means work in a confined space by an employee and includes entry to and exit from a confined space by an employee;

work positioning system means the following—

- (a) an industrial rope access system;
- (b) a travel restraint system;
- (c) any other equipment, other than a temporary work platform, that enables a person to be positioned and safely supported at a work location for the duration of the task being undertaken at height.

workpiece means material, off-cut or scrap (in any form) on which an item of plant is doing work or that is produced by an item of plant, but does not include a load being lifted or moved by the plant;

6 Determinations of Authority

- (1) The Authority may make determinations of the following—
 - (a) a scheme for the approval of laboratories for the purpose of paragraph (b) of the definition of ***approved asbestos laboratory*** in regulation 5;
 - (b) an exposure measurement method for the purpose of paragraph (b) of the definition of ***asbestos exposure standard*** in regulation 5;
 - (c) an occupational health and safety management system for the purpose of paragraph (b) of the definition of ***asbestos occupational health and safety management system*** in regulation 5;

- (d) a method of air sampling for the purpose of paragraph (b) of the definition of ***asbestos paraoccupational air monitoring*** in regulation 5;
- (e) a specified construction RTO or a class of construction RTOs for the purpose of the definition of ***construction statement of attainment*** in regulation 5;
- (f) a specified authorised assessor or a class of authorised assessors for the purpose of the definition of ***notice of assessment (satisfactory)*** in regulation 5;
- (g) evidence of a specified class for the purpose of the definition of ***recognised evidence of construction induction training*** in regulation 5;
- (h) a prohibited hazardous substance for the purposes of regulation 153(2);
- (i) a hazardous substance, and particular circumstances (if any), for the purposes of regulation 154(1)(c);
- (j) the minimum record retention period (not exceeding 30 years) for a particular hazardous substance for the purposes of regulations 168(1)(a) and 171(1)(a);
- (k) a hazardous substance for which health monitoring is required for the purposes of regulation 169(1)(a)(ii);
- (l) the minimum record retention period (not exceeding 30 years) for the purposes of regulations 204(a), 263(2)(a), 283(2)(a) and 313(2)(a);

- (m) an auditable process to verify that asbestos-containing material has been removed from construction or demolition material for the purposes of regulation 206(a);
- (n) a method to measure asbestos-containing material in construction or demolition material for the purposes of regulation 206(b);
- (o) an asbestos-related activity for the purposes of regulation 302(l);
- (p) an activity, procedure, plant, process, substance, situation or other circumstance to be a mining hazard for the purposes of regulation 400(1)(b).

Note

The Authority is also authorised to make determinations under regulations 41(3), 180, 198(3), 363, 364 and 403. They are not included here because each has particular requirements set out in the relevant provision, however, subregulations (2) to (6) still apply to these determinations.

- (2) If the Authority makes a determination under these Regulations it must publish a notice in the Government Gazette that—
 - (a) states that the determination has been made; and
 - (b) identifies to whom and to what the determination applies; and
 - (c) identifies the provision or provisions of these Regulations to which the determination relates; and
 - (d) may include any other details that the Authority considers to be appropriate.

- (3) As soon as reasonably possible after it has complied with subregulation (2), the Authority must cause a similar notice to be published in a newspaper circulating generally throughout Victoria.
- (4) A determination takes effect on the day on which the notice is published in the Government Gazette, or on any later day specified in the notice.
- (5) The Authority must make a copy of a determination available for inspection by any person affected by the determination.
- (6) Nothing in this regulation is intended to require the Authority to include in the notice under subregulation (2) or (3) or the determination under subregulation (5)—
 - (a) any confidential or personal information about an individual; or
 - (b) any information relating to manufacturing or commercial secrets or working processes.

7 Act compliance notes

If a note at the foot of a provision of these Regulations states "Act compliance" 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 referred to in an "Act compliance" note is an offence to which a penalty applies.

8 Independent contractors

- (1) A provision of these Regulations that sets out a way that an employer complies with a duty under section 21 or 35 of the Act in relation to employees extends to the employer's duty under that section to an independent contractor engaged by the employer and any employees of the independent contractor.
- (2) If a provision of these Regulations (other than subregulation (1)) provides that an employer's duty under another provision of these Regulations extends to an independent contractor—
 - (a) that other provision applies as if a reference to an employee were a reference to an independent contractor engaged by the employer and any employees of the independent contractor; and
 - (b) the duty of the employer under that other provision extends to an independent contractor engaged by the employer, and any employees of the independent contractor, in relation to matters over which the employer has control or would have control if not for any agreement purporting to limit or remove that control.

9 Health and safety representatives

A reference in these Regulations to a health and safety representative includes a reference to a deputy health and safety representative if the health or safety representative has ceased to hold office or the health and safety representative is unable (because of absence or any other reason) to exercise the powers of a health and safety representative.

10 Designers, manufacturers and suppliers

Any reference in these Regulations to—

- (a) a *designer*, in relation to plant, is a reference to a person who designs the plant and who knows, or ought reasonably to know, that the plant is to be used at a workplace;
- (b) a *manufacturer*, in relation to plant or a substance, is a reference to a person who manufactures that plant or substance and who knows, or ought reasonably to know, that the plant or substance is to be used at a workplace;
- (c) a *supplier*, in relation to plant or a substance, is a reference to a person who supplies that plant or substance and who knows, or ought reasonably to know, that the plant or substance is to be used at a workplace (whether by the person supplied or anyone else).

11 Duties of self-employed persons

A self-employed person's duties under these Regulations apply only so far as to ensure, so far as is reasonably practicable, that persons are not exposed to risks to their health and safety arising from the conduct of the undertaking of the self-employed person.

12 References to Parts

Unless the context otherwise requires, a reference in these Regulations to a Part by a number must be construed as a reference to the Part, designated by that number, of these Regulations.

Part 1.2—Incorporated documents

13 Documents incorporated as in force from time to time

- (1) A reference to any document, other than the GHS, applied, adopted or incorporated by, or referred to in, these Regulations is to be read as a reference to that document as in force from time to time.
- (2) If any document applied, adopted or incorporated by, or referred to in, these Regulations is amended, the amendment is only in force for the purposes of subregulation (1) if it has taken effect for the purposes of these Regulations.

Note

See regulation 15 in relation to the date of effect of amendments.

14 Publication date of amendments to certain incorporated documents

- (1) This regulation applies to any document that is applied, adopted or incorporated by, or referred to in, these Regulations, and either that is published, or that has notice of its making published, in the Commonwealth of Australia Gazette or on the Federal Register of Legislation.
- (2) For the purposes of these Regulations, an amendment to the document is published—
 - (a) on the date on which it is published in the Commonwealth of Australia Gazette or on the Federal Register of Legislation; or
 - (b) on the date on which the notice of its making is published in the Commonwealth of Australia Gazette or on the Federal Register of Legislation.

15 Date of effect of amendments to incorporated documents

- (1) If the effect of an amendment to any document applied, adopted or incorporated by these Regulations is to prohibit an activity, process or thing, the amendment takes effect on the day after it is published, or on any later date specified in the document by which the amendment was made.
- (2) If the effect of an amendment to any document applied, adopted or incorporated by these Regulations is to impose a new obligation (other than the prohibition of an activity, process or thing) or to alter an existing obligation under these Regulations, a person may choose to comply with these Regulations as if the amendment had not been made until the expiry of 6 months after the date the amendment takes effect.

16 Inconsistencies between provisions

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

17 Compliance with the GHS

In complying with the GHS, a person may use the Third revised edition, Fourth revised edition or the Fifth revised edition of the Globally Harmonized System of Classification and Labelling of Chemicals, but not a combination of these editions.

Chapter 2—General duties and issue resolution

Part 2.1—General duties

18 Proper installation, use and maintenance of risk control measures

- (1) A person who is required by these Regulations to use any particular measure to control risk must ensure that the measure is properly installed (if applicable), used and maintained.

Note

Act compliance—sections 21, 22, 23, 24, 26, 29, 30 and 31 (see regulation 7).

- (2) This regulation does not apply to a measure required by Part 5.2 (Major hazard facilities) or Part 5.3 (Mines).

Note

Part 5.2 (Major hazard facilities) and Part 5.3 (Mines) are excluded from the operation of this regulation because they contain more specific requirements in relation to the installation, use and maintenance of risk control measures.

19 Medical examinations and health monitoring

- (1) This regulation applies if, under these Regulations, an employer is required to ensure that an employee is medically examined or that any other form of health monitoring is conducted in relation to an employee.
- (2) The employer must provide the employee with information about the purpose, and the type or nature, of the medical examination or other health monitoring.

Note

Act compliance—sections 21 and 22 (see regulation 7).

- (3) The medical examination or other health monitoring is to be undertaken at the employer's expense.

20 Reports of health monitoring to be kept confidential

- (1) An employer must ensure that any report resulting from the medical examination or other health monitoring of a person required under these Regulations, and any summary of the results of such a report, is kept confidential except in the circumstances set out in subregulation (2).

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) An employer must provide a copy of a report or summary referred to in subregulation (1) to—
 - (a) the person to whom the report or summary relates as soon as reasonably possible after the employer receives the report or summary; and
 - (b) if the person to whom the report or summary relates authorises in writing a third party to have access to the report or summary, that third party; and
 - (c) if the Authority requests a copy of the report or summary, or if the employer is otherwise required by these Regulations to give the Authority a copy of the report or summary, the Authority.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

Note

Section 69 of the Act provides that the health and safety representative of the members of a designated work group must be allowed access to information that an employer has relating to the health and safety of the members of the group. The section permits a health and safety representative

to have access to relevant medical information relating to an employee's health and safety that does not identify individual employees and, with the consent of an employee, medical information that identifies that employee.

21 How to involve health and safety representatives in consultation

- (1) This regulation applies if an employer is required under the Act or the Regulations to consult with employees on a matter and the employees are represented by a health and safety representative.
- (2) For the purposes of section 36(2) of the Act, the employer must involve the health and safety representative in the consultation by—
 - (a) providing the health and safety representative with all of the information about the matter that the employer provides, or intends to provide, to the employees; and
 - (b) unless it is not reasonably practicable to do so, providing that information to the health and safety representative a reasonable time before providing the information to the employees; and
 - (c) inviting the health and safety representative to meet with the employer to consult about the matter; and
 - (d) if the invitation is accepted, or if otherwise requested by the health and safety representative, meeting with the health and safety representative to consult about the matter; and
 - (e) giving the health and safety representative a reasonable opportunity to express views about the matter; and

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- (f) taking into account the health and safety representative's views about the matter.

Note

Act compliance—sections 35 and 36 (see regulation 7).

Part 2.2—Issue resolution procedures

22 Application of Part

For the purposes of section 73(1) of the Act, this Part sets out the procedure to facilitate the resolution of health and safety issues arising at a workplace or from the conduct of an employer's undertaking if there is no relevant agreed procedure for resolution of those issues.

23 Parties to the resolution of issues

- (1) For the purposes of section 73 of the Act, an employer must notify the employees, any health and safety representative and any health and safety committee in the appropriate manner and languages—
 - (a) as to whether the employer intends to participate in the resolution of an issue personally or to nominate an employer representative; and
 - (b) if an employer representative is to be nominated, of the name and position description of the employer representative.

Note

Employer representatives must meet the requirements set out in section 73(2)(a) and (b) of the Act.

- (2) If an issue arises before an employer representative has been notified in accordance with subregulation (1) and the employer is not available, the senior manager employed by the employer in that part of the workplace where the issue has arisen is to be the employer representative for the purpose of attempting to resolve the health and safety issue.

- (3) Only a health and safety representative, or if there is no health and safety representative, an employee nominated under subregulation (4), can act on behalf of employees affected by an issue.

Note

Section 57 of the Act states that if a health and safety representative ceases to hold office or is unable to exercise the powers of a health and safety representative then those powers may be exercised by a deputy health and safety representative.

- (4) If there is no health and safety representative, the employees affected by an issue may nominate one or more employees to act on their behalf.
- (5) At any stage in the resolution of an issue, a party may seek the assistance of any relevant organisation of employees or of employers to assist the parties to resolve the issue.

24 Procedure for reporting issues

- (1) This regulation applies if—
- (a) a health or safety issue arises at a workplace or from the conduct of the undertaking of an employer; and
 - (b) an employee wishes to raise the issue for resolution.
- (2) The employee must report the issue to—
- (a) the health and safety representative, if there is a health and safety representative; or
 - (b) to the employer or employer representative, if there is no health and safety representative.
- (3) An employee may take all steps to report an issue, including leaving the employee's part of the workplace, if the steps are reasonable in the circumstances.

- (4) Nothing in this regulation prevents an employee from reporting the issue to the employer or any other person in addition to the health and safety representative.

25 Procedure for resolving issues

- (1) As soon as reasonably possible after a health or safety issue has been reported, the following persons must meet and try to resolve the issue—
 - (a) the employer or employer representative; and
 - (b) the health and safety representative or any employee nominated under regulation 23(4) or the employees affected by the issue.
- (2) For the purpose of resolving the health and safety issue as quickly and effectively as possible the parties must take into account—
 - (a) the number and location of employees affected by the issue; and
 - (b) whether appropriate temporary measures are possible or desirable; and
 - (c) the time that may elapse before the issue is permanently resolved; and
 - (d) who, on behalf of the employer, is responsible for performing and overseeing any action agreed necessary to resolve the issue.

Note

Section 20 of the Act sets out the matters that must be considered in ensuring health and safety.

- (3) If, after the resolution of the health and safety issue, a party involved in the resolution of that issue asks the employer to set out in writing the details of the issue and matters relating to its resolution, the employer must do so, to the satisfaction of all parties.

- (4) As soon as reasonably possible after the resolution of an issue, the employer must ensure that details of any written or oral agreement between the parties are—
 - (a) brought to the attention of the employees affected by the issue; and
 - (b) sent to any health and safety committee.
- (5) Any of the parties involved in the resolution may send details of any agreement between the parties referred to in subregulation (4) to any relevant organisation of employees or of employers.
- (6) An agreement referred to in subregulation (4) must be—
 - (a) in a form that is approved by all parties; and
 - (b) communicated in the manner and in any language that is agreed by the parties to be appropriate.

Note

Part 4 of the Act sets out the duty of the employer to consult with employees, including involving the health and safety representative (if any). See also regulation 21.

Chapter 3—Physical hazards

Part 3.1—Hazardous manual handling

26 Hazard identification

An employer must, so far as is reasonably practicable, identify any hazardous manual handling undertaken, or to be undertaken, by an employee.

Notes

- 1 Act compliance—section 21 (see regulation 7).
- 2 *Hazardous manual handling* is defined in regulation 5.
- 3 Part 4 of the Act sets out the duty of the employer to consult with employees, including in respect of identifying hazards, and requires the involvement of the health and safety representative (if any). See also regulation 21.

27 Control of risk

- (1) An employer must, so far as is reasonably practicable, eliminate any risk of a musculoskeletal disorder associated with hazardous manual handling.

Note

Musculoskeletal disorder is defined in regulation 5.

- (2) If it is not reasonably practicable to eliminate a risk of a musculoskeletal disorder associated with hazardous manual handling, the employer must reduce the risk so far as is reasonably practicable by—
 - (a) altering—
 - (i) the workplace layout; or
 - (ii) the workplace environment, including heat, cold and vibration; or
 - (iii) the systems of work which involve hazardous manual handling; or

- (b) changing the things used in the hazardous manual handling; or
- (c) using mechanical aids; or
- (d) combining any of the risk control measures referred to in paragraphs (a), (b) and (c).

Note

Sections 27 to 30 of the Act require designers of plant, buildings or structures (or parts of buildings or structures) and manufacturers and suppliers of plant or substances to ensure, so far as is reasonably practicable, that the plant, substance, building or structure (or part) is designed, manufactured or supplied (as the case may be) to be safe and without risks to health, including the risk of musculoskeletal disorder.

- (3) If the employer has complied with subregulations (1) and (2) so far as is reasonably practicable and a risk of a musculoskeletal disorder associated with hazardous manual handling remains, the employer must reduce the risk so far as is reasonably practicable by using information, instruction or training.
- (4) The employer may only rely solely or primarily on the use of information, instruction or training to control a risk of a musculoskeletal disorder associated with hazardous manual handling if none of the measures set out in subregulation (2) is reasonably practicable.
- (5) Without affecting the generality of subregulations (1), (2), (3) and (4), the employer, when determining any measure to control a risk of a musculoskeletal disorder associated with hazardous manual handling, must take into account the following—
 - (a) postures;
 - (b) movements;

- (c) forces;
- (d) duration and frequency of the hazardous manual handling;
- (e) environmental conditions including heat, cold and vibration that act directly on a person undertaking hazardous manual handling.

Notes

- 1 Act compliance—section 21 (see regulation 7).
- 2 Part 4 of the Act sets out the duty of the employer to consult with employees, including in respect of making decisions about the measures to be taken to control risks to health or safety. This consultation must involve the health and safety representative (if any). See also regulation 21.

28 Review of risk control measures

- (1) An employer must review and, if necessary, revise any measures implemented to control risks under regulation 27—
 - (a) before any alteration is made to any thing, process or system of work involving hazardous manual handling, including a change in the place where that work is undertaken; or
 - (b) if new or additional information about hazardous manual handling becomes available to the employer; or
 - (c) if an occurrence of a musculoskeletal disorder at a workplace is reported by or on behalf of an employee; or
 - (d) after any incident occurs to which Part 5 of the Act applies that involves hazardous manual handling; or
 - (e) if, for any other reason, the risk control measures do not adequately control the risks; or

- (f) after receiving a request from a health and safety representative.

Note

Act compliance—section 21 (see regulation 7).

- (2) A health and safety representative may make a request under subregulation (1)(f) if the health and safety representative believes on reasonable grounds that—
 - (a) any of the circumstances referred to in subregulation (1)(a) to (e) exists; or
 - (b) the employer has failed—
 - (i) to properly review the risk control measures; or
 - (ii) to take account of any of the circumstances referred to in subregulation (1)(a) to (e) in conducting a review of, or revising, the risk control measures.

Part 3.2—Noise

Division 1—Duties of designers, manufacturers and suppliers of plant

29 Designers

A designer of plant must, by taking noise emission and exposure into account, design the plant so that its sound power level is as low as is reasonably practicable.

Note

Act compliance—section 27 (see regulation 7).

30 Manufacturers

- (1) A manufacturer of plant must, by taking noise emission and exposure into account, manufacture the plant so that its sound power level is as low as is reasonably practicable.

Note

Act compliance—section 29 (see regulation 7).

- (2) If plant, when used at a workplace for the purpose for which it is manufactured, may cause an employee's exposure to noise to exceed the noise exposure standard, the manufacturer of the plant must—
- (a) determine the sound power level of the plant;
and
 - (b) when supplying the plant to another person, provide with the plant a record that states the sound power level of the plant.

Note

Act compliance—section 29 (see regulation 7).

31 Suppliers

- (1) A supplier of plant must provide with the plant any record received from the person from whom the plant was acquired that states the sound power level of the plant.

Note

Act compliance—section 30 (see regulation 7).

- (2) A supplier of plant must take any action that is reasonably necessary in the circumstances to obtain a record that states the sound power level of the plant from the person from whom the plant was acquired.

Note

Act compliance—section 30 (see regulation 7).

Division 2—Duties of employers

32 Determination of exposure to noise

- (1) An employer must determine an employee's exposure to noise at the workplace in accordance with this regulation if there is uncertainty (based on reasonable grounds) as to whether the noise exposure standard is or may be exceeded.

Note

Act compliance—section 21 (see regulation 7).

- (2) In considering whether a noise exposure standard is or may be exceeded, an employer must not take into account the effect of any hearing protectors the employee may be using.
- (3) A determination under subregulation (1)—
 - (a) must take into account—
 - (i) the level of noise to which the employee is exposed; and
 - (ii) the duration of the exposure; and

- (iii) plant and other sources of noise at the workplace; and
- (iv) systems of work at the workplace; and
- (v) any other relevant factors; and
- (b) must not take into account the effect of any hearing protectors the employee may be using.
- (4) If several employees are exposed to identical sources of noise at a workplace and their exposure to noise is likely to be the same, the employer may determine their exposure to noise by conducting a representative determination in relation to one or more of those employees.

33 Record of determinations

- (1) An employer who makes a determination under regulation 32(1) must make a written record that—
 - (a) describes how the matters referred to in regulation 32(3) have been taken into account; and
 - (b) contains the results of the determination.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.
- (2) An employer who makes a written record under subregulation (1) must keep the record for as long as it remains relevant.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.
- (3) An employer who makes a written record under subregulation (1) must make the record readily accessible to—

- (a) the health and safety representative of each designated work group to which the determination relates; and
- (b) any employee to whom the determination relates.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

34 Control of exposure to noise

- (1) An employer must ensure that no employee at the workplace is exposed to noise that exceeds the noise exposure standard.
- (2) For the purposes of subregulation (1), the employer must, so far as is reasonably practicable, eliminate the source of noise to which an employee is exposed.
- (3) If it is not reasonably practicable to eliminate the source of the noise, the employer must reduce the exposure of the employee to noise so far as is reasonably practicable by—
 - (a) substituting quieter plant or processes; or
 - (b) using engineering controls; or
 - (c) combining any of the risk control measures referred to in paragraphs (a) and (b).
- (4) If the employer has complied with subregulations (2) and (3) so far as is reasonably practicable and an employee is still exposed to noise that exceeds the noise exposure standard, the employer must reduce the exposure of the employee to noise, so far as is reasonably practicable, by using administrative controls.
- (5) If the employer has complied with subregulations (2), (3) and (4) so far as is reasonably practicable and an employee is still exposed to noise that exceeds the noise exposure standard, the employer

must provide hearing protectors to reduce the exposure of the employee to noise, so that it does not exceed the noise exposure standard.

- (6) The employer providing hearing protectors under subregulation (5) must, when selecting the hearing protectors, consider—
- (a) the nature of noise at the workplace; and
 - (b) noise levels at the workplace; and
 - (c) the duration of exposure to noise; and
 - (d) systems of work at the workplace.

Note

The nature of the noise at the workplace may involve consideration of the frequency component, impulse or other relevant matters.

- (7) If several employees are exposed to identical sources of noise at the workplace and their exposure to noise is likely to be the same, the employer may select hearing protectors for those employees by considering the factors in subregulation (6) in respect of one or more of those employees.
- (8) If the employer proposes to implement a risk control measure referred to in subregulation (2) or (3) and it is not reasonably practicable to do so within 6 months of making the decision to implement the control measure, the employer must make a written record that describes the actions necessary to implement the risk control measure and when these actions will be carried out.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (9) Subregulation (8) does not reduce or limit the employer's obligation to comply with subregulation (1).
- (10) The employer who makes a written record under subregulation (8) must ensure that the record is accessible to—
 - (a) the health and safety representative of each designated work group affected by the proposed control measure; and
 - (b) any employee affected by the proposed control measure.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (11) For the purposes of section 35(1) of the Act, when making a decision to implement the risk control measure that is the subject of a written record under subregulation (8), the employer must consult with employees who are directly affected by this decision.

Notes

- 1 Act compliance—sections 21, 35 and 36 (see regulation 7).
- 2 Part 4 of the Act sets out the duty of the employer to consult with employees, including in respect of making decisions about the measures to be taken to control risks to health or safety. This consultation must involve the health and safety representative (if any). See also regulation 21.

35 Hearing protector signs and labels

If an employer is required under regulation 34(5) to provide hearing protectors to an employee, the employer must clearly identify by signs, labelling of plant or other appropriate means, when and where the hearing protectors are to be worn.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

36 Review of risk control measures

- (1) An employer must review and, if necessary, revise any measures implemented to control an employee's exposure to noise—
 - (a) before any alteration is made to plant used or a system of work that is likely to result in exposure to noise above the noise exposure standard; or
 - (b) if the report by the person who conducts an audiological examination under regulation 38 states that the employee has suffered hearing loss that is likely to be due to exposure to noise; or
 - (c) after any incident occurs to which Part 5 of the Act applies that involves exposure to noise above the noise exposure standard; or
 - (d) if, for any other reason, the risk control measures do not adequately control noise exposure to a level at or below the noise exposure standard; or
 - (e) after receiving a request from a health and safety representative.

Note

Act compliance—section 21 (see regulation 7).

- (2) A health and safety representative may make a request under subregulation (1)(e) if the health and safety representative believes on reasonable grounds that—
 - (a) any of the circumstances referred to in subregulation (1)(a) to (d) exists; or
 - (b) the employer has failed—
 - (i) to properly review the risk control measures; or

- (ii) to take account of any of the circumstances referred to in subregulation (1)(a) to (d) in conducting a review of, or revising, the risk control measures.

Division 3—Audiometric tests and audiological examinations

37 Audiometric tests

If an employer is required under regulation 34(5) to provide hearing protectors to an employee, the employer must provide for audiometric testing for that employee—

- (a) within 3 months after the employee commences the work in relation to which the hearing protectors are required; and
- (b) at any time when reasonably requested to do so by the health and safety representative of the designated work group of which the employee is a member; and
- (c) at least every 2 years.

Note

Act compliance—section 22(1) (see regulation 7).

38 Audiological examinations

If the results of 2 or more audiometric tests of an employee under regulation 37 during a period not exceeding 2 years indicate a reduction in hearing levels equal to or greater than 15 decibels at 3000 hertz, 4000 hertz or 6000 hertz, the employer must provide for the employee to undergo an audiological examination as soon as reasonably possible.

Note

Act compliance—section 22(1) (see regulation 7).

39 Report of audiological examination

An employer must obtain a report from the person who conducts an audiological examination in accordance with regulation 38 that—

- (a) contains the results of the examination; and
- (b) states whether or not the employee has suffered hearing loss that is likely to be due to exposure to noise.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

40 Test results and examination reports

- (1) If an employee is tested under regulation 37, or examined under regulation 38, the employer must keep the test results or examination report while the employee is employed by the employer.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) Subject to subregulation (3), the employer must, on request, provide a health and safety representative with aggregate results of the most recent audiometric tests under regulation 37 in relation to the representative's designated work group as soon as reasonably possible.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (3) Aggregate results provided under subregulation (2) must not contain information that identifies the employees tested or from which an employee's identity could be reasonably obtained.

Part 3.3—Prevention of falls

Division 1—Introductory matters

41 Application of Part

- (1) This Part applies to the prevention of falls.

Notes

- 1 A fall in this Part means an involuntary fall of more than 2 metres (see the definition of *fall* in regulation 5).
- 2 Section 21 of the Act imposes duties on employers to, so far as is reasonably practicable, provide and maintain a working environment that is safe and without risks to health. This includes managing risks associated with falls of 2 metres or less. In accordance with section 20(1) of the Act, employers must eliminate risks associated with falls of 2 metres or less so far as is reasonably practicable and, if it is not reasonably practicable to eliminate the risks, reduce those risks so far as is reasonably practicable, having regard to the matters set out in section 20(2) of the Act.

- (2) This Part does not apply in relation to—

- (a) the following activities that are carried out under the control or management of an employer—
 - (i) the performance of stunt work;
 - (ii) the performance of acrobatics;
 - (iii) a theatrical performance;
 - (iv) a sporting or athletic activity;
 - (v) the riding of a bicycle, motorcycle or all-terrain vehicle;
 - (vi) horse riding;
 - (vii) rock climbing, recreational abseiling or any other similar activities; or

- (b) a task that is undertaken on those parts of a building or structure (including stairs, fixed ladders, ramps and balconies) that—
 - (i) comply with any applicable requirements of AS 1657—Fixed platforms, walkways, stairways and ladders—Design, construction and installation; and
 - (ii) comply with any applicable requirements of the Building Regulations 2006¹; and
 - (iii) are used for the purpose for which they were designed, including for entry and exit; or
- (c) any activity determined by the Authority in accordance with subregulation (3).
- (3) The Authority may determine an activity to be excluded from the application of this Part if the Authority is satisfied that the activity is of a similar nature to an activity referred to in subregulation (2)(a).

42 Application to employers of emergency service employees

Without limiting the application of this Part (other than regulations 45, 46 and 47), regulations 45, 46 and 47 apply only so far as is reasonably practicable to an employer of—

- (a) an emergency service employee when that employee is—
 - (i) undertaking the rescue of a person; or
 - (ii) providing first aid to a person; or
 - (iii) undertaking training to deal with emergency and rescue operations; or
 - (iv) carrying out an emergency response; or

- (b) a law enforcement officer within the meaning of the **Surveillance Devices Act 1999** when that officer is—
- (i) installing, using, maintaining or retrieving a surveillance device or a tracking device under an emergency authorisation or a warrant issued under that Act; or
 - (ii) engaged in any other surveillance operation authorised by a senior officer under that Act; or
 - (iii) undertaking training in relation to surveillance duties or operations required in the application of that Act.

Division 2—Duties of employers

43 Hazard identification

An employer must, so far as is reasonably practicable, identify any task that an employee is required to undertake at a workplace that involves a fall hazard including—

- (a) on any plant or structure being constructed, demolished, inspected, tested, maintained, repaired or cleaned; or
- (b) on a fragile, slippery or potentially unstable surface; or
- (c) using equipment to gain access to an elevated level or to undertake the task at an elevated level; or
- (d) on a sloping surface on which it is difficult to maintain balance; or
- (e) in close proximity to an unprotected edge; or

- (f) in close proximity to a hole, trench, shaft or pit that is of sufficient dimensions to allow a person to fall into the hole, trench, shaft or pit.

Note

Act compliance—section 21 (see regulation 7).

44 Control of risk

- (1) An employer must, so far as is reasonably practicable, eliminate any risk associated with a fall at the workplace.

Example

An employer might arrange for an employee or contractor who is required to undertake a task that involves a risk associated with a fall to undertake the task on the ground or on a solid construction that has no risk associated with a fall. (See the definition of *solid construction* in regulation 5.)

- (2) If it is not reasonably practicable to eliminate a risk associated with a fall, the employer must reduce the risk so far as is reasonably practicable by using a passive fall prevention device.

Note

Examples of a *passive fall prevention device* are given in the definition of that term in regulation 5.

- (3) If it is not reasonably practicable to reduce a risk associated with a fall in accordance with subregulation (2), the employer must reduce the risk so far as is reasonably practicable by using a work positioning system.

Note

See the definition of *work positioning system* in regulation 5.

- (4) If it is not reasonably practicable to reduce a risk associated with a fall in accordance with subregulation (2) or (3), the employer must reduce the risk so far as is reasonably practicable by using a fall arrest system.

Note

Examples of a *fall arrest system* are given in the definition of that term in regulation 5.

- (5) If it is not reasonably practicable to reduce a risk associated with a fall in accordance with subregulation (2), (3) or (4), the employer must reduce the risk so far as is reasonably practicable by using—
- (a) a fixed or portable ladder in accordance with regulation 45; or
 - (b) administrative controls.

Notes

- 1 Act compliance— section 21 (see regulation 7).
- 2 Part 4 of the Act sets out the duty of the employer to consult with employees, including in respect of making decisions about the measures to be taken to control risks to health or safety. This consultation must involve the health and safety representative (if any). See also regulation 21.

45 Use of ladder as a control measure

An employer must ensure that a fixed or portable ladder used to reduce a risk associated with a fall—

- (a) is fit for the purpose; and
- (b) is appropriate for the duration of the task;
and
- (c) is set up in a correct manner.

46 Use of administrative control only

- (1) If an employer uses only an administrative control in accordance with regulation 44(5)(b) to reduce a risk associated with a fall, the employer must, before the task is undertaken, record—
 - (a) a description of the administrative control used; and
 - (b) a description of the task to which the administrative control relates.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) In complying with subregulation (1), an employer may make a generic record in respect of a task to which an administrative control relates if the task will be undertaken in the same or similar circumstances at more than one workplace or at more than one area within a workplace.
- (3) The employer must keep a record made under this regulation for the period during which the task to which the administrative control relates is being undertaken.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (4) The preparation of a safe work method statement in accordance with regulation 327 is to be taken to be compliance with subregulation (1).

47 Use of plant to control risk

- (1) An employer must ensure that any plant used to control a risk associated with a fall is—
 - (a) designed and constructed for the task or range of tasks to be undertaken; and

- (b) designed and constructed in such a way as to enable its safe use in the physical surroundings in which it is to be used and the conditions during which it is to be used.

Examples

Examples of physical surroundings are the type of surface supporting plant and proximity to powerlines or trees.

Examples of conditions are lighting and weather conditions.

Note

Act compliance—section 21 (see regulation 7).

- (2) An employer must ensure that the installation, erection or dismantling of plant used to control a risk associated with a fall is carried out in such a manner as to reduce so far as is reasonably practicable any risk while that installation, erection or dismantling is being carried out.

Examples

Examples of the risks to be reduced are risks associated with a fall, electric shock, crushing and musculoskeletal disorder.

Note

Act compliance—section 21 (see regulation 7).

48 Review of risk control measures

- (1) An employer must review and, if necessary, revise any measures implemented to control risks associated with falls—
 - (a) before any alteration is made to plant or systems of work that is likely to result in a fall; or
 - (b) after any incident occurs to which Part 5 of the Act applies that involves a fall or a risk associated with a fall; or
 - (c) if, for any other reason, the risk control measures do not adequately control the risks; or

- (d) after receiving a request from a health and safety representative.

Note

Act compliance—section 21 (see regulation 7).

- (2) A health and safety representative may make a request under subregulation (1)(d) if the health and safety representative believes on reasonable grounds that—
 - (a) any of the circumstances referred to in subregulation (1)(a), (b) and (c) exist; or
 - (b) the employer has failed—
 - (i) to properly review the risk control measures; or
 - (ii) to take account of any of the circumstances referred to in subregulation (1)(a), (b) and (c) in conducting a review of, or revising, the risk control measures.

49 Emergency procedures

- (1) If an employer uses a risk control measure in accordance with subregulation (2), (3), (4) or (5) of regulation 44, the employer must ensure that emergency procedures are established in accordance with subregulations (2) and (3) before the task is undertaken.

Note

Act compliance—section 21 (see regulation 7).

- (2) The employer must ensure that the emergency procedures—
 - (a) so far as is reasonably practicable, enable—
 - (i) the rescue of an employee in the event of a fall; and

- (ii) the provision of first aid to an employee who has fallen; and
 - (b) can be carried out immediately after a fall.
- (3) The employer must ensure that any risk associated with carrying out the emergency procedures is—
 - (a) so far as is reasonably practicable, eliminated; or
 - (b) if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Examples

Examples of risks associated with carrying out emergency procedures are risks associated with a fall and risks of electric shock, crushing and musculoskeletal disorder.

- (4) The employer must ensure that the emergency procedures are carried out immediately after the fall.

Note

Act compliance—section 21 (see regulation 7).

Part 3.4—Confined spaces

Division 1—Introductory matters

50 Application to employers of emergency service employees

This Part does not apply to an employer of an emergency service employee if, at the direction of the employer, the employee is—

- (a) undertaking the rescue of a person from a confined space; or
- (b) providing first aid to a person in a confined space.

Division 2—Duties of designers, manufacturers and suppliers of plant

51 Designers

A designer of plant that includes, or is intended to include, a confined space must design the plant so that—

- (a) so far as is reasonably practicable, the need for any person to enter the space is eliminated; or
- (b) if it is not reasonably practicable to eliminate the need to enter the space—
 - (i) the need to enter is reduced so far as is reasonably practicable; and
 - (ii) so far as is reasonably practicable, any risk associated with the means of entry to and exit from the space is eliminated or, if it is not reasonably practicable to

eliminate the risk, reduced so far as is reasonably practicable.

Note

Act compliance—section 27 (see regulation 7).

52 Manufacturers

A manufacturer of plant that includes, or is intended to include, a confined space must manufacture the plant so that—

- (a) so far as is reasonably practicable, the need for any person to enter the space is eliminated; or
- (b) if it is not reasonably practicable to eliminate the need to enter the space—
 - (i) the need to enter is reduced so far as is reasonably practicable; and
 - (ii) so far as is reasonably practicable, any risk associated with the means of entry to and exit from the space is eliminated or, if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Note

Act compliance—section 29 (see regulation 7).

53 Suppliers

A supplier of plant that includes, or is intended to include, a confined space must ensure, so far as is reasonably practicable, that the plant has been designed and manufactured in accordance with regulations 51 and 52 before the plant is supplied.

Note

Act compliance—section 30 (see regulation 7).

Division 3—Duties of employers and self-employed persons

54 Application of Division

In this Division a reference to a confined space in relation to an employer or self-employed person means a confined space under the management or control of the employer or self-employed person.

55 Hazard identification

- (1) An employer or a self-employed person must, so far as is reasonably practicable, identify all hazards associated with work in a confined space.

Notes

- 1 Act compliance—sections 21, 23 and 24 (see regulation 7).
 - 2 See definition of *work in a confined space* in regulation 5.
- (2) An employer or self-employed person may carry out hazard identification under subregulation (1) for a class of confined space rather than for an individual confined space if—
 - (a) all the confined spaces in the class are similar; and
 - (b) the identification carried out for the class of confined space does not result in any employee being subject to any greater, additional or different risk to health or safety than if the identification were carried out for each individual confined space.

56 Control of risk

- (1) An employer or self-employed person must, so far as is reasonably practicable, eliminate any risk associated with work in a confined space.

Example

An employer or self-employed person could eliminate risks associated with work in a confined space by eliminating the need for any person to enter the space.

- (2) If it is not reasonably practicable to eliminate a risk associated with work in a confined space, the employer or self-employed person must reduce the risk so far as is reasonably practicable by taking into account the following matters—
 - (a) the nature of the confined space;
 - (b) if a hazard is associated with the level of oxygen or the level of any contaminant in the atmosphere of the confined space, any change that may occur in the level of oxygen or contaminant;
 - (c) the work required to be performed in the confined space, the range of methods by which the work can be done and the selected method of working;
 - (d) any work required to be performed outside the confined space that may be associated with a hazard;
 - (e) the means of entry to and exit from the confined space;

(f) the type of emergency procedures required.

Notes

- 1 Act compliance—sections 21, 23 and 24 (see regulation 7).
- 2 Part 4 of the Act sets out the duty of the employer to consult with employees, including in respect of making decisions about the measures to be taken to control risks to health or safety. This consultation must involve the health and safety representative (if any). See also regulation 21.

57 Isolation of plant and services

- (1) An employer or self-employed person must, so far as is reasonably practicable, eliminate any risk associated with work in a confined space in relation to the following—
 - (a) the introduction of any substance or condition 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.
- (2) If it is not reasonably practicable for the employer or self-employed person to eliminate a risk referred to in subregulation (1), the employer or self-employed person must reduce the risk so far as is reasonably practicable.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

58 Atmosphere

- (1) An employer or self-employed person must ensure, in relation to work in a confined space, that—
 - (a) so far as is reasonably practicable, purging or ventilation of any contaminant in the atmosphere of the space is carried out; and

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

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (2) An employer or self-employed person must ensure, during work in a confined space, that—
 - (a) the atmosphere of the space has a safe oxygen level; or
 - (b) if it is not reasonably practicable to comply with paragraph (a), the employee is provided with air-supplied respiratory protective equipment.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (3) An employer must ensure, during work in a confined space, that—
 - (a) an employee is not exposed to an atmospheric concentration of a contaminant in the atmosphere of the space above the exposure standard (if any) for that contaminant; or
 - (b) if it is not reasonably practicable to comply with paragraph (a), the employee is provided with air-supplied respiratory protective equipment or other appropriate respiratory protective equipment.

Note

Act compliance—sections 21 and 23 (see regulation 7).

- (4) An employer must ensure that an employee uses the personal protective equipment provided under this regulation.

Note

Act compliance—sections 21 and 23 (see regulation 7).

- (5) In this regulation, ***purging*** means the method by which any contaminant is displaced from a confined space.

59 Fire or explosion

If there is a likelihood of fire or explosion in a confined space, an employer or self-employed person must ensure that no source of ignition is introduced to the space, whether introduced from within or outside the space.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

60 Flammable gases or vapours

- (1) An employer or self-employed person must ensure during work in a confined space that—
- (a) so far as is reasonably practicable, the concentration of any flammable gas or vapour in the atmosphere of the space is below 5% of its LEL; or
 - (b) if it is not reasonably practicable to comply with paragraph (a) and the concentration of any flammable gas or vapour in the atmosphere of the space—
 - (i) is, or is likely to be, equal to or greater than 5% but less than 10% of its LEL, any employee is removed immediately from the space unless a suitably-calibrated, continuous-monitoring, flammable gas detector is

used in the space while the employee is in the space; or

- (ii) is equal to or greater than 10% of its LEL, any employee is removed immediately from the space.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

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

61 Signs

- (1) An employer or self-employed person must erect signs that comply with subregulation (2) in the immediate vicinity of a confined space for any period that—

- (a) work is performed in the confined space; or
- (b) work is performed in preparation for, or completion of, work in the confined space.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

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

62 Review of risk control measures

- (1) An employer or self-employed person must review and, if necessary, revise any measures implemented to control risks associated with work in a confined space—
 - (a) after any incident occurs to which Part 5 of the Act applies that involves work in a confined space; or
 - (b) if, for any other reason, the risk control measures do not adequately control the risks; or
 - (c) after receiving a request from a health and safety representative.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (2) A health and safety representative may make a request under subregulation (1)(c) if the health and safety representative believes on reasonable grounds that—
 - (a) any of the circumstances referred to in subregulation (1)(a) or (b) exist; or
 - (b) the employer or self-employed person has failed—
 - (i) to properly review the risk control measures; or
 - (ii) to take account of the circumstances referred to in subregulation (1)(a) and (b) in conducting a review of, or revising, the risk control measures.

63 Confined space entry permit

- (1) An employer must ensure that an employee does not enter a confined space unless the employer has issued a confined space entry permit in accordance with this regulation

permitting the employee to enter the confined space.

Note

Act compliance—section 21 (see regulation 7).

- (2) A confined space entry permit—
 - (a) must only apply to one confined space; and
 - (b) may permit one or more employees to enter that confined space.
- (3) A confined space entry permit must list—
 - (a) the confined space to which the permit applies; and
 - (b) the measures to control risks associated with the confined space; and
 - (c) the name of any employee permitted to enter the confined space; and
 - (d) if an employer assigns any person to perform any function in relation to regulation 65, the name of that person; and
 - (e) the period that the permit is in operation.

64 Employer to keep entry permits

An employer must keep each confined space entry permit issued by the employer—

- (a) until the work to which it relates is completed; or
- (b) if a notifiable incident occurs in connection with the work to which the permit relates, for at least 2 years after the date on which the incident occurs.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

65 Communication and initiation of emergency procedures

An employer must ensure that when an employee is working in a confined space—

- (a) there is continuous communication from outside the confined space between the employer, or a person assigned by the employer, and the employee in the confined space; and
- (b) the emergency procedures can be initiated from outside the confined space.

Note

Act compliance—section 21 (see regulation 7).

66 Procedures to indicate entry into confined space

An employer must, for the period of the operation of the confined space entry permit, have in place a procedure under which the employer, or a person assigned by the employer, knows when any employee is in the confined space.

Note

Act compliance—section 21 (see regulation 7).

67 Procedures to ensure exit from confined space

An employer must ensure that all employees have exited a confined space on completion of work for which a confined space entry permit is in operation.

Note

Act compliance—section 21 (see regulation 7).

68 Record of exit from confined space

An employer must keep a written record that all employees have exited a confined space on completion of work for which a confined space entry permit is in operation.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

69 Emergency procedures

- (1) An employer or self-employed person must have, in relation to work in a confined space, emergency procedures, in accordance with subregulations (2) and (3), for the control and management of an emergency in the confined space, including procedures for—
 - (a) the rescue of any person from the confined space; and
 - (b) first aid to be provided to any person in the confined space and after rescue from the confined space.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (2) The employer or self-employed person must ensure that the emergency procedures—
 - (a) take into account the matters referred to in—
 - (i) regulation 56(2)(a) to (e); and
 - (ii) regulations 65 and 66; and
 - (b) can be carried out immediately after an emergency arises in the confined space.

- (3) The employer or self-employed person must ensure that any risk associated with carrying out the emergency procedures is—
- (a) so far as is reasonably practicable, eliminated; or
 - (b) if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Examples

Examples of risks associated with carrying out emergency procedures are risks of loss of consciousness, injury or death due to the effect of airborne contaminants, fire or explosion, asphyxiation due to oxygen deficiency or engulfment by stored materials.

- (4) The employer must ensure that the emergency procedures are rehearsed by the relevant employees.

Note

Act compliance—section 21 (see regulation 7).

- (5) The employer or self-employed person must ensure that the emergency procedures are carried out immediately after an emergency arises in a confined space.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

70 Emergency procedures—personal protective equipment

- (1) An employer must provide an employee with air-supplied respiratory protective equipment if the employee enters, or carries out emergency procedures in, a confined space in an emergency—
- (a) arising from an atmosphere that does not have a safe oxygen level or has a harmful level of any contaminant; or

- (b) if there is a likelihood of a condition under paragraph (a) arising while the employee is in the confined space.

Note

Act compliance—section 21 (see regulation 7).

- (2) An employer must provide an employee with appropriate personal protective equipment if the employee enters or carries out emergency procedures in a confined space in an emergency—
 - (a) arising from engulfment; or
 - (b) if there is a likelihood of a condition under paragraph (a) arising while the employee is in the confined space.

Note

Act compliance—section 21 (see regulation 7).

- (3) An employer must ensure that an employee uses the personal protective equipment provided under this regulation.

Note

Act compliance—section 21 (see regulation 7).

71 Emergency procedures—entry and exit for rescue

- (1) An employer or self-employed person must ensure that—
 - (a) openings for the entry to and exit from a confined space are of adequate size to permit the rescue of any person in the space and are not obstructed by fittings or plant that could impede the rescue; or

- (b) if it is not reasonably practicable to comply with paragraph (a), an alternative means of entry to and exit from the space for rescue purposes is provided.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (2) If an alternative means of entry to and exit from a confined space for rescue purposes is provided under subregulation (1)(b), the employer or self employed person must ensure that any risk associated with the alternative means is—
 - (a) so far as is reasonably practicable, eliminated; or
 - (b) if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

72 Emergency procedures—maintenance of plant

An employer or self-employed person must ensure that any plant provided for use in the emergency procedures is maintained so that it is fit for the purpose.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

73 Information, instruction and training

An employer must ensure, in relation to work in a confined space, that the relevant employees are given information, instruction and training in—

- (a) the nature of any hazard associated with the confined space; and
- (b) the need for, and proper use of, measures to control risk; and

- (c) the selection, use, fit, testing and storage of any personal protective equipment; and
- (d) the contents of any confined space entry permit relevant to the employees; and
- (e) the emergency procedures.

Note

Act compliance—section 21 (see regulation 7).

Part 3.5—Plant

Division 1—Introductory matters

74 Application of Part

(1) This Part applies to the following types of plant—

- (a) subject to subregulation (2), plant that processes material by way of a mechanical action that—
 - (i) cuts, drills, punches or grinds the material; or
 - (ii) presses, forms, hammers, joins or moulds the material; or
 - (iii) combines, mixes, sorts, packages, assembles, knits or weaves the material—

including plant where the functions referred to in subparagraphs (i), (ii) and (iii) are incidental to the main purpose of the plant;

- (b) subject to subregulation (2), plant that lifts or moves persons or materials (other than a ship, boat, aircraft or, except as provided in subregulation (4), a vehicle designed to be used primarily as a means of transport on a public road or rail);
- (c) pressure equipment;
- (d) tractors;
- (e) earthmoving machinery;
- (f) lasers;
- (g) scaffolds;
- (h) temporary access equipment;
- (i) explosive-powered tools;

- (j) turbines;
- (k) amusement structures.

Example

An example of materials under subregulation (1)(b) includes objects and substances such as empty receptacles, bins, landfill rubbish, metals and soil.

- (2) Subregulation (1)(a) and (b) do not include plant that—
 - (a) relies exclusively on manual power for its operation; or
 - (b) is designed to be primarily supported by hand.
- (3) Unless specified otherwise, this Part applies irrespective of the date on which plant was manufactured.
- (4) Division 5 applies to a vehicle designed to be used primarily as a means of transport on public roads or rail, if the vehicle is being used at a workplace other than a public road or rail.

Note

Plant includes any machinery, equipment, appliance, implement and tool, and any component of those things and anything fitted, connected or related to any of those things (see section 5 of the Act).

75 Hazard identification may be for classes of plant

- (1) This regulation applies to a person who—
 - (a) has a duty under Part 3 of the Act to, so far as is reasonably practicable, eliminate risks associated with plant; and
 - (b) is required under this Part to identify the hazards associated with plant.

- (2) A person referred to in subregulation (1) may carry out procedures to identify the hazards for a class of plant rather than for an individual item of plant if—
- (a) all the plant in the class have similar functions and productive capacity; and
 - (b) the identification carried out for the class of plant does not result in any person being subject to a greater, additional or different risk to health or safety than if the identification were carried out for each individual item of plant.

Division 2—Duties of designers of plant

76 Hazard identification

A designer of plant must, so far as is reasonably practicable, identify all hazards associated with the use of the plant during the design of the plant.

Note

Act compliance—section 27 (see regulation 7).

77 Guarding

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

Note

Act compliance—section 27 (see regulation 7).

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

Note

Act compliance—section 27 (see regulation 7).

- (4) The designer must ensure that the guarding is designed so that it—
 - (a) makes bypassing or disabling the guarding, whether deliberately or by accident, as difficult as is reasonably possible; and
 - (b) does not create a risk in itself.

Note

Act compliance—section 27 (see regulation 7).

- (5) If the plant to be guarded contains moving parts that may break or that may cause workpieces to be ejected from the plant, the designer must ensure

that the guarding will, in relation to any risk from those broken or ejected parts or workpieces—

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

Note

Act compliance—section 27 (see regulation 7).

- (6) Despite anything to the contrary in this regulation, any guarding a designer of plant uses as a measure to control risk associated with plant may be of a kind that is able to be removed to allow convenient repair, servicing, maintenance and cleaning of the plant when it is not in normal operation.

78 Operator controls

- (1) A designer of plant must ensure that the design provides for any operator controls for the plant to be—
 - (a) suitably identified on the plant so as to indicate their nature and function; and
 - (b) located so as to be readily and conveniently operated by each person using the plant; and
 - (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.

Note

Act compliance—section 27 (see regulation 7).

- (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 controls that—
 - (a) permit operation of the plant while a person is undertaking the maintenance or cleaning of the plant; and
 - (b) cannot be operated by any person other than the person who is carrying out the maintenance or cleaning of the plant; and
 - (c) allow operation of the plant in such a way that any risk associated with the activities to any person who is carrying out the maintenance or cleaning of the plant—
 - (i) is, so far as is reasonably practicable, eliminated; or
 - (ii) if it is not reasonably practicable to eliminate the risk, is reduced so far as is reasonably practicable.

Note

Act compliance—section 27 (see regulation 7).

- (3) This regulation does not apply to an emergency stop device.

79 Emergency stop devices

- (1) A designer of plant that is designed to be operated or attended by more than one person and has more than one emergency stop device fitted must ensure that the design provides for the emergency stop devices to be of the type that ensures that, if an emergency stop device has been used, the plant can be restarted only if—
 - (a) that emergency stop device is manually reset; and

- (b) the start function is manually activated.

Note

Act compliance—section 27 (see regulation 7).

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

Note

Act compliance—section 27 (see regulation 7).

80 Warning devices

- (1) A designer of plant who includes an emergency warning device for the plant must ensure that the design provides for the device to be so positioned on the plant that the device works to best effect.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) If there is a likelihood of powered mobile plant colliding with pedestrians or other powered mobile plant, the designer must ensure that the design of the plant includes a warning device that will warn any person who may be at risk from the movement of the plant.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

81 Designer must give information to manufacturer

A designer of plant must, when the design of the plant is made available to the manufacturer of the plant, give the manufacturer adequate information to enable the plant to be manufactured in accordance with the design specifications and, if applicable, information about the following—

- (a) the installation, commissioning, decommissioning, use, transport, storage and, if the plant is capable of being dismantled, dismantling of the plant;
- (b) the hazards and any risk associated with the use of the plant identified by the designer;
- (c) testing or inspections to be carried out on the plant;
- (d) the systems of work and competency of operators that are necessary for the safe use of the plant;
- (e) the emergency procedures (if any) that are required to be implemented if there is a malfunction of the plant.

Note

Act compliance—section 27 (see regulation 7).

82 Hazard identified in design during manufacture

A designer of plant who has been informed under regulation 85(1)(c)(ii) by a manufacturer of the plant that there is a hazard in the design for which the designer has not provided a risk control measure must—

- (a) revise the information originally supplied and give it to the manufacturer to ensure that the risk is—
 - (i) so far as is reasonably practicable, eliminated; or

- (ii) if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable; or
- (b) inform the manufacturer, in writing, that the designer is of the opinion that it is not necessary to revise the information originally supplied to the manufacturer to ensure compliance with this Part.

Note

Act compliance—section 27 (see regulation 7).

83 Records and information

Reg. 83(1)
amended by
S.R. No.
71/2018 reg. 5.

- (1) If the design of plant is required to be registered under Part 6.2 (Registration), the designer of that plant must record—
 - (a) the method used to determine the risk control measures for the plant; and
 - (b) the risk control measures that result from the determination.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Note

Regulation 125 provides for the requirement to be registered.

- (2) A designer of plant must keep any record made under subregulation (1) available for inspection by the Authority for a period of 7 years after the date of registration of the design of the plant under Part 6.2 (Registration).

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Note

If a person who designs plant is the person who registers the plant design under Part 6.2 (Registration), that person must also obtain a design verification statement in accordance with regulation 509.

84 Record of standards or engineering principles used

- (1) A designer of plant must record any published technical standard, including any part of a published technical standard, that was used in designing the plant.
Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.
- (2) A designer of plant who does not use published technical standards to design the plant must record any engineering principles used in designing the plant.
Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.
- (3) A designer of plant must keep any record made under this regulation available for inspection by the Authority or the person who verified the design of the plant under regulation 509, for a period of 7 years after the later of—
 - (a) the date on which the design or information about the design is given to the manufacturer under regulation 81; or
 - (b) if applicable, the date on which revised information is given to the manufacturer under regulation 82.
Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Division 3—Duties of manufacturers of plant

85 Control of risk

- (1) A manufacturer of plant must—
 - (a) ensure that the plant is manufactured and inspected having regard to the information given to the manufacturer by the designer of

- the plant under section 27(1)(c) of the Act and Division 2; and
- (b) if the information given to the manufacturer by the designer of the plant under section 27(1)(c) of the Act and Division 2 requires the plant to be tested, ensure that the plant is tested in accordance with the information; and
 - (c) ensure that if, during the manufacturing process, any hazard is identified in the design of the plant for which the designer has not provided a risk control measure—
 - (i) the hazard is not incorporated into the manufacture of the plant; and
 - (ii) the designer of the plant is informed in writing of the hazard as soon as reasonably possible; and
 - (iii) 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; and
 - (d) if it is not possible to inform the designer of the hazard in accordance with paragraph (c)(ii), ensure that the risk is—
 - (i) so far as is reasonably practicable, eliminated; or
 - (ii) if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Note

Act compliance—section 29 (see regulation 7).

- (2) A manufacturer to whom subregulation (1)(c) applies must not manufacture the plant until—
- (a) the designer gives the manufacturer revised information under regulation 82(a); or
 - (b) the manufacturer eliminates or reduces risk in accordance with subregulation (1)(d).

Note

Act compliance—section 29 (see regulation 7).

- (3) If a designer gives a manufacturer of plant written information in accordance with regulation 82(b), the manufacturer may proceed in accordance with the designer's original information.

86 Information must be given by a manufacturer

A manufacturer of plant must—

- (a) give to a person to whom the manufacturer supplies the plant the information given to the manufacturer by the designer under section 27(1)(c)(i) and (iii) of the Act and regulation 81 when the plant is supplied by the manufacturer; and
- (b) if the manufacturer acts in accordance with regulation 85(1)(c), give to a person to whom the manufacturer supplies the plant the information applicable to the plant that is required to be given by the designer under section 27(1)(c)(i) and (iii) of the Act and regulation 82.

Note

Act compliance—section 29 (see regulation 7).

87 Records and information

- (1) A manufacturer of plant must keep—
- (a) a record of any published technical standard, including any part of a published technical standard, used to manufacture the plant; and

- (b) any information in relation to the plant given to the manufacturer by a designer under this Part or the Act.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) A manufacturer of plant must keep the records and information referred to in subregulation (1) available for inspection by the Authority for a period of 7 years after the date of manufacture of the plant.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Division 4—Duties of suppliers of plant

Subdivision 1—General

88 Application of Subdivision

This Subdivision does not apply to a person who sells plant as an agent of a supplier.

Note

In this Subdivision a supplier includes an importing supplier of plant.

89 Information to be given—new plant

- (1) A supplier of new plant must, at the time of supplying the plant, give to the person to whom it is supplied the information given to the supplier under section 29(1)(c)(i) and (iii) of the Act and regulation 86.

Note

Act compliance—section 30 (see regulation 7).

- (2) A supplier of new plant who does not possess the information referred to in subregulation (1) must, in writing, inform the person to whom the plant is supplied that the plant—

- (a) is being supplied without the information required by those provisions; and
- (b) should not be used as plant without the information.

Note

Act compliance—section 30 (see regulation 7).

- (3) This regulation does not apply to a supplier who supplies plant under a hire-purchase agreement or hire-purchase contract.

90 Information to be given—used plant

- (1) A supplier of used plant must, at the time of supplying the used plant, give to the person to whom it is supplied—
 - (a) any information required to be given to the supplier under section 29(1)(c)(i) and (iii) of the Act and regulation 86 that is in the possession of the supplier relating to safe use of the plant; and
 - (b) any record kept by the previous owner of the plant required under this Part, that is in the possession of the supplier.

Note

Act compliance—section 30 (see regulation 7).

- (2) A supplier of used plant who does not possess any information or record referred to in subregulation (1) must, in writing, inform the person to whom the plant is supplied that the plant—
 - (a) is being supplied without the information required by those provisions; and
 - (b) should not be used as plant without the information.

Note

Act compliance—section 30 (see regulation 7).

- (3) This regulation does not apply to a supplier who supplies plant under a hire-purchase agreement or hire-purchase contract.

91 Information to be given—scrap material

A supplier of used plant that is to be used as scrap material must, at the time the plant is supplied to a person, inform the person in writing that the plant is intended for use as scrap material.

Note

Act compliance—section 30 (see regulation 7).

92 Roll-over protection on tractors

- (1) This regulation applies to a tractor that conveys its power directly to the ground by wheels, but does not apply to a tractor—
- (a) supplied for use at a workplace in circumstances in which there is no likelihood of the tractor overturning; or
 - (b) weighing less than 560 kilograms, the weight being taken in the lightest form in which the tractor is normally available for retail sale when new and without water, fuel or lubricating oil; or
 - (c) that the supplier intends to be used for parts or scrap material.
- (2) A supplier of plant must not supply a tractor manufactured in, or imported into, Victoria on or after 1 July 1981 unless it is fitted with roll-over protection.

Note

Act compliance—section 30 (see regulation 7).

Subdivision 2—Supplier who hires or leases plant

93 Inspection and maintenance

A supplier of plant who hires or leases plant must ensure that, between any hiring or leasing of the plant, the plant is inspected and maintained to ensure that any risk arising from the use of the plant is—

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

Note

Act compliance—section 30 (see regulation 7).

94 Records

- (1) A supplier of plant who hires or leases plant must make a record detailing any inspection or maintenance carried out on the plant under regulation 93.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) A supplier of plant who hires or leases plant must keep the record made under subregulation (1) while the supplier has management or control of the plant.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Subdivision 3—Agent who sells plant

95 Information must be obtained and given by agent

A person who sells plant as an agent of a supplier must—

- (a) before conducting the sale, obtain the information or records (as the case may be) required under regulations 89, 90 and 91 to be given by a supplier to the person to whom the plant is supplied; and
- (b) give the information or records (as the case may be) obtained from the supplier under paragraph (a) to the purchaser of the plant on completion of the sale.

Note

Act compliance—section 30 (see regulation 7).

Division 5—Duties of employers and self-employed persons who use plant

Subdivision 1—Application of Division

96 Application of Division

In this Division, a reference to plant or any class of plant in relation to an employer or self-employed person means plant or a class of plant that is under the management or control of the employer or self-employed person.

Subdivision 2—Control of risk—generally

97 Hazard identification

An employer or self-employed person must, so far as is reasonably practicable, identify all hazards associated with the installation, erection, commissioning, decommissioning, dismantling and use of plant at the workplace where the plant

is used or located and the systems of work associated with the plant.

Notes

- 1 Act compliance—sections 21, 23 and 24 (see regulation 7).
- 2 Part 4 of the Act sets out the duty of the employer to consult with employees, including in respect of identifying hazards, and requires the involvement of the health and safety representative (if any). See also regulation 21.

98 Control of risk

- (1) An employer or self-employed person must, so far as is reasonably practicable, eliminate any risk associated with plant.
- (2) If it is not reasonably practicable to eliminate a risk associated with plant, the employer or self-employed person must reduce the risk so far as is reasonably practicable by—
 - (a) substituting the plant with plant that has a lower level of risk; or
 - (b) isolating the plant from persons; or
 - (c) using engineering controls; or
 - (d) combining any of the risk control measures referred to in paragraphs (a), (b) and (c).
- (3) If the employer or self-employed person has complied with subregulations (1) and (2) so far as is reasonably practicable and a risk associated with plant remains, the employer or self-employed person must reduce the risk so far as is reasonably practicable by using administrative controls.
- (4) If the employer or self-employed person has complied with subregulations (1), (2) and (3) so far as is reasonably practicable and a risk associated with plant remains, the employer or self-employed person must reduce the risk so far as is reasonably practicable by providing

appropriate personal protective equipment to persons at risk.

- (5) Nothing in this Division, except regulation 96, limits the operation of this regulation.

Notes

- 1 Act compliance—sections 21, 23 and 24 (see regulation 7).
- 2 Part 4 of the Act sets out the duty of the employer to consult with employees, including in respect of making decisions about the measures to be taken to control risks to health or safety. This consultation must involve the health and safety representative (if any). See also regulation 21.

99 Specific risk control measures—Guarding

- (1) This regulation applies to an employer or self-employed person who uses guarding as a measure to control risk associated with plant.
- (2) The employer or self-employed person must ensure, so far as is reasonably practicable, that guarding designed for that purpose will prevent access to the danger area of the plant.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

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

risk and prevents access to that area at any other time; or

- (c) if it is not reasonably practicable to use guarding referred to in paragraph (a) or (b), the guarding used is a physical barrier that can only be altered or removed by the use of tools; or
- (d) if it is not reasonably practicable to use guarding referred to in paragraph (a), (b) or (c), a presence-sensing safeguarding system is used 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.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (4) The employer or self-employed person must ensure that the guarding—
 - (a) makes bypassing or disabling the guarding, whether deliberately or by accident, as difficult as is reasonably possible; and
 - (b) does not create a risk in itself.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (5) If the plant to be guarded contains moving parts that may break or that may cause workpieces to be ejected from the plant, the employer or self-employed person must ensure that the guarding will, in relation to any risk from those broken or ejected parts or workpieces—

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

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (6) Despite anything to the contrary in this regulation, any guarding an employer or self-employed person uses as a measure to control risk associated with plant may be of a kind that is able to be removed to allow convenient repair, servicing, maintenance and cleaning of the plant when it is not in normal operation.

100 Specific risk control measures—Guarding and insulation from heat and cold

An employer or self-employed person must ensure, so far as is reasonably practicable, that any pipe or other part of plant associated with heat or cold is adequately guarded or insulated in a manner that ensures that any risk to health or safety is—

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

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

101 Specific risk control measures—Operator controls

- (1) An employer or self-employed person must ensure that any operator controls for plant are—
 - (a) suitably identified on the plant so as to indicate their nature and function; and

- (b) located so as to be readily and conveniently operated by each person using the plant; and
- (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.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (2) If the need for plant to be operated during maintenance or cleaning of the plant cannot be eliminated, the employer or self-employed person must ensure that the plant is provided with operator controls that—
 - (a) permit operation of the plant while a person is undertaking the maintenance or cleaning of the plant; and
 - (b) cannot be operated by any person other than the person who is carrying out the maintenance or cleaning of the plant; and
 - (c) allow operation of the plant in such a way that any risk associated with the activities to any person carrying out the maintenance or cleaning of the plant is—
 - (i) so far as is reasonably practicable, eliminated; or
 - (ii) if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (3) This regulation does not apply to an emergency stop device.

102 Specific risk control measures—Emergency stop devices

- (1) If plant is designed to be operated or attended by more than one person and more than one emergency stop device is fitted, the employer or self-employed person must ensure that the emergency stop devices are of the type that ensures that, if an emergency stop device has been used, the plant can be restarted only if—
- (a) that emergency stop device is manually reset; and
 - (b) the start function is manually activated.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

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

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

103 Specific risk control measures—Warning devices

If plant includes an emergency warning device, the employer or self-employed person must ensure that the device is so positioned on the plant that the device works to best effect.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

104 Specific risk control measures—Installation, etc. of plant

An employer or self-employed person must ensure that—

- (a) plant is installed or erected to provide sufficient clear working area around the plant to allow the plant to be used in a manner that—
 - (i) so far as is reasonably practicable, eliminates the risk associated with the activity; or
 - (ii) if it is not reasonably practicable to eliminate the risk, reduces the risk so far as is reasonably practicable; and
- (b) so far as is reasonably practicable, the layout of plant at the workplace does not affect entry to and exit from the workplace to the extent that it presents a risk; and
- (c) plant is not commissioned unless the employer or self-employed person has established, so far as is reasonably practicable, that it is safe to commission the plant; and
- (d) the plant is not decommissioned unless the employer or self-employed person has established, so far as is reasonably practicable, that it is safe to decommission the plant; and

- (e) the installation, erection, commissioning, decommissioning and dismantling processes include inspections that will ensure that the risk associated with these activities is monitored.

Notes

- 1 Act compliance—sections 21, 23 and 24 (see regulation 7).
- 2 An employer or self-employed person has a duty under this Division to control risks to health and safety associated with the installation, erection, commissioning, decommissioning and dismantling of plant.
- 3 An employer or self-employed person continues to have a duty under this Division to control risks to health and safety associated with plant that remains in operation until it is decommissioned.

105 Use of plant

An employer or self-employed person must ensure that—

- (a) plant is inspected to the extent necessary to ensure that any risk associated with the use of the plant is monitored; and
- (b) steps are taken to prevent—
 - (i) alterations to the plant that have not been permitted by the employer or self employed person; or
 - (ii) interference with the plant.

Notes

- 1 Act compliance—sections 21, 23 and 24 (see regulation 7).
- 2 An employer or self-employed person has a duty to control risks associated with plant (see regulation 98) and to review and, if necessary, revise risk control measures (see regulation 121).

106 Record of inspection and maintenance

An employer or self-employed person must keep a record of any inspection and maintenance carried out on the following plant for the period that the employer or self-employed person has management or control of the plant—

- (a) the plant referred to in clauses 1.3, 1.5, 1.14, 1.15 and 1.16 of Schedule 2;
- (b) amusement structures to which AS 3533.1—*Amusement rides and devices—Part 1: Design and construction* applies, other than amusement structures determined by AS 3533.1 to be class 1;
- (c) boilers with a hazard level A, B or C as determined by AS 4343 *Pressure equipment—Hazard levels*;
- (d) lifts;
- (e) tower cranes;
- (f) pressure vessels with a hazard level A, B or C as determined by AS 4343 *Pressure equipment—Hazard levels*, other than—
 - (i) gas cylinders to which AS 2030—*Gas Cylinders* applies; and

Note

See the definition of *AS 2030—Gas Cylinders* which encompasses AS 2030.1, AS 2030.2, AS 2030.4 and AS 2030.5.

- (ii) liquefied petroleum gas fuel vessels for automotive use to which AS/NZS 3509—*LP Gas fuel vessels for automotive use* applies; and

- (iii) serially produced vessels to which AS 2971—Serially produced pressure vessels applies.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

107 Plant not in use

An employer or self-employed person 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 for any person.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

Subdivision 3—Control of risk associated with specific plant

108 Subdivision not to limit regulations 98 to 107

Nothing in this Subdivision limits the duties, requirements, obligations or liability of an employer or self-employed person under regulations 98 to 107.

109 Powered mobile plant

- (1) An employer or self-employed person must, so far as is reasonably practicable, eliminate the following risks or, if it is not reasonably practicable to eliminate the risks, reduce them so far as is reasonably practicable—
 - (a) powered mobile plant overturning;
 - (b) objects falling on the operator of the powered mobile plant;
 - (c) the operator being ejected from the powered mobile plant;
 - (d) powered mobile plant colliding with pedestrians or other powered mobile plant.

- (2) The employer or self-employed person must ensure, so far as is reasonably practicable, that an appropriate combination of operator protective devices is provided, maintained and used to reduce so far as is reasonably practicable the risks to the operator set out in subregulation (1)(a), (b) and (c).
- (3) Subregulation (2) does not apply in relation to the fitting of roll-over protection on a tractor that conveys its power to the ground directly by wheels.

Note

See regulation 111.

- (4) An employer or self-employed person must ensure, so far as is reasonably practicable, that no person, other than the operator, rides on powered mobile plant unless the person is afforded a level of protection from exposure to any risk that is equivalent to that provided to the operator.

Notes

- 1 Act compliance—sections 21, 23 and 24 (see regulation 7).
- 2 Part 4 of the Act sets out the duty of the employer to consult with employees, including in respect of making decisions about the measures to be taken to control risks to health or safety. This consultation must involve the health and safety representative (if any). See also regulation 21.

110 Warning devices on powered mobile plant

An employer or self-employed person must ensure that powered mobile plant that has a likelihood of colliding with pedestrians or other powered mobile plant is fitted with a warning device that will warn persons who may be at risk from the movement of the plant.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

111 Roll-over protection on tractors

- (1) This regulation applies to a tractor that conveys its power directly to the ground by wheels, but does not apply to a tractor—
 - (a) manufactured in, or imported into, Victoria before 1 July 1981 if it is not reasonably practicable to fit roll-over protection to the tractor; or
 - (b) used at a workplace in circumstances in which there is no likelihood of the tractor overturning; or
 - (c) that is fitted with roll-over protection that has been temporarily removed or lowered for the period during which it is being used under a tree or other vegetation or in another place where there is insufficient space for the tractor to operate effectively while the roll-over protection is fitted; or
 - (d) weighing less than 560 kilograms, the weight being taken in the lightest form in which the tractor is normally available for retail sale when new and without water, fuel or lubricating oil.
- (2) An employer or self-employed person must ensure that a tractor is not used at the employer or self-employed person's workplace unless it is fitted with roll-over protection.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

112 Industrial lift trucks

- (1) An employer or self-employed person must ensure that an industrial lift truck is—
 - (a) equipped with lifting attachments that are appropriate to the load to be lifted or moved by the truck; and

- (b) used in a manner that ensures that any risk to the operator of the truck that arises from systems of work and the environment in which the truck is used is—
 - (i) so far as is reasonably practicable, eliminated; or
 - (ii) if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (2) An employer or self-employed person must ensure that any person, other than the operator, who rides on an industrial lift truck, is seated in a seat that is—
 - (a) specifically designed for carrying a passenger; and
 - (b) fitted with appropriate seat restraints; and
 - (c) located within the zone of protection that is provided by the operator protective device required to be fitted to the industrial lift truck.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

113 Warning devices on industrial lift trucks

An employer or self-employed person must ensure that an industrial lift truck is fitted with warning devices that are appropriate to effectively warn persons who may be at risk from the movement of the industrial lift truck.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

114 Electrical plant and electrical hazards

An employer or self-employed person must, in relation to electrical plant and plant exposed to an electrical hazard, ensure that—

- (a) if damage to plant presents an electrical hazard, the plant is disconnected from the power supply and is not used until the damaged part is repaired or replaced; and
- (b) electrical plant or plant that is exposed to an electrical hazard is not used under conditions that are likely to give rise to electrical hazards; and
- (c) appropriate permit to work systems are provided to avoid inadvertent energising of plant that has been isolated but not physically disconnected from the electrical supply.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

115 Plant used to lift or suspend loads

- (1) This regulation does not apply to plant used in connection with—
 - (a) the performance of stunt work; or
 - (b) the performance of acrobatics; or
 - (c) a theatrical performance.
- (2) An employer or self-employed person must ensure, so far as is reasonably practicable, that plant that is used to lift or suspend persons, equipment or materials is specifically designed to lift or suspend the load.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (3) The employer or self-employed person must ensure that, when plant is used in accordance with subregulation (2)—
- (a) all lifting or suspending is carried out—
 - (i) with lifting attachments that are appropriate to the load to be lifted or suspended; and
 - (ii) within the safe working limits of the plant; and
 - (b) subject to subregulation (5), so far as is reasonably practicable, no loads are suspended over, or travel over, a person; and
 - (c) loads are lifted or suspended in a way that ensures that the load remains under control during the activity; and
 - (d) so far as is reasonably practicable, no load is lifted simultaneously by more than one piece of plant.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (4) If it is not reasonably practicable to use plant to lift or suspend loads that is specifically designed for the purpose, the employer or self-employed person must ensure that—
- (a) the plant used to lift or suspend the load does not cause a greater risk than if specifically designed plant were to be used; and
 - (b) if the plant is lifting or suspending persons—
 - (i) the persons are lifted or suspended in a work box or other device for carrying persons that is securely attached to the plant; and

- (ii) the persons in the work box or other device substantially remain within the confines of the work box or device while they are being lifted or suspended; and
- (iii) if there is a risk of a person falling from height, a safety harness is provided and worn by the person in order to prevent, so far as is reasonably practicable, injury to the person as a result of the fall; and
- (iv) means are provided by which the persons being lifted or suspended can safely exit from the plant in the event of a failure in the normal operation of the plant.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (5) Subregulation (3)(b) does not apply to plant that is an amusement structure.

116 Lifts

- (1) This regulation applies to a lift over which an employer or self-employed person has management or control, including a lift over which the employer or self-employed person has management or control of its maintenance.
- (2) The employer or self-employed person must—
 - (a) if there is a risk of a person falling down a lift well, provide—
 - (i) secure barriers to prevent access to openings into the lift well by a person other than a person who is performing work in the lift well; and

- (ii) secure working platforms or equivalent arrangements for a person who is working in the lift well to prevent a fall from height; and
- (b) if there is a risk to a person working in a lift well as a result of objects falling onto the person, provide a secure barrier to prevent, so far as is reasonably practicable, falling objects from striking the person or otherwise causing a risk; and
- (c) if there is a risk to a person working in a lift well as a result of movement of a lift car, take steps to ensure that the risk is eliminated or, if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

117 Notice of rated capacity of lift

An employer or self-employed person must ensure, in relation to any lift in the employer's or self-employed person's workplace, that there is fixed, in a conspicuous place in the lift, a legible notice that states the rated capacity of the lift specified in the design of the lift.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

118 Scaffolds

An employer or self-employed person must ensure, in relation to a scaffold, that—

- (a) no work, other than the work of erecting or dismantling the scaffold, is performed from a scaffold unless the scaffold, or the relevant part of the scaffold, is complete; and

- (b) the scaffold is secure and capable of supporting the work to be performed on the scaffold; and
- (c) on becoming aware that the scaffold or its supporting structure is in an unsafe condition, appropriate repairs, alterations or additions are carried out before the relevant part of the scaffold is used; and
- (d) so far as is reasonably practicable, if a scaffold is left unattended, persons who would not ordinarily be using the scaffold are prevented from gaining access to the scaffold.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

119 Tower cranes

- (1) An employer or self-employed person must ensure that any tower crane is erected on a supporting structure or foundation that has been designed—
 - (a) by an engineer with relevant knowledge and experience; and
 - (b) for the specific ground conditions at the location; and
 - (c) taking into account the configurations and forces that were provided for the tower crane when its design was registered.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (2) An employer or self-employed person must ensure that the placement of any crane ties fitted to the tower crane has been designed—
 - (a) by an engineer with relevant knowledge and experience; and

- (b) taking into account the configurations and forces that were provided for the tower crane when its design was registered.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

120 Employer or self-employed person to keep certain design information available

An employer or self-employed person must keep any design information concerning the supporting structure or foundation on which a tower crane is erected and the placement of any crane ties available for inspection by the Authority while the tower crane is erected on that supporting structure or foundation.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Subdivision 4—Other duties

121 Review of risk control measures

- (1) An employer or self-employed person must review and, if necessary, revise any measures implemented to control risks associated with plant or its associated systems of work—
 - (a) before the plant is used for the first time at a workplace; or
 - (b) before any alteration is made to the plant or any change is made in the way the plant is used or in its associated systems of work, including a change in the location of the plant; or
 - (c) if new or additional information about hazards or risks relating to the plant or its associated systems of work becomes

- available to the employer or self-employed person; or
- (d) after any incident occurs to which Part 5 of the Act applies that involves the plant or its associated systems of work; or
- (e) if, for any other reason, the risk control measures do not adequately control the risks; or
- (f) after receiving a request from a health and safety representative.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (2) A health and safety representative may make a request under subregulation (1)(f) if the health and safety representative believes on reasonable grounds that—
 - (a) any of the circumstances referred to in subregulation (1)(a) to (e) exist; or
 - (b) the employer or self-employed person has failed—
 - (i) to properly review the risk control measures; or
 - (ii) to take account of any of the circumstances referred to in subregulation (1)(a) to (e) in conducting a review of, or revising, the risk control measures.

122 Information, instruction and training

- (1) This regulation applies if a hazard associated with plant and its associated systems of work is identified under regulation 97.
- (2) An employer must ensure that employees likely to be exposed to any risk associated with a hazard referred to in subregulation (1), and any person

supervising the employees, are trained and provided with information and instruction in—

- (a) the processes used for hazard identification and control of risk; and
- (b) the safety procedures associated with the use of the plant at the workplace; and
- (c) the use, fit, testing and storage of personal protective equipment, if personal protective equipment forms part of the risk control measures.

Note

Act compliance—sections 21 and 23 (see regulation 7).

- (3) The duties of an employer under subregulation (2) in relation to lifts do not apply to employees who travel in a lift, other than employees who perform work on the lift.

123 Information for persons involved in a plant activity

- (1) This regulation applies if a hazard associated with plant and its associated systems of work is identified under regulation 97.
- (2) An employer must ensure that a person involved in a plant activity is provided with information, which is available to the employer, on how the activity can be carried out so as to ensure, so far as is reasonably practicable, the health and safety of the person.

Note

Act compliance—sections 21 and 23 (see regulation 7).

- (3) In this regulation, *plant activity* means—
 - (a) commissioning or installing plant; or
 - (b) testing plant; or

- (c) decommissioning, dismantling or disposal of plant; or
- (d) inspection or maintenance of plant.

124 Notice of prescribed incidents

For the purposes of section 37(2)(h) of the Act, the collapse, overturning, failure or malfunction of, or damage to, any plant referred to in regulation 106 is prescribed.

Note

The effect of this provision is that an employer or self-employed person must notify the Authority, immediately after becoming aware of the collapse, overturning, etc., of any plant listed in regulation 106, that exposes a person in the immediate vicinity to an immediate risk to the person's health or safety. A written record of the incident must be given to the Authority within 48 hours after the notice and the record must be kept for at least 5 years and made available for inspection on request (see section 38 of the Act). There is also a duty to preserve the incident site (see section 39 of the Act).

Division 6—Registration of plant designs

125 Plant designs to be registered

- (1) The design of an item of plant specified in Schedule 2 must be registered in accordance with Part 6.2 (Registration).

Notes

- 1 See section 40(2) of the Act.
- 2 Part 6.2 (Registration) sets out the process for obtaining registration.
- (2) Subregulation (1) does not apply to a design if work preparing the design started before 1 July 1995.

126 Altered plant designs to be registered

- (1) If the design of an item of plant specified in Schedule 2, that is registered under Part 6.2 (Registration), is altered to an extent that the plant

is subject to new measures to control risk, the altered design must be registered in accordance with Part 6.2 (Registration).

Note

See section 40(2) of the Act.

- (2) An altered design of an item of plant must also be registered in accordance with Part 6.2 (Registration) if—
- (a) the design of the plant before it was altered was not required to be registered under Part 6.2 (Registration) because of regulation 125(2) or 127; and
 - (b) the design is altered to an extent that the plant is subject to new measures to control risk; and
 - (c) in the case of an alteration to a design referred to in regulation 127, the altered design has not been registered by the corresponding Authority that registered the original plant design.

Note

See section 40(2) of the Act.

127 Recognition of interstate designs

- (1) A design of an item of plant is not required to be registered under Part 6.2 (Registration) if the design has been registered by a corresponding Authority under statutory requirements that are substantially equivalent to that Part.
- (2) A design referred to in subregulation (1) that is altered is not required to be registered under Part 6.2 (Registration) if the altered design has been registered by the corresponding Authority that registered the original plant design.

- (3) Subregulations (1) and (2) do not apply to a registration by a corresponding Authority if the Victorian WorkCover Authority determines that this regulation does not apply to that class of registration.

Note

The **Mutual Recognition (Victoria) Act 1998** may apply.

- (4) In this regulation, *registration by a corresponding Authority* includes confirmation or approval by that corresponding Authority.

Part 3.6—High risk work

Division 1—Requirement to be licensed

128 Person must not perform high risk work without licence

A person must not perform high risk work unless the person holds an appropriate high risk work licence in relation to the work.

Notes

- 1 See section 40(4) of the Act.
- 2 Part 6.1 (Licences) sets out the process for obtaining a high risk work licence.

129 Employer must not allow unlicensed employee to perform high risk work

An employer must not allow an employee to perform high risk work unless the employee holds an appropriate high risk work licence in relation to the work.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

130 Exceptions to regulations 128 and 129

- (1) Regulations 128 and 129 do not apply if the person or employee—
 - (a) is only undertaking—
 - (i) training for the purpose of obtaining a high risk work licence for the work under regulation 132; or
 - (ii) a training course or program under regulation 133; or
 - (b) is authorised to work under regulation 138;
or

- (c) is only operating pressure equipment of a class listed in Schedule 4 and the conditions (if any) set out in Schedule 4 in relation to the equipment have been, or are being (as the case may be), complied with; or
- (d) has been exempted by the Authority under regulation 538(1) in relation to specified high risk work; or
- (e) is only performing high risk work involving plant for the purposes of testing, installing, commissioning, maintaining or repairing the plant.

Notes

- 1 Regulation 138 permits a person to work for a limited period in certain circumstances including if the person has applied to the Authority for a licence.
 - 2 Regulation 538(1) allows the Authority to exempt any person, or class of person (including persons who are under 18 years of age) from complying with regulation 128 in relation to specified high risk work.
- (2) Subregulation (1)(e) does not apply to work—
 - (a) referred to in Part 1 of Schedule 3; or
 - (b) involving the operating of plant in order to load or unload it from a vehicle.
 - (3) A person who holds a high risk work licence for rigging work is not required to also hold a high risk work licence for crane or hoist operation for the purpose of setting up or dismantling a crane or hoist if the operation of the crane or hoist is integral to the setting up or dismantling of the crane or hoist.
 - (4) Regulation 128 does not apply to a person who is performing work under the terms of an exemption granted to the person's employer under regulation 538(2).

- (5) Regulation 129 does not apply to an employer who—
- (a) allows an employee who holds a high risk work licence for rigging work to set up or dismantle a crane or hoist if the operation of the crane or hoist is integral to the setting up or dismantling of the crane or hoist; or
 - (b) has been, or is in a class of employer which has been, exempted by the Authority under regulation 538(2) in relation to specified high risk work.

Note

Regulation 538(2) allows the Authority to exempt an employer, or class of employer from complying with regulation 129 in relation to specified high risk work that the employer seeks to have performed by a person, or class of person, who does not hold a high risk work licence (including persons who are under 18 years of age).

131 Recognition of interstate licences

- (1) In this Division, a reference to a high risk work licence includes a reference to an equivalent licence or certificate that—
- (a) was issued by a corresponding Authority;
and
 - (b) is being used in accordance with the terms and conditions under which it was granted;
and
 - (c) is recognised by the issuing Authority as being current and valid.
- (2) Subregulation (1) does not apply to—
- (a) a licence or certificate that is presently suspended (either wholly or in relation to the work being performed) in Victoria or another Australian jurisdiction; or

- (b) a licence or certificate if the Authority has determined that this regulation does not apply to the class of licence or certificate.

Note

The **Mutual Recognition (Victoria) Act 1998** may also apply.

Division 2—Training

132 Trainee to be under direct supervision

- (1) An employer of a person undertaking training for the purpose of obtaining a high risk work licence ("trainee") who is performing high risk work at the workplace must ensure that—
 - (a) the trainee receives the directions, demonstrations and monitoring appropriate to the tasks assigned to the trainee and the competence of the trainee to enable the trainee to perform the work in a manner that is safe and without risks to health; and
 - (b) should an emergency involving the trainee arise, action to immediately rectify any hazardous situation can be taken; and
 - (c) except as provided by subregulation (2), the trainee is always under direct supervision.
- (2) Direct supervision of a trainee under subregulation (1), is not required if—
 - (a) the circumstances of a particular task make such direct supervision impracticable or unnecessary; and
 - (b) the level of competence of the trainee is such that direct supervision in relation to the task is unnecessary; and

- (c) the lesser degree of supervision will not place the trainee or any other person at risk.

Note

Act compliance—section 21 (see regulation 7).

- (3) The employer must ensure that the direct supervisor of a trainee is—
 - (a) authorised by the employer to oversee the trainee; and
 - (b) is a person who holds a relevant high risk work licence for the class of high risk work that is current and valid.

Note

Act compliance—sections 21 and 23 (see regulation 7).

133 Person conducting training must ensure supervision

A person conducting a training course or program where high risk work is performed as part of the course or program by a person undertaking the course or program, must comply with all obligations placed on an employer by regulation 132 in relation to the person undertaking the training.

Note

Act compliance—sections 23 and 24 (see regulation 7).

Division 3—Assessments of competency

134 How to obtain an assessment of competency

- (1) A person may apply to an authorised assessor for an assessment of the person's competency to safely perform particular high risk work to the standard set by the relevant competency standard.

- (2) After carrying out the assessment of the applicant—
- (a) if the authorised assessor is satisfied that the applicant has demonstrated that the applicant can meet the criteria that apply to each element of competency in the relevant competency standard under workplace conditions, the authorised assessor must give the applicant a notice of assessment stating that the authorised assessor is of that opinion; or
 - (b) if the authorised assessor is not satisfied, the authorised assessor must give the applicant a notice of assessment stating that opinion and the reasons why the authorised assessor is of that opinion.

Note

A notice of assessment under subregulation (2)(a) is called a *notice of assessment (satisfactory)* (see regulation 5).

- (3) A notice of assessment must be made or given in the form and manner required by the Authority.
- (4) An applicant is entitled to be heard by the authorised assessor in relation to any action taken under subregulation (2)(b).

135 Method of assessment

An authorised assessor must carry out any assessment made for the purposes of regulation 134 in accordance with the assessment instruments and procedures for conducting assessments that the Authority issues from time to time under regulation 136.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

136 Assessment instruments

- (1) The Authority may issue assessment instruments and procedures for conducting assessments for the purposes of regulation 135.
- (2) The Authority may include the following in the assessment instruments—
 - (a) techniques for directly observing the applicant's performance of the work or skill under workplace conditions;
 - (b) simulated work-related tasks to be undertaken;
 - (c) checklists to be completed by the applicant;
 - (d) projects or assignments to be completed by the applicant;
 - (e) test questions;
 - (f) any other methods of assessment.

137 Process for re-assessment

An applicant who receives a notice of assessment under regulation 134(2)(b) may apply to an authorised assessor for a re-assessment.

138 Person may work while application for high risk work licence or renewal is being processed

- (1) A person who has been given a notice of assessment (satisfactory) by an authorised assessor may perform any work to which the notice applies—
 - (a) for 60 days from the date of issue of the notice; and
 - (b) if the person applies for a licence within that 60-day period, until—
 - (i) the person is granted the licence by the Authority; or

- (ii) 14 days after the person is given written notice by the Authority that the application has been refused.
- (2) The holder of a high risk work licence who applies for a licence renewal under regulation 490(1) or (2), on or before the date of expiry of the existing licence, may perform any work to which the licence applies until—
 - (a) the licence holder is granted the licence renewal by the Authority; or
 - (b) 14 days after the licence holder is given written notice by the Authority that the application has been refused.

Division 4—Authorisation of assessors

139 Authorisation to carry out assessments of competency

- (1) The Authority may authorise a person to carry out assessments of competency in relation to a class or classes of high risk work for the purpose of these Regulations, for a specified period.

Note

Person includes a body corporate, unincorporated body or association and a partnership (see section 5(1) of the Act).

- (2) The authorisation must be in writing and specify the relevant class or classes of high risk work to which it applies.
- (3) The Authority may impose on the authorisation any terms or conditions that it considers necessary to authorise a person to carry out assessments of competency for the purposes of these Regulations.

Chapter 4—Hazardous substances and materials

Part 4.1—Hazardous substances

Division 1—Introductory matters

140 Application of Part

- (1) This Part does not apply to the following classes of substance if the use of the substance is not related to a work activity—
 - (a) food within the meaning of the **Food Act 1984**;
 - (b) therapeutic goods within the meaning of the Therapeutic Goods Act 1989 of the Commonwealth;
 - (c) cosmetics;
 - (d) tobacco or products made of tobacco;
 - (e) toiletries and toilet products.
- (2) This Part does not apply to—
 - (a) any culture or preparation of pathogenic micro-organisms or other material capable of causing disease in humans in relation to which regulations may be made under section 238(1)(u) of the **Public Health and Wellbeing Act 2008**; or
 - (b) radioactive materials within the meaning of the **Radiation Act 2005**; or
 - (c) asbestos.
- (3) This Part applies to scheduled carcinogenic substances.
- (4) This Part does not apply to the transport of hazardous substances.

Division 2—Duties of manufacturers and suppliers

Subdivision 1—Introductory matters

141 Application of Division

- (1) This Division applies to the manufacture and supply of hazardous substances, including hazardous substances containing—
 - (a) lead; or
 - (b) organic lead compounds.

Note

Supply includes supply of hazardous substances by an importing supplier.

- (2) In this Division, the duties of a manufacturer only apply to the manufacture of a substance at a workplace for sale or exchange to another workplace.
- (3) In this Division, the duties of a manufacturer or a supplier do not apply in relation to a substance that is produced as a waste—
 - (a) during the process of manufacturing a substance; or
 - (b) when a substance is used at a workplace.
- (4) Subregulation (3) does not apply if the waste is produced for the purposes of sale or exchange to another workplace.

142 Certain regulations not to apply

Subdivision 2 and regulations 144 and 149 do not apply to a substance supplied to a workplace for the purpose of determining whether the substance is a hazardous substance.

Subdivision 2—Determination of hazardous substances

143 Determination of hazardous substances

- (1) A manufacturer or an importing supplier of a substance must determine whether a substance is a hazardous substance before the substance is first supplied to a workplace.

Notes

- 1 Act compliance—sections 29 and 30 (see regulation 7).
 - 2 A manufacturer or importing supplier must refer to the GHS, as modified by Schedule 7 in making this determination—see the definition of *hazardous substance* in regulation 5.
- (2) Subregulation (1) does not apply to a substance if a determination in relation to the substance has already been made under equivalent legislation.

Subdivision 3—Safety data sheet

144 Preparation of a safety data sheet

- (1) A manufacturer or an importing supplier of a hazardous substance must prepare a safety data sheet in accordance with regulation 145 before the substance is first supplied to a workplace.

Note

- Act compliance—sections 29 and 30 (see regulation 7).
- (2) Subregulation (1) does not apply to a manufacturer or an importing supplier who has already prepared a safety data sheet for the substance in accordance with equivalent legislation.

145 What must a safety data sheet contain?

- (1) The safety data sheet for a hazardous substance must contain the following—
 - (a) the product identifier and chemical identity of the substance;
 - (b) the name, address and telephone number of—
 - (i) the manufacturer of the substance in Australia; or
 - (ii) the importing supplier of the substance in Australia;
 - (c) an Australian telephone number where information about the substance can be obtained in an emergency;
 - (d) the date of preparation or last review of the safety data sheet;
 - (e) the hazard identification for the substance determined in accordance with the GHS;
 - (f) the hazard statement and precautionary statement for the substance;
 - (g) composition of and information about ingredients, in accordance with Schedule 8;
 - (h) first aid measures;
 - (i) fire fighting measures;
 - (j) accidental release measures;
 - (k) exposure controls, exposure standards (if any), engineering controls and personal protection information;
 - (l) information relating to handling and storage, including how the substance may be safely used;
 - (m) disposal considerations;

- (n) information relating to the physical and chemical properties of the substance;
 - (o) stability and reactivity information;
 - (p) toxicological information, including health effects.
- (2) The safety data sheet must be in English and legible.
- (3) A manufacturer or importing supplier may prepare a safety data sheet with the information required by subregulation (1) in languages in addition to English.

146 Review and revision of safety data sheet

- (1) A manufacturer or an importing supplier of a hazardous substance must review and, if necessary, revise the safety data sheet for a substance—
- (a) as often as is necessary to ensure that the safety data sheet contains current and accurate information; and
 - (b) at least every 5 years.

Note

Act compliance—sections 29 and 30 (see regulation 7).

- (2) Subregulation (1) does not apply if the manufacturer or importing supplier of a hazardous substance has not supplied the hazardous substance to any person or any premises for a period of 5 years since the safety data sheet for the hazardous substance was prepared or last revised.

147 Duty to provide current safety data sheet

- (1) A manufacturer or supplier of a hazardous substance must ensure that a copy of the current safety data sheet for the substance is provided—
 - (a) to any person to whom the substance is supplied on or before the first occasion that the substance is supplied to that person; and
 - (b) on request, to an employer who proposes to use the hazardous substance at a workplace.

Notes

- 1 Act compliance—sections 29 and 30 (see regulation 7).
 - 2 In subregulation (1), a reference to "supplier" includes importing supplier.
- (2) It is sufficient compliance with subregulation (1) if one person with a duty under the subregulation complies with the subregulation.

Example

If a manufacturer of a hazardous substance complies with subregulation (1) in relation to a hazardous substance in a circumstance to which subregulation (1) applies, a supplier of the hazardous substance need not also comply in relation to the hazardous substance in that circumstance.

- (3) Subregulation (1) does not apply—
 - (a) to a retailer or a retail warehouse operator if the hazardous substance is supplied in a consumer package; or
 - (b) if the hazardous substance is supplied to the fuel tank of a vehicle as fuel for the vehicle.

148 Duty to provide revised safety data sheet

- (1) If the safety data sheet for a hazardous substance is revised under regulation 146, a manufacturer or supplier of the substance must ensure that a copy of the revised safety data sheet is provided to any person to whom the substance is supplied on or

before the first occasion that the substance is supplied to that person after the revision.

Notes

- 1 Act compliance—sections 29 and 30 (see regulation 7).
 - 2 In subregulation (1), a reference to "supplier" includes importing supplier.
- (2) It is sufficient compliance with subregulation (1) if one person with a duty under the subregulation complies with the subregulation.

Example

If a manufacturer of a hazardous substance complies with subregulation (1) in relation to a hazardous substance in a circumstance to which subregulation (1) applies, a supplier of the hazardous substance need not also comply in relation to the hazardous substance in that circumstance.

- (3) Subregulation (1) does not apply—
- (a) to a retailer or a retail warehouse operator if the hazardous substance is supplied in a consumer package; or
 - (b) if the hazardous substance is supplied to the fuel tank of a vehicle as fuel for the vehicle.

Subdivision 4—Labels

149 Manufacturers and importing suppliers must label containers

- (1) A manufacturer or an importing supplier of a hazardous substance must correctly label any container that contains a hazardous substance in accordance with subregulations (3), (4) and (5) before the substance is supplied to a workplace.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) Subregulation (1) does not apply if a container that contains a hazardous substance is supplied to a workplace for the purposes of affixing the label in order to comply with this regulation.
- (3) Subject to subregulation (4), the label must contain the following—
 - (a) the product identifier of the hazardous substance;
 - (b) the name, address and telephone number of—
 - (i) the manufacturer of the substance in Australia; or
 - (ii) the importing supplier of the substance in Australia;
 - (c) for each ingredient of the hazardous substance—the identity and proportion which must be disclosed in accordance with Schedule 8;
 - (d) any hazard pictogram consistent with the correct classification of the substance;
 - (e) any hazard statement, signal word and precautionary statement consistent with the correct classification of the substance.
- (4) If a hazardous substance is packed in a container that is too small for a label attached to it to include all the information referred to in subregulation (3), the label must contain the following—
 - (a) the product identifier of the hazardous substance;
 - (b) the name, address and telephone number of—
 - (i) the manufacturer of the substance in Australia; or

- (ii) the importing supplier of the substance in Australia;
 - (c) a hazard pictogram or hazard statement consistent with the correct classification of the substance;
 - (d) any other information referred to in subregulation (3) that it is reasonably practicable to include.
- (5) The label must be in English, legible and firmly secured to the container.
- (6) A manufacturer or importing supplier may label a container with the information required by this regulation in languages in addition to English.

150 Recognition of other labelling systems

- (1) A manufacturer or an importing supplier of a hazardous substance need not comply with regulation 149 if—
 - (a) the container is labelled in accordance with equivalent legislation including, if required under that equivalent legislation, the clear and prominent display of signal words; or
 - (b) in the case of an agricultural or veterinary chemical—
 - (i) the container is labelled in accordance with the Agricultural Labelling Code and the Veterinary Labelling Code of the Australian Pesticides and Veterinary Medicines Authority, as in force from time to time; and
 - (ii) the label is in English and legible; and
 - (iii) the label is firmly secured to the container; and

- (iv) the label includes any hazard statement consistent with the correct classification of the chemical; and
 - (v) the label includes any precautionary statement consistent with the correct classification of the chemical; or
- (c) in the case of a substance that is "therapeutic goods" within the meaning of the Therapeutic Goods Act 1989 of the Commonwealth, the container is labelled in accordance with an order in force under section 10 of the Therapeutic Goods Act 1989 of the Commonwealth, as in force at the time of labelling; or
- (d) the substance is a poison or controlled substance within the meaning of the **Drugs, Poisons and Controlled Substances Act 1981** and the container is labelled in accordance with the current Poisons Standard as in force at the time of labelling and—
 - (i) the container for the substance has its original label; and
 - (ii) it is reasonably foreseeable that the substance will be used at a workplace only in—
 - (A) a quantity that is consistent with household use; and
 - (B) a way that is consistent with household use; and
 - (C) a way that is incidental to the nature of the work carried out by a person using the substance; or

- (e) the substance is—
 - (i) a veterinary chemical product within the meaning of the Agvet Code; and
 - (ii) listed in—
 - (A) the current Poisons Standard, Part 4, Schedule 4, if the substance is packaged and supplied in a form intended for direct administration to an animal for therapeutic purposes; or
 - (B) the current Poisons Standard, Part 4, Schedule 8.
- (2) Nothing in subregulation (1) requires a manufacturer or importing supplier to label a container with information that is the same, or substantially the same, as any other information required by that subregulation.

Example

If the Agricultural Labelling Code or the Veterinary Labelling Code requires the inclusion of statements for particular substances that are the same, or substantially the same, as the hazard and precautionary statements required under the GHS for those substances then a manufacturer or importing supplier does not need to include duplicate statements under subregulation (1)(b)(iv) or (v).

- (3) A manufacturer or importing supplier may label a container with the information required by this regulation in languages in addition to English.
- (4) In this regulation—

agricultural or veterinary chemical means an agricultural chemical product or veterinary chemical product within the meaning of the Agricultural and Veterinary Chemicals Code Act 1994 of the Commonwealth;

Agvet Code has the same meaning as in the
Agricultural and Veterinary Chemicals Code
Act 1994 of the Commonwealth;

current Poisons Standard has the same meaning
as in the Therapeutic Goods Act 1989 of the
Commonwealth.

151 Supplier must ensure container is labelled

A supplier (other than an importing supplier)
of a hazardous substance must ensure that the
container in which the substance is supplied to a
workplace is labelled with the manufacturer's or
the importing supplier's label.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

152 Disclosure of chemical identity to registered medical practitioner

A manufacturer or an importing supplier of a
hazardous substance must immediately disclose
the chemical identity of an ingredient of a
hazardous substance to a registered medical
practitioner if—

- (a) the safety data sheet for the substance, or the
label on the container in which the substance
is supplied, does not disclose the chemical
identity of the ingredient; and
- (b) the registered medical practitioner requests
the chemical identity of the ingredient to
assist with the management of a patient.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

Division 3—Duties of employers and self-employed persons

Subdivision 1—Prohibited hazardous substances

153 Prohibited hazardous substances

- (1) A person who is an employer or self-employed person must ensure that any hazardous substance listed in Schedule 6 to these Regulations is not used at the person's workplace for any purpose specified in that Schedule.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (2) A person who is an employer or self-employed person must ensure that any hazardous substance determined to be a prohibited substance by the Authority under regulation 6 is not used at the person's workplace for any purpose specified in that determination.

Notes

- 1 Act compliance—sections 21, 23 and 24 (see regulation 7).
- 2 If the Authority makes a determination it must publish a notice in the Government Gazette and a newspaper circulating generally throughout Victoria and it must make a copy of the determination available for inspection. See regulation 6.

Subdivision 2—Duties of employers

154 Application of Subdivision

- (1) Subject to subregulation (3), this Subdivision applies to—
- (a) substances that have been determined under regulation 143 or under equivalent legislation to be hazardous substances and are supplied to a workplace; and
 - (b) welding fumes, grain dust, wood dust, silica dust (including from grinding or cutting silica-containing materials) and lead dust (including from the hand sanding of lead paint) produced or generated at a workplace; and
 - (c) any other substance, in the circumstances (if any), determined by the Authority under regulation 6(1)(i).

Note

An employer is not required to comply with Division 2 (Duties of manufacturers and suppliers) in relation to a hazardous substance produced or generated at the employer's workplace unless it is produced or generated through production of a substance for sale or exchange to another workplace. See regulation 141.

- (2) Subject to subregulation (3), this Subdivision does not apply to lead metal, lead alloys or inorganic lead compounds (including lead salts of organic acids) in a prescribed lead process under Part 4.3 (Lead), at a workplace.

Note

The use of organic lead compounds, including tetraethyl lead, is covered by this Part and not Part 4.3 (Lead).

- (3) Regulations 155 to 160 and 162—
- (a) apply to lead metal, lead alloys or inorganic lead compounds (including lead salts of organic acids) in a prescribed lead process under Part 4.3 (Lead), at a workplace; and
 - (b) do not apply to the substances referred to in subregulation (1)(b).
- (4) In this Subdivision, a reference to a risk associated with a hazardous substance at a workplace includes a risk associated with—
- (a) any consequential product, waste or intermediate product generated at a workplace from a supplied hazardous substance; and
 - (b) any substance referred to in subregulation (1)(b) or (c).

155 Safety data sheet to be obtained

An employer must obtain a current safety data sheet on or before the first supply of a hazardous substance to the employer's workplace.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

156 Safety data sheet must be readily accessible

- (1) An employer must ensure that the current safety data sheet for a hazardous substance is readily accessible to any employee who may be exposed to the substance.
- Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.
- (2) An employer may make the current safety data sheet accessible to employees in appropriate languages in addition to English.

157 Information in safety data sheet must not be altered

An employer must ensure that the information in a current safety data sheet obtained under regulation 155 is not altered.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

158 Containers must be labelled

- (1) An employer must ensure that a container in which a hazardous substance is supplied to the employer's workplace is labelled with the manufacturer's or the importing supplier's label.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) An employer must ensure that the label on a container in which a hazardous substance is supplied to the employer's workplace—

- (a) remains legible; and
- (b) is not removed, defaced or altered.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (3) If a hazardous substance is decanted into a container at an employer's workplace, the employer—

- (a) must ensure the container is clearly labelled with the product identifier of the substance;
or
- (b) if it is not reasonably practicable to label the container with the product identifier of the substance, must use another means of identifying the substance.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (4) Subregulation (3) does not apply if a decanted substance is consumed immediately and the container is then immediately—
- (a) cleaned to the extent that it is not a risk to health; or
 - (b) neutralised, cured or chemically deactivated to the extent that any residue is not a risk to health.

159 How long must a container be labelled?

If a container that contains a hazardous substance is required to be labelled under regulation 158, the employer must ensure that the container remains labelled until—

- (a) it has been cleaned to the extent that it is not a risk to health; or
- (b) its contents have been neutralised, cured or chemically deactivated to the extent that any residue is not a risk to health.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

160 Identification of hazardous substances in plant

An employer must ensure that a hazardous substance contained in a pipe, piping system, process vessel, reactor vessel or any plant that forms part of a manufacturing process is identified to employees who may be exposed to the substance.

Note

Act compliance—sections 21 and 23 (see regulation 7).

161 Identification of containers of waste

An employer must ensure that containers of waste produced or generated at a workplace from a hazardous substance are identified.

Notes

- 1 Act compliance—sections 21 and 23 (see regulation 7).
- 2 An employer is not required to comply with Division 2 in relation to the waste unless the waste is produced for sale or exchange for use at another workplace. See regulation 141.

162 Register of hazardous substances

- (1) An employer must ensure that a register is prepared and maintained in accordance with subregulation (2) of all hazardous substances supplied to the employer's workplace.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) The register must contain—

- (a) a list of the product identifiers of the hazardous substances supplied to the employer's workplace; and
- (b) a copy of the safety data sheet for each of the hazardous substances supplied to the employer's workplace.

- (3) An employer must ensure that the register is readily accessible to any employee who may be exposed to a hazardous substance at the employer's workplace.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (4) Subregulation (1) does not apply to an employer who is a retailer or a retail warehouse operator if—
- (a) the hazardous substance is supplied in a consumer package; and
 - (b) the consumer package is intended for retail sale; and
 - (c) the consumer package is not intended to be opened on the premises of the retailer or retail warehouse operator.

Note

This regulation does not exempt an employer who is a retailer or retail warehouse operator from the duty under—

- (a) regulation 155 to obtain a safety data sheet for each hazardous substance used in the employer's workplace or intended for retail sale; or
- (b) subregulation (1) to prepare and maintain a register in relation to each hazardous substance opened on the premises of the employer's workplace.

163 Control of risk

- (1) An employer must, so far as is reasonably practicable, eliminate any risk associated with hazardous substances at the employer's workplace.
- (2) If it is not reasonably practicable to eliminate a risk associated with hazardous substances at the employer's workplace, the employer must reduce the risk so far as is reasonably practicable by—
 - (a) substituting the substance with—
 - (i) a substance that is less hazardous; or
 - (ii) a less hazardous form of the substance; or
 - (b) isolating the source of exposure to the hazardous substance; or
 - (c) using engineering controls; or

- (d) combining any of the risk control measures referred to in paragraphs (a), (b) and (c).
- (3) If the employer has complied with subregulations (1) and (2) so far as is reasonably practicable and a risk associated with a hazardous substance at the workplace remains, the employer must reduce the risk so far as is reasonably practicable by using administrative controls.
- (4) If the employer has complied with subregulations (1), (2) and (3) so far as is reasonably practicable and a risk associated with a hazardous substance at the workplace remains, the employer must reduce the risk so far as is reasonably practicable by providing appropriate personal protective equipment to employees at risk.

Notes

- 1 Act compliance—section 21 (see regulation 7).
- 2 Part 4 of the Act sets out the duty of the employer to consult with employees, including in respect of making decisions about the measures to be taken to control risks to health or safety. This consultation must involve the health and safety representative (if any). See also regulation 21.

164 Review of risk control measures

- (1) An employer must review and, if necessary, revise any measures implemented to control risks associated with hazardous substances at the workplace—
 - (a) before any alteration is made to systems of work that is likely to result in changes to risks associated with hazardous substances at the workplace; or
 - (b) if the employer receives advice from a registered medical practitioner under regulation 169(2)(c)(i) that adverse health effects have been identified by the health monitoring; or

- (c) after any incident occurs to which Part 5 of the Act applies that involves a hazardous substance at the workplace; or
- (d) if, for any other reason, the risk control measures do not adequately control the risks; or
- (e) after receiving a request from a health and safety representative.

Note

Act compliance—sections 21 and 23 (see regulation 7).

- (2) A health and safety representative may make a request under subregulation (1)(e) if the health and safety representative believes on reasonable grounds that—
 - (a) any of the circumstances referred to in subregulation (1)(a) to (d) exist; or
 - (b) the employer has failed—
 - (i) to properly review the risk control measures; or
 - (ii) to take account of any of the circumstances referred to in subregulation (1)(a) to (d) in conducting a review of or revising the risk control measures.

165 Exposure standard must not be exceeded

An employer must ensure that an employee is not exposed to an atmospheric concentration of a hazardous substance supplied to or generated at the workplace above the exposure standard (if any) for the substance or any of its ingredients.

Note

Act compliance—section 21 (see regulation 7).

166 Atmospheric monitoring

- (1) An employer must ensure that atmospheric monitoring is carried out in relation to a hazardous substance supplied to or generated at the employer's workplace if there is an exposure standard for the hazardous substance or any of its ingredients and—
 - (a) there is uncertainty (based on reasonable grounds) as to whether the exposure standard is or may be exceeded; or
 - (b) atmospheric monitoring is necessary to determine whether there is a risk to health.

Note

Act compliance—section 22(1) (see regulation 7).

- (2) Subregulation (1) does not apply to a hazardous substance if health monitoring is required for the substance under regulation 169 and the health monitoring includes biological monitoring.

167 Provision of results of atmospheric monitoring

An employer must provide the results of any atmospheric monitoring at the employer's workplace as soon as reasonably possible to any employee who has been, or who may be, exposed to the hazardous substance that is the subject of the monitoring.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

168 Records of atmospheric monitoring

- (1) An employer must keep a record of the results of atmospheric monitoring for—
 - (a) a period (not exceeding 30 years) that is determined by the Authority; or
 - (b) 30 years, if no period has been determined by the Authority.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) In determining a period for the purposes of subregulation (1)(a), the Authority may specify different periods for different hazardous substances or different classes of hazardous substances.
- (3) An employer must ensure that the record of atmospheric monitoring is readily accessible to any employee who has been, or may be, exposed to the hazardous substance that is the subject of the monitoring.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

169 Health monitoring

- (1) An employer must ensure that health monitoring is carried out for an employee if—
 - (a) the employee is exposed to any hazardous substance—
 - (i) listed in column 2 of Tables 1 or 2 of Schedule 9; or
 - (ii) determined by the Authority to be a hazardous substance for which health monitoring is required; and

- (b) the exposure of the employee to the hazardous substance is reasonably likely to have an adverse effect on the employee's health under the particular conditions of work at the workplace.

Notes

- 1 Act compliance—section 22 (see regulation 7).
- 2 The purpose of the health monitoring is to monitor the employee's health for the purpose of identifying changes in the employee's health status due to occupational exposure to a hazardous substance.

(2) The employer must ensure—

- (a) that the health monitoring is carried out under the supervision of a registered medical practitioner; and
- (b) that a report of the health monitoring is prepared by the registered medical practitioner and a copy of the report is given to the employer; and
- (c) that the health monitoring report includes (if relevant)—
 - (i) any indications of adverse health effects identified by the registered medical practitioner that may be attributed to the hazardous substance; and
 - (ii) any recommendations relating to the need for the employer to take measures to ensure that the employee is not exposed to the substance for a specified period; and
 - (iii) an interpretation of the results of the health monitoring, including a statement of the registered medical practitioner's opinion as to whether the

employee should continue working
with the hazardous substance.

Note

Act compliance—section 22(1) (see regulation 7).

170 Copy of report to Authority

If an employer receives recommendations under regulation 169(2)(c)(ii), the employer must give a copy of the health monitoring report to the Authority.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

171 Records of health monitoring

- (1) An employer must keep any health monitoring report given to the employer under regulation 169(2) for—
 - (a) a period (not exceeding 30 years) that is determined by the Authority; or
 - (b) if no period has been determined by the Authority, 30 years.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) In specifying a period for the purposes of subregulation (1)(a), the Authority may specify different periods for different hazardous substances or different classes of hazardous substances.

Part 4.2—Scheduled carcinogenic substances

172 Application of Part

This Part applies to scheduled carcinogenic substances in addition to Part 4.1 (Hazardous substances).

173 Supply of scheduled carcinogenic substances

- (1) A supplier of a scheduled carcinogenic substance must not supply the substance to a person who does not hold a carcinogens licence relating to the substance.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) A supplier of a scheduled carcinogenic substance must—

- (a) record the name and address of any person to whom a scheduled carcinogenic substance is supplied and the name and quantity of the substance supplied; and
- (b) obtain a copy of the relevant carcinogens licence held by the person to whom a scheduled carcinogenic substance is supplied.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (3) The supplier must keep the record of supply and the copy of the carcinogens licence for at least 5 years.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

174 Requirement to hold carcinogens licence

- (1) A person must not perform work or carry out an activity involving a Schedule 10 carcinogenic substance at a workplace unless—
 - (a) the workplace is a laboratory; and
 - (b) the person—
 - (i) holds a licence to use a Schedule 10 carcinogenic substance at that laboratory issued under Part 6.1 (Licences); or
 - (ii) is an employee of a holder of such a licence.

Note

See section 40(4) of the Act.

- (2) A person must not perform work or carry out an activity involving a Schedule 11 carcinogenic substance at a workplace that is a laboratory unless the person—
 - (a) holds a licence to use a Schedule 11 carcinogenic substance at that laboratory issued under Part 6.1 (Licences); or
 - (b) is an employee of a holder of such a licence.

Note

See section 40(4) of the Act.

- (3) A person must not perform work or carry out an activity involving a Schedule 11 carcinogenic substance at a workplace other than a laboratory unless the person—
 - (a) holds a licence to use a Schedule 11 carcinogenic substance at that workplace issued under Part 6.1 (Licences); or

(b) is an employee of a holder of such a licence.

Note

See section 40(4) of the Act.

- (4) Despite anything to the contrary in this regulation, a carcinogens licence is not required by a supplier of a scheduled carcinogenic substance if the substance is in a sealed container that is not intended to be opened at the supplier's premises.

175 Records

- (1) An employer must ensure a record is made in accordance with subregulation (2) of each person who works with a scheduled carcinogenic substance at the employer's workplace.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) The record must contain the following—
- (a) the person's full name;
 - (b) the person's date of birth;
 - (c) the person's residential address during the period that the person works with the scheduled carcinogenic substance;
 - (d) the name of each scheduled carcinogenic substance that the person works with;
 - (e) the period during which the person works with each of the scheduled carcinogenic substances.

- (3) The employer must keep the record made under subregulation (1) in relation to a person for 30 years from the date on which the person last worked with a scheduled carcinogenic substance at the employer's workplace.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

176 Statement of work with scheduled carcinogenic substance

- (1) This regulation applies if a person has worked with a scheduled carcinogenic substance at an employer's workplace.
- (2) The employer must give the person a written statement in accordance with subregulation (3) when the person ceases to work at the workplace.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (3) The written statement must contain the following—
- (a) the name of any scheduled carcinogenic substance that the person worked with at the employer's workplace;
 - (b) the period during which the person worked with the scheduled carcinogenic substance;
 - (c) details of how and where records kept under regulation 175 may be obtained;
 - (d) a statement advising the person to have periodical health assessments and details of the types of tests that are relevant.

Part 4.3—Lead

Division 1—Introductory matters

177 Application of Part

This Part applies to workplaces where a lead process is carried out.

Note

Part 4.1 (Hazardous substances) also imposes duties on employers in relation to labelling and safety data sheets.

178 What is a lead process?

A *lead process* consists of one or more of the following—

- (a) work that exposes a person to lead dust or lead fumes arising from the manufacture or handling of dry lead compounds;
- (b) work in connection with the manufacture, assembly, handling or repair of, or parts of, batteries containing lead that involves the manipulation of dry lead compounds or the pasting or casting of lead;
- (c) breaking up or dismantling of batteries containing lead, or sorting, packing and handling of plates or other parts containing lead removed or recovered from those batteries;
- (d) spraying with molten lead metal or alloys containing more than 5% by weight of lead metal;
- (e) melting or casting of lead alloys containing more than 5% by weight of lead metal in which the temperature of the molten material exceeds 450°C;

- (f) recovery of lead from its ores, oxides or other compounds by a thermal reduction process;
- (g) dry machine grinding, discing, buffing or cutting by power tools of lead containing more than 5% by weight of lead metal;
- (h) machine sanding or buffing of surfaces coated with paint containing more than 1% by dry weight of lead metal;
- (i) a process in which electric arc, oxy-acetylene, oxy gas, plasma arc or a flame is applied, for the purposes of welding, cutting or cleaning, to the surface of metal that is coated with lead or paint containing more than 1% by dry weight of lead metal;
- (j) radiator repairs if exposure to lead dust or lead fumes may occur;
- (k) fire assays, if lead is used;
- (l) hand grinding and finishing of lead or alloy containing more than 50% by weight of lead metal;
- (m) spray painting with lead paint containing more than 1% by dry weight of elemental lead;
- (n) melting of lead metal or alloy containing more than 50% by weight of lead metal if the exposed surface area of the molten material is more than 0.1 square metres and the temperature of the molten material does not exceed 450°C;
- (o) use of a power tool, including abrasive blasting and high pressure water jets, to remove any surface coated with paint containing more than 1% by dry weight

- of lead metal and the handling of waste containing lead resulting from that removal;
- (p) a process that exposes a person to lead dust or lead fumes arising from the manufacture or testing of detonators or other explosives that contain lead;
 - (q) a process that exposes a person to lead dust or lead fumes arising from the firing of weapons at an indoor firing range;
 - (r) foundry processes involving—
 - (i) the melting or casting of lead alloys containing more than 1% by weight of lead metal in which the temperature of the molten material exceeds 450°C; or
 - (ii) the dry machine grinding, discing, buffing or cutting by power tools of lead alloys containing more than 1% by weight of lead metal;
 - (s) a process at a workplace determined by the Authority under regulation 180 to be a lead process.

179 Women treated as being of reproductive capacity

For the purposes of this Part, a female employee engaged in a lead process is to be treated as being of reproductive capacity, unless she provides her employer with a written statement advising the contrary.

180 Authority may determine lead process

- (1) The Authority may determine a process to be a lead process.
- (2) The Authority must not determine a process to be a lead process unless the Authority forms the opinion that the health of employees at a workplace where the process is to be carried out

is at risk when blood lead levels of employees or airborne lead levels at the workplace are taken into account.

Note

A determination under this regulation is a reviewable decision (see regulation 524(a)).

181 Medical examinations and biological monitoring

- (1) In this Part, a requirement for a medical examination of a person is a requirement for a medical examination of the person to be conducted by a registered medical practitioner to monitor the person's health for the purpose of identifying changes in the person's health status due to occupational exposure to lead.
- (2) In this Part, a requirement for biological monitoring of a person is a requirement for biological monitoring that consists of the testing of the venous blood of the person by a pathology service accredited by NATA under the supervision of a registered medical practitioner to determine the amount of lead in the blood.

Division 2—Duties of employers

Subdivision 1—Provision of information

182 Information to job applicants

An employer must ensure that an applicant who applies for employment with the employer in a lead process is given information about the health risks and toxic effects associated with lead exposure and the need for, and details of, medical examinations and biological monitoring.

Penalty: 5 penalty units for a natural person;
25 penalty units for a body corporate.

183 Information to employees

Before an employee first starts work in a lead process over which an employer has control, the employer must ensure the employee is given information in relation to the need for, and details of, medical examinations and biological monitoring.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Subdivision 2—Control of risks associated with lead processes

184 Control of risk

- (1) An employer must, so far as is reasonably practicable, eliminate any risk associated with exposure to lead.
- (2) If it is not reasonably practicable to eliminate a risk associated with exposure to lead, the employer must reduce the risk so far as is reasonably practicable by—
 - (a) substituting lead with—
 - (i) a substance that is less hazardous; or
 - (ii) a less hazardous form of lead; or
 - (b) isolating the source of exposure to lead; or
 - (c) using engineering controls to reduce exposure to lead; or
 - (d) combining any of the risk control measures referred to in paragraphs (a), (b) and (c).

- (3) If the employer has complied with subregulations (1) and (2) so far as is reasonably practicable and a risk associated with exposure to lead remains, the employer must prevent or reduce exposure to lead so far as is reasonably practicable by using administrative controls.
- (4) If the employer has complied with subregulations (1), (2) and (3) so far as is reasonably practicable and a risk associated with exposure to lead remains, the employer must reduce the risk so far as is reasonably practicable by providing appropriate personal protective equipment to employees at risk.

Notes

- 1 Act compliance—sections 21 and 23 (see regulation 7).
- 2 Part 4 of the Act sets out the duty of the employer to consult with employees, including in respect of making decisions about the measures to be taken to control risks to health or safety. This consultation must involve the health and safety representative (if any). See also regulation 21.

185 Review of risk control measures

- (1) An employer must review and, if necessary, revise any measures implemented to control risks associated with exposure to lead—
 - (a) before any significant change is made to the lead process or a system of work that is related to the lead process; or
 - (b) if an employee has been removed from lead-risk work under regulation 199; or
 - (c) after any incident occurs to which Part 5 of the Act applies that involves exposure to lead; or
 - (d) if, for any other reason, the risk control measures do not adequately control the risks; or

- (e) after receiving a request from a health and safety representative.

Note

Act compliance—sections 21 and 23 (see regulation 7).

- (2) A health and safety representative may make a request under subregulation (1)(e) if the health and safety representative believes on reasonable grounds that—
 - (a) any of the circumstances referred to in subregulation (1)(a) to (d) exist; or
 - (b) the employer has failed—
 - (i) to properly review the risk control measures; or
 - (ii) to take account of any of the circumstances referred to in subregulation (1)(a) to (d) in conducting a review of, or revising, the risk control measures.

186 Lead exposure standard not to be exceeded

Reg. 186(1)
amended by
S.R. No.
71/2018
reg. 7(1).

- (1) Subject to subregulation (1A), an employer must ensure that an employee is not exposed to an airborne concentration of lead dust, lead mist or lead fumes in the employee's breathing zone at a workplace that exceeds 0.15 milligrams per cubic metre calculated as a time weighted average of the atmospheric concentration of lead over an 8-hour working day and a 40-hour working week.

Note

Act compliance—section 21 (see regulation 7).

Reg. 186(1A)
inserted by
S.R. No.
71/2018
reg. 7(2).

- (1A) On and from the date that is the 2-year anniversary of the commencement of the Occupational Health and Safety Amendment Regulations 2018, an employer must ensure that an employee is not exposed to an airborne

concentration of lead dust, lead mist or lead fumes in the employee's breathing zone at a workplace that exceeds 0.05 milligrams per cubic metre calculated as a time weighted average of the atmospheric concentration of lead over an 8-hour working day and a 40-hour working week.

Note

Act compliance—section 21 (see regulation 7).

- (2) An employer must monitor the airborne concentration of lead dust, lead mist or lead fumes at the employer's workplace if—
- (a) there is uncertainty (based on reasonable grounds) as to whether the lead exposure standard is or may be exceeded; or
 - (b) the monitoring is necessary to determine whether there is a risk to health.

Note

Act compliance—section 22(1) (see regulation 7).

187 Provision of results of monitoring

An employer must provide the results of any monitoring of the airborne concentration of lead dust, lead mist or lead fumes at the employer's workplace as soon as reasonably possible to any employee who has been, or may be, exposed to the lead dust, lead mist or lead fumes.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

188 Containment of lead

An employer must ensure, so far as is reasonably practicable, that any lead contamination is confined to the area where a lead process is undertaken.

Note

Act compliance—sections 21 and 23 (see regulation 7).

189 Cleaning methods

- (1) An employer must ensure, so far as is reasonably practicable, that an area where a lead process is undertaken is kept clean.

Note

Act compliance—sections 21 and 23 (see regulation 7).

- (2) An employer must ensure, so far as is reasonably practicable, that the methods used to clean in an area where a lead process is undertaken—
 - (a) do not create a risk to the health of persons in the immediate vicinity of the area being cleaned; and
 - (b) do not have the potential to spread the lead contamination.

Note

Act compliance—sections 21 and 23 (see regulation 7).

190 Prohibition on eating, drinking and smoking

- (1) An employer must ensure that a person does not do the following in any area where a lead process is undertaken—
 - (a) eat, drink, chew gum or smoke;
 - (b) carry food, drink, gum or materials used for smoking.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) An employer must, so far as is reasonably practicable, provide employees with an eating and drinking area that cannot be contaminated with lead from any lead process.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

191 Provision of changing and washing facilities

An employer must, so far as is reasonably practicable, provide and maintain changing and washing facilities for employees 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.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

192 Laundering, disposal and removal of protective clothing

- (1) An employer must provide for the laundering or disposal of protective clothing and work clothing if it is reasonably likely that the clothing is contaminated with lead dust.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) The employer must ensure that a person does not remove clothing required to be laundered or disposed of under subregulation (1) from the workplace, except to transfer the clothing to a commercial laundry or for disposal.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (3) The employer must ensure that clothing to be laundered or disposed of under subregulation (1), is bagged and labelled to indicate that the contents may be contaminated.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

Subdivision 3—Lead-risk work

Reg. 193
substituted by
S.R. No.
71/2018 reg. 8.

193 What is lead-risk work?

- (1) Subject to subregulation (2), in this Part, ***lead-risk work*** means work performed in a lead process that is reasonably likely to cause the blood lead level of the employee to exceed—
- (a) for a woman of reproductive capacity, 0.48 micromoles/litre (10 micrograms/decilitre); or
 - (b) in any other case, 1.45 micromoles/litre (30 micrograms/decilitre).
- (2) On and from the date that is the 2-year anniversary of the commencement of the Occupational Health and Safety Amendment Regulations 2018, in this Part, ***lead-risk work*** means work performed in a lead process that is reasonably likely to cause the blood lead level of the employee to exceed—
- (a) for a woman of reproductive capacity, 0.24 micromoles/litre (5 micrograms/decilitre); or
 - (b) in any other case, 0.97 micromoles/litre (20 micrograms/decilitre).

194 Identification of lead-risk work

- (1) An employer must identify a lead process as either—
 - (a) reasonably likely to cause blood lead levels of employees to exceed those set out in regulation 193; or
 - (b) not reasonably likely to cause blood lead levels of employees to exceed those set out in regulation 193.

Note

Act compliance—section 21 (see regulation 7).

- (2) For the purposes of subregulation (1), the employer must take into account the following—
 - (a) past biological monitoring results of employees;
 - (b) whether the airborne lead level is more than half the lead exposure standard;
 - (c) the form of lead to be used;
 - (d) the specific tasks or processes required to be undertaken with the lead;
 - (e) the likely frequency and duration of exposure to lead;
 - (f) possible routes of exposure to lead;
 - (g) any information about incidents, illnesses or diseases associated with the use of lead at the workplace.
- (3) For the purpose of identifying a lead process under subregulation (1), an employer must not take into account the effect of the use of personal protective equipment to control exposure to lead.

- (4) If an employer is unable to identify whether or not a lead process is a lead process referred to in subregulation (1)(a) or (b), the process is to be treated as being reasonably likely to cause blood lead levels of employees to exceed those set out in regulation 193 until the employer establishes otherwise.

195 Notice and recording of lead-risk work

- (1) An employer who identifies a lead process that is reasonably likely to cause blood lead levels of employees to exceed those set out in regulation 193 must notify the Authority of the identification in writing within 7 days after making the identification.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) A notice under subregulation (1) must include a reference to the type of lead process being undertaken.

- (3) The employer must keep a copy of a notice under subregulation (1) for the period that the lead process is undertaken at the workplace.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (4) The employer must make a copy of the notice required under subregulation (1) readily accessible to an employee who may be exposed to lead and the employee's relevant health and safety representative for the period that the lead process is undertaken at the workplace.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

196 Health monitoring before first starting lead-risk work

- (1) An employer must arrange for a medical examination for an employee and biological monitoring of an employee before the employee first starts lead-risk work.

Notes

- 1 Act compliance—section 22(1) (see regulation 7).
2 See regulation 181.

- (2) An employer must arrange for the biological monitoring of an employee to be conducted within one month after the employee starts lead-risk work.

Notes

- 1 Act compliance—section 22(1) (see regulation 7).
2 See regulation 181.

- (3) In this regulation the duties of an employer in relation to medical examination and biological monitoring extend to an independent contractor.

Note

Act compliance—section 23 (see regulation 7).

197 Health monitoring for work subsequently identified as lead-risk work

- (1) An employer must, as soon as reasonably possible after work is identified as lead-risk work, arrange for a registered medical practitioner to conduct a medical examination and biological monitoring of an employee engaged in that work if—
- (a) the work was not identified as lead-risk work at the time the employee was first engaged in the work; and
- (b) after the employee was engaged in the work, the work is identified as lead-risk work; and

- (c) the employer had not, before the identification of the work as lead-risk work, provided for a medical examination or biological monitoring of the employee.

Notes

- 1 Act compliance—section 22(1) (see regulation 7).
2 See regulation 181.

- (2) In this regulation the duties of an employer in relation to medical examinations and biological monitoring extend to an independent contractor.

Note

Act compliance—section 23 (see regulation 7).

198 Frequency of biological monitoring

Reg. 198(1)
amended by
S.R. No.
71/2018
reg. 9(1).

- (1) Subject to subregulation (1A), an employer must arrange for biological monitoring of all employees engaged in lead-risk work at the following intervals—
- (a) for a woman not of reproductive capacity or a man—
- (i) 6 months after the last biological monitoring if the result of the last monitoring shows a blood lead level of less than 1.45 micromoles/litre (30 micrograms/decilitre); or
- (ii) 3 months after the last biological monitoring if the result of the last monitoring shows a blood lead level of 1.45 micromoles/litre (30 micrograms/decilitre) or more but less than 1.93 micromoles/litre (40 micrograms/decilitre); or
- (iii) 6 weeks after the last biological monitoring if the result of the last monitoring shows a blood lead

level of 1·93 micromoles/litre
(40 micrograms/decilitre) or more;

- (b) for a woman of reproductive capacity—
- (i) 3 months after the last biological monitoring if the result of the last monitoring shows a blood lead level of less than 0·48 micromoles/litre (10 micrograms/decilitre); or
 - (ii) 6 weeks after the last biological monitoring if the result of the last monitoring shows a blood lead level of 0·48 micromoles/litre (10 micrograms/decilitre) or more.

Notes

- 1 Act compliance—section 22(1) (see regulation 7).
- 2 See regulation 181.

- (1A) On and from the date that is the 2-year anniversary of the commencement of the Occupational Health and Safety Amendment Regulations 2018, an employer must arrange for biological monitoring of all employees engaged in lead-risk work at the following intervals—

**Reg. 198(1A)
inserted by
S.R. No.
71/2018
reg. 9(2).**

- (a) for a woman not of reproductive capacity or a man—
- (i) 6 months after the last biological monitoring if the result of the last monitoring shows a blood lead level of less than 0·48 micromoles/litre (10 micrograms/decilitre); or
 - (ii) 3 months after the last biological monitoring if the result of the last monitoring shows a blood lead level of 0·48 micromoles/litre (10 micrograms/decilitre) or more

- but less than 0.97 micromoles/litre
(20 micrograms/decilitre); or
- (iii) 6 weeks after the last biological
monitoring if the result of the last
monitoring shows a blood lead
level of 0.97 micromoles/litre
(20 micrograms/decilitre) or more;
- (b) for a woman of reproductive capacity—
- (i) 3 months after the last biological
monitoring if the result of the
last monitoring shows a blood lead
level of less than 0.24 micromoles/
litre (5 micrograms/decilitre); or
- (ii) 6 weeks after the last biological
monitoring if the result of the last
monitoring shows a blood lead
level of 0.24 micromoles/litre
(5 micrograms/decilitre) or more
but less than 0.48 micromoles/
litre (10 micrograms/decilitre).

Notes

- 1 Act compliance—section 22(1) (see regulation 7).
2 See regulation 181.

- (2) An employer must increase the frequency of
biological monitoring if the employee is carrying
out an activity that is reasonably likely to
significantly change the nature or increase the
duration or frequency of the employee's lead
exposure.

Note

Act compliance—section 22(1) (see regulation 7).

- (3) The Authority may determine a different
frequency for biological monitoring for a
workplace or for a class of employees
performing lead-risk work, having regard to—

- (a) the nature of the work and likely duration and frequency of exposure; and
 - (b) the likelihood that the blood lead level of employees will significantly increase.
- (4) If the Authority makes a determination under subregulation (3), and the determination applies to an employer's workplace or employees, the employer must provide the biological monitoring required by subregulation (1) or (1A) in relation to the workplace or employees at the frequency specified in the determination.

Reg. 198(4)
amended by
S.R. No.
71/2018
reg. 9(3).

Note

Act compliance—section 22(1) (see regulation 7).

- (5) In this regulation the duties of an employer in relation to biological monitoring extend to an independent contractor.

Note

Act compliance—section 23 (see regulation 7).

199 Removal from lead-risk work

- (1) Subject to subregulation (1A), an employer must immediately remove an employee from lead-risk work if—
- (a) the results of biological monitoring reveal that the blood lead level of the employee is at or exceeding—
 - (i) for a woman not of reproductive capacity or a man, 2·41 micromoles/litre (50 micrograms/decilitre); or
 - (ii) for a woman of reproductive capacity, 0·97 micromoles/litre (20 micrograms/decilitre); or

Reg. 199(1)
amended by
S.R. No.
71/2018
reg. 10(1).

- (iii) for a woman who is pregnant or breastfeeding, 0.72 micromoles/litre (15 micrograms/decilitre); or
- (b) following a medical examination by a registered medical practitioner, the practitioner is of the opinion that the employee must be removed from the work; or
- (c) there is an indication that risk control measures have failed and, as a result, it is likely that the blood lead level of the employee will reach or exceed the levels set out in paragraph (a).

Note

Act compliance—section 21 (see regulation 7).

Reg. 199(1A)
inserted by
S.R. No.
71/2018
reg. 10(2).

- (1A) On and from the date that is the 2-year anniversary of the commencement of the Occupational Health and Safety Amendment Regulations 2018, an employer must immediately remove an employee from lead-risk work if—
 - (a) the results of biological monitoring reveal that the blood lead level of the employee is at or exceeding—
 - (i) for a woman not of reproductive capacity or a man, 1.45 micromoles/litre (30 micrograms/decilitre); or
 - (ii) for a woman of reproductive capacity, 0.48 micromoles/litre (10 micrograms/decilitre); or
 - (b) following a medical examination by a registered medical practitioner, the practitioner is of the opinion that the employee must be removed from the work; or

- (c) there is an indication that risk control measures have failed and, as a result, it is likely that the blood lead level of the employee will reach or exceed the levels set out in paragraph (a).

Note

Act compliance—section 21 (see regulation 7).

- (2) In this regulation the duties of an employer in relation to removal of an employee from lead-risk work extend to an independent contractor.

Note

Act compliance—section 23 (see regulation 7).

200 Medical examination if removed from lead-risk work

- (1) If an employee has been removed from lead-risk work under regulation 199(1)(a) or (c), or regulation 199(1A)(a) or (c), the employer must provide for the employee to have a medical examination by a registered medical practitioner within 7 days after the removal.

Reg. 200(1)
amended by
S.R. No.
71/2018
reg. 11(1).

Note

Act compliance—section 22(1) (see regulation 7).

- (2) Subject to subregulation (3), if a medical examination of an employee removed under regulation 199(1)(c) reveals that the blood lead level of the employee is below the relevant level set out in regulation 199(1)(a), and the medical practitioner agrees, the employer may allow the employee to return to the lead-risk work.
- (3) On and from the date that is the 2-year anniversary of the commencement of the Occupational Health and Safety Amendment Regulations 2018, if a medical examination of an employee removed under regulation 199(1)(c) or (1A)(c) reveals that the blood lead level of the

Reg. 200(2)
amended by
S.R. No.
71/2018
reg. 11(2).

Reg. 200(3)
inserted by
S.R. No.
71/2018
reg. 11(3).

employee is below the relevant level set out in regulation 199(1A)(a), and the medical practitioner agrees, the employer may allow the employee to return to the lead-risk work.

201 Return after medical removal

Reg. 201(1)
amended by
S.R. No.
71/2018
reg. 12(1).

- (1) This regulation applies if an employer expects that an employee will return to lead-risk work after removal from the work under regulation 199(1)(a) or (b), or regulation 199(1A)(a) or (b).
- (2) The employer must arrange for the employee to be re-examined by a registered medical practitioner, at a frequency determined by the registered medical practitioner, to assess whether the employee is suitable to return to lead-risk work.

Note

Act compliance—section 22(1) (see regulation 7).

Reg. 201(3)
amended by
S.R. No.
71/2018
reg. 12(2).

- (3) Subject to subregulation (3A), the employer must ensure that the employee does not return to lead-risk work until—
 - (a) the employee's blood lead level is less than—
 - (i) for a woman not of reproductive capacity or a man, 1·93 micromoles/litre (40 micrograms/decilitre); or
 - (ii) for a woman of reproductive capacity, 0·48 micromoles/litre (10 micrograms/decilitre); and
 - (b) a registered medical practitioner certifies that the employee is fit to return to the lead-risk work.

Note

Act compliance—section 21 (see regulation 7).

Reg. 201(3A)
inserted by
S.R. No.
71/2018
reg. 12(3).

- (3A) On and from the date that is the 2-year anniversary of the commencement of the Occupational Health and Safety Amendment Regulations 2018, the employer must ensure that the employee does not return to lead-risk work until—
- (a) the employee's blood lead level is less than—
 - (i) for a woman not of reproductive capacity or a man, 0.97 micromoles/litre (20 micrograms/decilitre); or
 - (ii) for a woman of reproductive capacity, 0.24 micromoles/litre (5 micrograms/decilitre); and
 - (b) a registered medical practitioner certifies that the employee is fit to return to the lead-risk work.

Note

Act compliance—section 21 (see regulation 7).

- (4) In this regulation the duties of an employer in relation to an employee returning to work after removal from lead-risk work extend to an independent contractor.

Note

Act compliance—section 21 (see regulation 7).

202 Requirements for medical examinations

- (1) An employer must provide a registered medical practitioner who is to conduct a medical examination of a person required by this Part with the following details—
- (a) the name and address of the employer;
 - (b) the name and date of birth of the person to be examined;

- (c) the lead process the person is engaged in;
- (d) the period the person has been engaged in that process.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) The employer must ensure that the registered medical practitioner provides the employer with a report setting out details of—

- (a) the dates of examinations and blood sampling; and
- (b) the results of the biological monitoring and any other tests; and
- (c) the name of any pathology service used .

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (3) The employer must ensure that the registered medical practitioner provides the employer with details of any opinion formed by the practitioner after the medical examination as to whether the person examined—

- (a) is suitable on medical grounds to perform lead-risk work; or
- (b) has excessive lead absorption and must not perform lead-risk work; or
- (c) shows symptoms or signs of clinical lead poisoning and is unfit to work; or
- (d) is fit to return to lead-risk work; or
- (e) is fit to continue performing lead-risk work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

203 Information to go to Authority

- (1) This regulation applies if an employer has removed a person from lead-risk work under regulation 199.
- (2) The employer must ensure that a copy of the results of biological monitoring is sent to the Authority as soon as reasonably possible after the employer receives them.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (3) If a person is not allowed to return to lead-risk work under regulation 200(2), the employer must ensure that a copy of the report of the medical examination conducted under regulation 200, setting out the details required by regulation 202(2), is sent to the Authority as

soon as reasonably possible after the employer receives it.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

204 Records

An employer must keep the report of a medical examination provided to the employer by a registered medical practitioner under this Part, and all the results of biological monitoring of a person provided for by the employer under this Part, for—

- (a) a period (not exceeding 30 years) determined by the Authority; or

(b) if no period has been determined by the Authority, 30 years.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Division 3—Employee duties

205 Eating, drinking, smoking etc.

- (1) An employee must not do the following in any area where a lead process is undertaken—
- (a) eat, drink, chew gum or smoke; or
 - (b) carry food, drink, gum or materials used for smoking.

Penalty: 100 penalty units.

- (2) An employee who has been in an area where a lead process is undertaken must remove any lead contaminated clothing and equipment the employee has used before entering an area designated for eating and drinking.

Penalty: 100 penalty units.

- (3) An employee who has been in any area where a lead process is undertaken must wash the employee's hands and face after leaving the area and before eating, drinking or smoking.

Penalty: 100 penalty units.

Part 4.4—Asbestos

Division 1—Introductory matters

206 Application of Part

This Part does not apply to construction or demolition material—

- (a) produced in accordance with an auditable process, determined by the Authority, to verify that asbestos-containing material has been removed from that material; and
- (b) of which less than 0.001% is asbestos-containing material measured using a method determined by the Authority.

Notes

- 1 The processing of construction or demolition material to remove asbestos-containing material in accordance with the method determined under paragraph (b) is covered in Division 8.
- 2 The Authority must publish a notice of any determinations it makes in the Government Gazette in accordance with regulation 6.

207 Independent person

- (1) In this Part a person is an independent person in relation to carrying out a relevant function in relation to asbestos removal work if the person—
 - (a) is independent from the following, if applicable—
 - (i) the employer or self-employed person performing the asbestos removal work;

- (ii) the person who commissioned the asbestos removal work;
 - (iii) the asbestos removal licence holder performing the asbestos removal work; and
 - (b) does not have a conflict of interest in carrying out the relevant function; and
 - (c) has the requisite knowledge, skills and experience to carry out the relevant function.
- (2) In this regulation—

relevant function means—

- (a) the determination of airborne asbestos fibre levels under regulation 250; or
- (b) the visual inspection of an area for visible asbestos residue under regulation 294; or
- (c) the giving of a clearance certificate under regulation 297.

208 Asbestos-contaminated dust

For the purpose of this Part, if there is uncertainty (based on reasonable grounds) as to whether dust is contaminated with asbestos a person must—

- (a) assume the dust is contaminated with asbestos; or
- (b) arrange for analysis of a sample to be undertaken.

Division 2—General requirements

209 Control risk of exposure—person who manages or controls workplace

- (1) A person who manages or controls a workplace—
 - (a) must, so far as is reasonably practicable, eliminate the exposure of persons at the workplace to airborne asbestos fibres; or
 - (b) if it is not reasonably practicable to eliminate that exposure, must reduce that exposure so far as is reasonably practicable.

Note

Act compliance—section 26 (see regulation 7).

- (2) Without limiting subregulation (1), a person who manages or controls a workplace must ensure that a person at the workplace is not exposed to an atmospheric concentration of asbestos fibres in excess of the asbestos exposure standard.

Note

Act compliance—section 26 (see regulation 7).

- (3) A person who manages or controls a workplace must ensure that a determination of an employee's exposure to airborne asbestos fibres at the workplace is carried out if there is uncertainty (based on reasonable grounds) as to whether the asbestos exposure standard has been exceeded.

Note

Act compliance—sections 21 and 26 (see regulation 7).

- (4) A person who manages or controls a workplace must ensure that copies of the results of atmospheric monitoring are readily accessible to an employer at the workplace.

Note

Act compliance—section 26 (see regulation 7).

210 Control risk of exposure—employer or self-employed person

- (1) An employer or self-employed person must ensure that a person is not exposed to an atmospheric concentration of asbestos fibres arising from the conduct of an undertaking of the employer or self-employed person in excess of the asbestos exposure standard.
- (2) For the purposes of subregulation (1), the employer or self-employed person must, so far as is reasonably practicable, eliminate the exposure of persons at the workplace to airborne asbestos fibres, arising from the undertaking of the employer or self-employed person.
- (3) If it is not reasonably practicable to eliminate the exposure of persons at the workplace to airborne asbestos fibres arising from the undertaking of the employer or self-employed person, the employer or self-employed person must reduce that exposure so far as is reasonably practicable.

Notes

- 1 Act compliance—sections 21, 23 and 24 (see regulation 7).
- 2 Part 4 of the Act sets out the duty of the employer to consult with employees, including in respect of making decisions about the measures to be taken to control risks to health or safety. This consultation must involve the health and safety representative (if any). See also regulation 21.

211 Determination of employee's exposure

An employer must ensure that a determination of an employee's exposure to airborne asbestos fibres at the workplace is carried out if there is uncertainty (based on reasonable grounds) as to whether the asbestos exposure standard has been exceeded.

Note

Act compliance—sections 21 and 23 (see regulation 7).

212 Results of atmospheric monitoring to be available

An employer must ensure that copies of the results of atmospheric monitoring for airborne asbestos fibres at the workplace are readily accessible to the health and safety representative of any affected designated work group and to affected employees.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

213 Analysis by approved asbestos laboratory

- (1) If an analysis of any sample is required under this Part the analysis must be undertaken by an approved asbestos laboratory.
- (2) The analysis results must be reported in accordance with the requirements of NATA or the scheme under which the laboratory was approved.

Division 3—Prohibitions under the Occupational Health and Safety Act 2004

214 Asbestos removal work

- (1) An employer, a self-employed person or a person who manages or controls a workplace must not perform asbestos removal work, or arrange for asbestos removal work to be performed, in respect of the workplace except in accordance with Division 7.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) Subregulation (1) does not apply if the asbestos removal work is for—
 - (a) the purpose of sampling and identification;
or

- (b) the removal of asbestos encountered in the course of non-asbestos mining or the extraction of stone.

215 Removal of contaminated protective clothing

- (1) An employer or self-employed person must not remove from a workplace protective clothing contaminated with asbestos unless the clothing is—
 - (a) disposed of—
 - (i) as soon as reasonably possible; and
 - (ii) in an appropriate manner that eliminates the release of airborne asbestos fibres; and
 - (iii) at premises—
 - (A) in respect of which the occupier is licensed by the Environment Protection Authority to dispose of asbestos waste; or
 - (B) to which regulation 12 of the Environment Protection (Scheduled Premises and Exemptions) Regulations 2007² applies in relation to the disposal; or
 - (C) set out in a classification issued under regulation 11(1)(b) of the Environment Protection (Industrial Waste Resource) Regulations 2009 that classifies asbestos waste as non-prescribed industrial waste;
 - (b) laundered at a laundry equipped to launder clothing contaminated with asbestos and for that purpose the clothing is contained so as

to eliminate the release of airborne asbestos fibres and the exterior of the container—

- (i) is decontaminated before being removed from the work area; and
- (ii) indicates the presence of asbestos before the clothing is transferred to the laundry.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (2) Subregulation (1) does not apply if the contamination arises from asbestos removal work under Division 7 or carrying out asbestos related activities under Division 8.

Note

Divisions 7 and 8 have specific requirements relating to the disposal and laundering of asbestos-contaminated clothing.

216 Use of certain tools or instruments

- (1) An employer or self-employed person must not use the following or cause the following to be used on asbestos unless the use is controlled—
 - (a) a broom;
 - (b) a brush (except where the brush is used for sealing);
 - (c) a high pressure water jet, power tool or other similar tool or instrument.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (2) Subregulation (1) does not apply if airborne asbestos fibre levels are not in excess of 0.01 f/ml while the tool or instrument is in use.

- (3) For the purposes of subregulation (1), the use of the tool or instrument is controlled, if, while the tool or instrument is in use—
- (a) the tool or instrument is enclosed; or
 - (b) engineering controls are used; or
 - (c) a combination of the methods in paragraphs (a) and (b) is used—

so that the employer or self-employed person ensures that a person is not likely to be exposed to more than one half of the asbestos exposure standard.

- (4) An employer or self-employed person must not rely on respiratory protective equipment to ensure that one half of the asbestos exposure standard is not exceeded.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (5) An employer or self-employed person must not use or cause to be used compressed air or other compressed gases—
- (a) on asbestos, except in areas enclosed to prevent the release of airborne asbestos fibres from the enclosed area; or
 - (b) within 6 metres of an activity involving asbestos unless the use of that air or gas does not result in airborne asbestos fibres that exceed one half of the asbestos exposure standard.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (6) An employer or self-employed person must not rely on respiratory protective equipment to control a risk under subregulation (5)(b).

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

Division 4—Prohibitions under the Dangerous Goods Act 1985

Note

The Australian Government restricts the import and export of asbestos and goods containing asbestos under the Commonwealth's Customs (Prohibited Imports) Regulations 1956 and Customs (Prohibited Exports) Regulations 1958.

Subdivision 1—Application of Division

217 General exclusions

- (1) Regulations 219 to 223 and 224(c) do not apply for the purpose of—
- (a) scientific analysis or research; or
 - (b) sampling and identification; or
 - (c) retention of asbestos samples for demonstration, education or practical training purposes; or
 - (d) non-asbestos mining or the extraction of stone if asbestos is encountered.

Note

Activities under paragraphs (a) and (b) are asbestos-related activities under Division 8.

- (2) Regulations 219 to 223 and 224(c) do not apply to soil from which visible asbestos-containing material has been removed, so far as is reasonably

practicable, by the person proposing to supply, store, transport, sell, use or re-use the soil.

Note

Any person supplying, storing, transporting, selling, using or re-using soil must visually inspect the soil and remove any visible asbestos-containing material from the soil.

Subdivision 2—Prohibitions

218 Manufacture of asbestos

A person must not manufacture asbestos-containing material.

Penalty: 100 penalty units for a natural person;
400 penalty units for a body corporate.

219 Supply of asbestos

- (1) Subject to subregulation (2), a person must not supply asbestos to any person.

Penalty: 100 penalty units for a natural person;
400 penalty units for a body corporate.

- (2) Subregulation (1) does not apply to the supply of asbestos fixed to or installed in a building, structure, ship, plant, aircraft or vehicle as at 31 December 2003.

220 Storage of asbestos

- (1) Subject to subregulation (2), a person must not store asbestos.

Penalty: 100 penalty units for a natural person;
400 penalty units for a body corporate.

- (2) Subregulation (1) does not apply to—

- (a) the storage of asbestos waste or non-disposable personal protective clothing likely to be contaminated with asbestos that is—

- (i) being stored for the purpose of disposal, or in the case of non-disposable personal protective clothing contaminated with asbestos, stored for the purpose of laundering; and
 - (ii) stored securely and identified to indicate the likely or actual presence of asbestos; and
 - (iii) contained so as to eliminate the release of airborne asbestos fibres; and
 - (iv) disposed of as soon as reasonably possible, or, in the case of non-disposable personal protective clothing contaminated with asbestos, laundered as soon as reasonably possible; or
- (b) asbestos fixed to or installed in a building, structure, ship, plant, aircraft or vehicle as at 31 December 2003.

221 Transport of asbestos

- (1) Subject to subregulation (2), a person must not transport asbestos.

Penalty: 100 penalty units for a natural person;
400 penalty units for a body corporate.

- (2) Subregulation (1) does not apply to—
- (a) the transport of asbestos and asbestos waste for the purpose of disposal or, in the case of non-disposable personal protective clothing contaminated with asbestos, for the purpose of laundering; or

- (b) the transport of asbestos fixed to or installed in a building, structure, vehicle, aircraft, ship or plant as at 31 December 2003.

Note

The transport of prescribed industrial waste for a fee or reward (including asbestos waste) is regulated by the Environmental Protection Authority.

222 Sale of asbestos

- (1) Subject to subregulation (2), a person must not sell asbestos.

Penalty: 100 penalty units for a natural person;
400 penalty units for a body corporate.

- (2) Subregulation (1) does not apply to the sale of asbestos fixed to or installed in a building, structure, ship, plant, aircraft or vehicle as at 31 December 2003.

223 Use of asbestos

- (1) Subject to subregulation (2), a person must not use asbestos.

Penalty: 100 penalty units for a natural person;
400 penalty units for a body corporate.

- (2) Subregulation (1) does not apply to asbestos fixed to or installed in a building, structure, ship, plant, aircraft or vehicle as at 31 December 2003.

224 Re-use, installation and replacement of asbestos

A person must not—

- (a) fix asbestos-containing material to, or install asbestos-containing material in, any building, structure, ship, plant, aircraft or vehicle; or
- (b) replace any part of a building, structure, ship, vehicle, aircraft or plant with asbestos-containing material; or

(c) re-use any asbestos.

Penalty: 100 penalty units for a natural person;
400 penalty units for a body corporate.

Note

When fixed or installed asbestos needs to be replaced, a material that does not contain asbestos must be used.

Division 5—Asbestos in workplaces

Subdivision 1—Application of Division

225 Application of Division

- (1) This Division applies to a workplace where asbestos is present in a building, structure, ship or plant or has been identified elsewhere at the workplace.
- (2) This Division does not apply to a domestic premises that is a workplace only because of work being performed by an employer or self-employed person engaged to perform the work.

Subdivision 2—Duties of persons who manage or control workplaces

226 Identification of asbestos

- (1) A person who manages or controls a workplace must, so far as is reasonably practicable, identify all asbestos present that is under the person's management or control.

Note

Act compliance—section 26 (see regulation 7).

- (2) If there is uncertainty (based on reasonable grounds) as to whether asbestos is present, or if there are inaccessible areas that are likely to contain asbestos, the person who manages or controls the workplace must—

- (a) assume that asbestos is present; or
- (b) arrange for analysis of a sample to be undertaken.

Note

Act compliance—section 26 (see regulation 7).

- (3) If asbestos is assumed to be present under subregulation (2), it is taken to be identified for the purposes of this Part.
- (4) In relation to asbestos that is identified, the person who manages or controls the workplace must determine—
 - (a) the location of the asbestos; and
 - (b) the likely source of asbestos that is not fixed or installed; and
 - (c) in relation to asbestos-containing material—
 - (i) the type of asbestos-containing material; and
 - (ii) whether the asbestos-containing material is friable or non-friable; and
 - (iii) the condition of the asbestos-containing material; and
 - (iv) whether the asbestos-containing material is likely to sustain damage or deterioration; and
 - (d) so far as is possible, any activities likely to be carried out at the workplace that are, in view of their nature or design, likely to damage or disturb the asbestos.

Note

Act compliance—section 26 (see regulation 7).

- (5) In relation to inaccessible areas that are likely to contain asbestos, the person who manages or controls the workplace must comply with subregulation (4)(a) and (b) so far as is possible.

Note

Act compliance—section 26 (see regulation 7).

- (6) In relation to asbestos that is identified, the person who manages or controls the workplace must ensure that—
- (a) the presence and location of the asbestos is clearly indicated; and
 - (b) if reasonably practicable, the indication is by labelling.

Note

Act compliance—section 26 (see regulation 7).

227 Asbestos register

- (1) A person who manages or controls a workplace must record in an asbestos register, in accordance with subregulation (2), the results of an identification of asbestos conducted by the person under regulation 226.

Note

Act compliance—section 26 (see regulation 7).

- (2) The asbestos register must contain—
- (a) information in relation to the matters determined under regulation 226(4); and
 - (b) details of inaccessible areas that are likely to contain asbestos; and
 - (c) the date of each identification.

228 Asbestos register to be kept current

- (1) A person who manages or controls a workplace must revise the asbestos register to keep it current and include any changes of condition and any removal, enclosure or sealing of asbestos.

Note

Act compliance—section 26 (see regulation 7).

- (2) Without limiting subregulation (1), the person who manages or controls a workplace must ensure that the asbestos register is reviewed and, if necessary, revised at least every 5 years.

Notes

- 1 Act compliance—section 26 (see regulation 7).
- 2 See also the obligation to review and revise the asbestos register under regulation 241.

229 Access to asbestos register

- (1) A person who manages or controls a workplace must provide a copy of the asbestos register to—
 - (a) any employer or self-employed person whose business is located at the workplace; and
 - (b) an asbestos removal licence holder engaged to do asbestos removal work; and
 - (c) a person who is required to obtain a copy under regulation 305, and who requests a copy from the person who manages or controls the workplace.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) A person who manages or controls a workplace must inform any person engaged to do work at that workplace that involves the risk of exposure

to airborne asbestos fibres of the asbestos register and must provide access to that register.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (3) If access is requested, a person who manages or controls a workplace must provide access to the asbestos register to any other person engaged by that person to do work at that workplace.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Note

This would include giving access to a "designer" under the Act.

- (4) If a copy is requested, a person who manages or controls a workplace must provide a copy of the asbestos register to an employer or self-employed person who intends to occupy the workplace.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

230 Provision of register by person relinquishing management or control

A person who manages or controls a workplace who intends to relinquish that management or control must provide a copy of the asbestos register to the person, if any, assuming management or control.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

231 Control of risk

- (1) A person who manages or controls a workplace must, so far as is reasonably practicable, eliminate any risk associated with the presence of asbestos

that is under the person's management or control by removing the asbestos.

Note

Act compliance—section 26 (see regulation 7).

- (2) If it is not reasonably practicable to remove the asbestos, the person who manages or controls a workplace must reduce the risk associated with the presence of asbestos so far as is reasonably practicable by enclosing the asbestos.

Note

Act compliance—section 26 (see regulation 7).

- (3) If the person who manages or controls a workplace has enclosed the asbestos, so far as is reasonably practicable, and a risk remains, the person must reduce the risk associated with the presence of asbestos so far as is reasonably practicable by sealing the asbestos.

Note

Act compliance—section 26 (see regulation 7).

232 Review of risk control measures

A person who manages or controls a workplace must review and, if necessary, revise any measures implemented to control risks associated with the presence of asbestos—

- (a) before any change is made to the workplace or a building, structure, ship or plant at the workplace or a system of work that is likely to disturb or damage any asbestos; or
- (b) after any incident occurs to which Part 5 of the Act applies that involves the presence of asbestos; or

- (c) if, for any other reason, the risk control measures do not adequately control the risks.

Note

Act compliance—section 26 (see regulation 7).

Subdivision 3—Duties of employers

233 Identification of asbestos

- (1) An employer at any workplace to which this Division applies must—
 - (a) if another person manages or controls the workplace, obtain from that person a copy of the asbestos register; and
 - (b) so far as is reasonably practicable, identify all asbestos present that is under the management or control of the employer, including asbestos-containing material that is fixed to or installed in any plant under the management or control of the employer.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (2) For the purpose of complying with subregulation (1)(b), if there is uncertainty (based on reasonable grounds) as to whether any material of which the employer has management or control is asbestos, or if there are inaccessible areas that are likely to contain asbestos, the employer must—
 - (a) assume that asbestos is present; or
 - (b) arrange for analysis of a sample to be undertaken.
- (3) If asbestos is assumed to be present under subregulation (2), it is taken to be identified for the purposes of this Part.

- (4) In relation to asbestos that is identified, the employer must determine—
- (a) the location of the asbestos; and
 - (b) the likely source of asbestos that is not fixed or installed; and
 - (c) in relation to asbestos-containing material—
 - (i) the type of asbestos-containing material; and
 - (ii) whether the asbestos-containing material is friable or non-friable; and
 - (iii) the condition of the asbestos-containing material; and
 - (iv) whether the asbestos-containing material is likely to sustain damage or deterioration; and
 - (d) so far as is possible, any activities likely to be carried out at the workplace that are, in view of their nature or design, likely to damage or disturb any asbestos at the workplace.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (5) In relation to inaccessible areas that are likely to contain asbestos, the employer must comply with subregulation (4)(a) and (b) so far as is possible.
- (6) In relation to asbestos that is identified under subregulation (1)(b), the employer must ensure that—
- (a) the presence and location of the asbestos are clearly indicated; and

- (b) if reasonably practicable, the indication is by labelling.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

234 Information about risks to be given to person who manages or controls workplace

An employer must notify the person who manages or controls the workplace about any risks that the employer identifies that are associated with—

- (a) the presence of asbestos under the control or management of the person who manages or controls the workplace; and
- (b) an activity carried out by the employer.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

235 Employer's asbestos register

- (1) An employer must record in an employer's asbestos register, in accordance with subregulation (2), the results of any identification of asbestos conducted by the employer under regulation 233.

Note

Act compliance—sections 21 and 23 (see regulation 7).

- (2) The employer's asbestos register must contain—
 - (a) information in relation to the matters determined under regulation 233(4); and
 - (b) details of inaccessible areas that are likely to contain asbestos; and
 - (c) the date when the identification is made; and
 - (d) a copy of any asbestos register obtained under regulation 233(1)(a); and

- (e) information in relation to any activity carried out by the employer that could give rise to a risk of exposure to airborne asbestos fibres.

236 Employer's asbestos register to be kept current

- (1) An employer must revise the employer's asbestos register to keep it current and include any changes in the condition of the asbestos and any removal, enclosure or sealing of asbestos.

Note

Act compliance—sections 21 and 23 (see regulation 7).

- (2) If the health and safety representative for an affected designated work group so requests, on reasonable grounds, the employer must review and, if necessary, revise the employer's asbestos register.

Note

Act compliance—sections 21 and 23 (see regulation 7).

- (3) Without limiting subregulations (1) and (2), the employer must ensure that the employer's asbestos register is reviewed and, if necessary, revised at least every 5 years.

Notes

- 1 Act compliance—sections 21 and 23 (see regulation 7).
- 2 See also the obligation to review and revise the employer's asbestos register under regulation 242.

237 Access to employer's asbestos register

An employer must—

- (a) ensure that a copy of the employer's asbestos register is readily accessible to any employee of the employer; and

- (b) provide a copy of the employer's asbestos register to—
 - (i) the health and safety representative of an affected designated work group; and
 - (ii) an asbestos removal licence holder who has been engaged to do asbestos removal work; and
 - (iii) a person who is required to obtain a copy under regulation 305, and who requests a copy; and
- (c) inform any person engaged to do work at the employer's workplace that involves the risk of exposure to airborne asbestos fibres of the employer's asbestos register and provide access to that register; and
- (d) if requested, provide access to the employer's asbestos register to any other person engaged to do work by the employer.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

Note

Paragraph (d) would include giving access to a designer engaged by the employer.

238 Control of risk

- (1) An employer must, so far as is reasonably practicable, eliminate any risk associated with the presence of asbestos that is under the management or control of the employer by removing the asbestos.
- (2) If it is not reasonably practicable to remove the asbestos, the employer must reduce the risk associated with the presence of asbestos so far as is reasonably practicable by enclosing the asbestos.

- (3) If the employer has enclosed the asbestos, so far as is reasonably practicable, and a risk remains, the employer must reduce the risk associated with the presence of asbestos so far as is reasonably practicable by sealing the asbestos.

Notes

- 1 Act compliance—sections 21 and 23 (see regulation 7).
- 2 Part 4 of the Act sets out the duty of the employer to consult with employees, including in respect of making decisions about the measures to be taken to control risks to health or safety. This consultation must involve the health and safety representative (if any). See also regulation 21.

239 Review of risk control measures

- (1) An employer must review and, if necessary, revise any measures implemented to control risks associated with the presence of asbestos—
- (a) before any change is made to the workplace or a building, structure, ship or plant at the workplace or a system of work that is likely to disturb or damage any asbestos; or
 - (b) after any incident occurs to which Part 5 of the Act applies that involves the presence of asbestos; or
 - (c) if, for any other reason, the risk control measures do not adequately control the risks; or
 - (d) after receiving a request from a health and safety representative.

Note

Act compliance—sections 21 and 23 (see regulation 7).

- (2) A health and safety representative may make a request under subregulation (1)(d) if the health and safety representative believes on reasonable grounds that—

- (a) any of the circumstances referred to in subregulation (1)(a), (b) and (c) exist; or
- (b) the employer has failed—
 - (i) to properly review the risk control measures; or
 - (ii) to take account of any of the circumstances referred to in subregulation (1)(a), (b) and (c) in conducting a review of, or revising, the risk control measures.

Division 6—Demolition and refurbishment where asbestos is present

240 Application of Division

- (1) This Division applies to carrying out demolition or refurbishment work at a workplace on a building, structure, ship or plant where asbestos is present or elsewhere at the workplace where asbestos has been identified.
- (2) In this Division, demolition and refurbishment work do not include minor or routine maintenance work or other work of a minor nature.
- (3) For the purposes of this Division, an emergency exists if a building or structure is structurally unsound or in danger of imminent collapse as determined—
 - (a) by an emergency order issued under the **Building Act 1993**; or
 - (b) in a report by a structural engineer.
- (4) This Division applies in relation to domestic premises that become a workplace due to demolition or refurbishment work being performed.

241 Review of asbestos register

- (1) Before demolition or refurbishment work commences at a workplace, the person who manages or controls the workplace must—
 - (a) review the asbestos register; and
 - (b) revise the asbestos register if it is inadequate having regard to the proposed demolition or refurbishment work.

Example

The asbestos register may be inadequate if it identifies areas that are inaccessible that are likely to contain asbestos and those areas will be accessible as a result of demolition or refurbishment work.

Note

Act compliance—section 26 (see regulation 7).

- (2) The person who manages or controls a workplace must provide the employer or self-employed person who is to perform demolition or refurbishment work at the workplace with a copy of the asbestos register, including any revisions made under this regulation.

Note

Act compliance—section 26 (see regulation 7).

242 Review of employer's asbestos register

- (1) Before demolition or refurbishment work commences at a workplace, an employer who has management or control of asbestos, including asbestos-containing material that is fixed or installed in any plant under the management or control of the employer, must—

- (a) review the employer's asbestos register; and
- (b) revise the employer's asbestos register if it is inadequate having regard to the proposed demolition or refurbishment work.

Example

The employer's asbestos register may be inadequate if it identifies areas that are inaccessible that are likely to contain asbestos and those areas will become accessible as a result of the demolition or refurbishment work.

Note

Act compliance—section 21 (see regulation 7).

- (2) The employer must provide the employer or self-employed person who is to perform the demolition or refurbishment work with a copy of the employer's asbestos register, including any revisions made under this regulation.

Note

Act compliance—section 21 (see regulation 7).

243 Copies of asbestos registers to be obtained

- (1) This regulation applies if an employer or self-employed person is performing demolition or refurbishment work in relation to a building, structure, ship or plant at a workplace.
- (2) The employer or self-employed person must obtain from the person who has management or control of the workplace, a copy of the asbestos register, including any revisions made under regulation 241.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (3) The employer or self-employed person performing the demolition or refurbishment work must obtain from an employer who has management or control of asbestos, including asbestos-containing material that is fixed or

installed in any plant under the management or control of the employer, a copy of the employer's asbestos register, including any revisions made under regulation 242.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

244 Identification and removal of asbestos before demolition or refurbishment

- (1) A person who manages or controls a workplace or plant that forms part of a workplace must identify asbestos under that person's management or control that is likely to be disturbed by proposed demolition or refurbishment work and—
 - (a) if the proposed work is refurbishment work, ensure, so far as is reasonably practicable, that the asbestos is removed; or
 - (b) if the proposed work is demolition work, ensure, so far as is reasonably practicable, that the asbestos is removed before the demolition work is commenced.

Note

Act compliance—section 26 (see regulation 7).

- (2) An employer at a workplace must identify asbestos under that employer's management or control, including asbestos-containing material that is fixed or installed in any plant under the management or control of the employer, that is likely to be disturbed by proposed demolition or refurbishment work and—
 - (a) if the proposed work is refurbishment work, ensure, so far as is reasonably practicable, that the asbestos is removed; or

- (b) if the proposed work is demolition work, ensure, so far as is reasonably practicable, that the asbestos is removed before the demolition work is commenced.

Note

Act compliance—section 26 (see regulation 7).

- (3) Subregulations (1)(b) and (2)(b) do not prevent the demolition of parts of a building, structure, ship or plant in order to gain access to the asbestos.

Example

Part of a wall may be demolished to gain access to asbestos in a riser shaft.

- (4) Subregulations (1) and (2) do not apply—
 - (a) to demolition work in an emergency; or
 - (b) to domestic premises.

Note

See regulation 240(3) for meaning of emergency.

- (5) An employer or self-employed person performing demolition or refurbishment work on domestic premises must identify asbestos under that person's management or control that is likely to be disturbed by the proposed demolition or refurbishment work and—
 - (a) if the proposed work is refurbishment work, ensure, so far as is reasonably practicable, that the asbestos is removed; or
 - (b) if the proposed work is demolition work ensure, so far as is reasonably practicable, that the asbestos is removed before the demolition work is commenced.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (6) Subregulation (5)(b) does not prevent the demolition of part of domestic premises in order to gain access to the asbestos.

245 Determination of presence of asbestos

- (1) This regulation applies if there is no asbestos register or employer's asbestos register in respect of a workplace or plant in relation to which demolition or refurbishment work is to be performed.
- (2) The employer or self-employed person performing the demolition or refurbishment work must not commence that work until that employer or self-employed person has determined whether asbestos is present in the building, structure, ship or plant to be demolished or refurbished.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (3) If there is uncertainty (based on reasonable grounds) as to whether asbestos is present in a building, structure, ship or plant to be demolished or refurbished, or if there are inaccessible areas that are likely to contain asbestos, the employer or self-employed person performing the demolition or refurbishment work must—
- (a) assume that asbestos is present; or
- (b) arrange for analysis of a sample to be undertaken.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (4) If asbestos is assumed to be present under subregulation (3), it is taken to be identified for the purposes of this Part.

- (5) If the employer or self-employed person performing demolition or refurbishment work has determined under subregulation (2) or subregulation (3) that asbestos is present in a building, structure, ship or plant to be demolished or refurbished, the employer or self-employed person must—
- (a) inform the person who has management or control of the workplace that asbestos is present in the building, structure, ship or plant; and
 - (b) in the case of plant under the management or control of an employer at the workplace, inform the employer that asbestos is present in the plant.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

246 Requirements for asbestos removal work

A person who is required to ensure asbestos is removed under regulation 244 must ensure that the asbestos removal work is performed by—

- (a) an asbestos removal licence holder; or
- (b) a person who is permitted under regulation 250 to perform limited asbestos removal work.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

Note

An asbestos removal licence holder must perform asbestos removal work in accordance with Division 7. A person permitted under regulation 250 must perform asbestos removal work in accordance with Subdivision 2 of Division 7.

247 Emergency procedures

- (1) If an emergency occurs at a workplace where asbestos was present in a building, structure, ship or plant immediately before the emergency occurred, the person who manages or controls the workplace must—
 - (a) consider the asbestos register; and
 - (b) before demolition occurs, document a procedure that will reduce the risk of exposure of employees and persons in the vicinity of the demolition site to asbestos to below the asbestos exposure standard so far as is reasonably practicable.

Notes

- 1 Act compliance—sections 21, 23 and 26 (see regulation 7).
- 2 See regulation 240(3) for meaning of emergency.
- (2) Subregulation (1) does not apply in the case of domestic premises.
- (3) A person engaged for the purpose of asbestos removal work as part of an emergency must comply, so far as is reasonably practicable, with Division 7.

Notes

- 1 Act compliance—sections 21, 23 and 24 (see regulation 7).
- 2 A person engaged under this subregulation must hold an asbestos removal licence that permits the person to remove the asbestos or be employed by a person who holds such a licence (see regulation 214) or be permitted to remove the asbestos under regulation 250.
- (4) If an emergency occurs at domestic premises where asbestos was present in a building, structure, ship or plant immediately before the emergency occurred, an employer or self-employed person performing demolition

work at the premises must, before demolition, document a procedure that will reduce the risk of exposure of employees and persons in the vicinity of the demolition site to asbestos to below the asbestos exposure standard so far as is reasonably practicable.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

248 Notice to Authority

- (1) The person who manages or controls a workplace referred to in regulation 247(1) must notify the Authority, in writing, of the person's contact details and of the location of the emergency immediately after the emergency is known to that person and before the commencement of demolition.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) An employer or self-employed person performing demolition work on domestic premises must notify the Authority in writing of the person's contact details and of the location of the emergency immediately after the emergency is known to that person and before the commencement of demolition.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Division 7—Removal of asbestos

Subdivision 1—General

249 Application of Division

- (1) This Division applies to asbestos removal work.
- (2) This Division does not apply if Division 8 applies.
- (3) A reference to an employee in a provision imposing a duty on an asbestos removal licence holder under this Division applies only if the asbestos removal licence holder is an employer.
- (4) This Division applies in relation to domestic premises that become a workplace due to asbestos removal work being performed.

Note

See regulation 247 for the application of this Division in an emergency under Division 6.

Subdivision 2—Limited asbestos removal work

250 Limited asbestos removal work

- (1) An employer or self-employed person may perform asbestos removal work, in accordance with this Subdivision, involving—
 - (a) the removal of non-friable asbestos-containing material if—
 - (i) the area of non-friable asbestos-containing material to be removed does not exceed 10 square metres in total; and
 - (ii) the employer or self-employed person does not perform more than 1 hour of asbestos removal work in total during a 7-day period; or

- (b) the removal of asbestos-contaminated dust, if—
 - (i) the asbestos removal work does not exceed 10 minutes in total; and
 - (ii) the employer or self-employed person does not perform more than 1 hour of asbestos removal work in total during a 7-day period; or
 - (c) the removal of asbestos-contaminated dust if an independent person has determined that airborne asbestos fibre levels are likely to be less than one half of the asbestos exposure standard.
- (2) If an employer or self-employed person is an asbestos removal licence holder, any periods during which the employer or self-employed person perform asbestos removal work in accordance with the asbestos removal licence are not to be counted for the purpose of calculating the total amount of time the employer or self-employed person performs asbestos removal work during a 7-day period for the purposes of subregulation (1)(a)(ii) or (b)(ii).

251 Training record

An employer performing limited asbestos removal work must—

- (a) make a record of any training undertaken by each person engaged in the limited asbestos removal work; and
- (b) keep the record of training readily accessible where the asbestos removal work is being performed for inspection on request under the Act.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

252 Self-employed persons performing limited asbestos removal work to have appropriate training

- (1) A self-employed person must not perform limited asbestos removal work unless the person is informed, instructed and trained to perform the work in a manner that does not, so far as is reasonably practicable, expose other persons to risks arising from the asbestos removal work.

Note

Act compliance—section 24 (see regulation 7).

- (2) A self-employed person performing limited asbestos removal work must make a record of the training referred to in subregulation (1) and keep that record while the person is engaged in asbestos removal work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

253 Asbestos register must be obtained

- (1) Before performing limited asbestos removal work, an employer or self-employed person must obtain a copy of any relevant asbestos register or employer's asbestos register.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) This regulation does not apply if the asbestos removal work will be performed at domestic premises.

254 Protective clothing and protective equipment

An employer must ensure that—

- (a) persons performing limited asbestos removal work are provided with—
 - (i) appropriate personal protective clothing that is suitable for the removal work being performed; and
 - (ii) appropriate respiratory protective equipment that is suitable for the removal work being performed; and
- (b) the clothing and equipment provided under paragraph (a) are correctly fitted.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

255 Signs and barricades

An employer or self-employed person performing limited asbestos removal work must ensure that appropriately placed signs and barricades are used to indicate the area where the removal work is being performed.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

256 Decontamination facilities and non-removal of personal protective clothing or equipment

- (1) An employer or self-employed person performing limited asbestos removal work must provide facilities for decontamination of the work area, tools and equipment and personal decontamination for the duration of the asbestos

removal work that are suitable for the removal work being performed.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) An employer or self-employed person performing limited asbestos removal work must ensure that a person does not remove personal protective clothing or personal protective equipment that is likely to be contaminated with asbestos from the area where the asbestos removal work is being performed unless the clothing or equipment is decontaminated or contained before the removal.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

257 Decontamination of equipment

An employer or self-employed person performing limited asbestos removal work must ensure that any equipment (other than personal protective equipment) that is used for removal work and that is likely to be contaminated is—

- (a) decontaminated before removal from the area where the removal work is performed;
or
- (b) placed in a sealed container, the exterior of which is decontaminated before the container is removed from the area where the removal work is performed.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

258 Elimination of airborne asbestos fibres

An employer or self-employed person performing limited asbestos removal work must ensure that the asbestos removal work is performed in a manner that, so far as is reasonably practicable—

- (a) eliminates the release of airborne asbestos fibres; and
- (b) prevents the contamination of areas adjacent to the asbestos removal area.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

259 Waste containment

An employer or self-employed person performing limited asbestos removal work must ensure that—

- (a) the asbestos waste is contained so as to eliminate the release of airborne asbestos fibres; and
- (b) the exterior of the container—
 - (i) is decontaminated before being removed from the area where the removal work is performed; and
 - (ii) indicates the presence of asbestos.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

260 Disposal of asbestos waste

An employer or self-employed person performing limited asbestos removal work must ensure that asbestos waste is disposed of—

- (a) as soon as reasonably possible; and
- (b) in an appropriate manner that eliminates the release of airborne asbestos fibres; and

(c) at premises—

- (i) in respect of which the occupier is licensed by the Environment Protection Authority to dispose of asbestos waste; or
- (ii) to which regulation 12 of the Environment Protection (Scheduled Premises and Exemptions) Regulations 2007 applies in relation to the disposal; or
- (iii) set out in a classification issued under regulation 11(1)(b) of the Environment Protection (Industrial Waste Resource) Regulations 2009 that classifies asbestos waste as non-prescribed industrial waste.

Notes

- 1 Act compliance—sections 21, 23 and 24 (see regulation 7).
- 2 The transport of prescribed industrial waste for a fee or reward (including asbestos waste) is regulated by the Environment Protection Authority.

261 Laundering of clothing contaminated with asbestos

- (1) An employer or self-employed person performing limited asbestos removal work must provide for the laundering of personal protective clothing that is likely to be contaminated with asbestos at a laundry equipped to launder clothing contaminated with asbestos if that clothing is not contained and disposed of in accordance with regulations 259 and 260.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) If an employer or self-employed person performing limited asbestos removal work arranges for personal protective clothing that is

likely to be contaminated with asbestos to be laundered, the employer or person must ensure that—

- (a) the clothing is contained so as to eliminate the release of airborne asbestos fibres; and
- (b) the exterior of the container—
 - (i) is decontaminated before being removed from the area where the removal work is performed; and
 - (ii) indicates the presence of asbestos before the clothing is transferred to the laundry.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

262 Medical examinations

- (1) An employer performing limited asbestos removal work must arrange for appropriate medical examinations to be conducted by a registered medical practitioner for each employee engaged in ongoing asbestos removal work if there is a risk of exposure to airborne asbestos fibres in excess of one half of the asbestos exposure standard.

Note

Act compliance—section 22(1) (see regulation 7).

- (2) Respiratory protective equipment must not be taken into account in establishing whether there is a risk of exposure to airborne asbestos fibres in excess of one half of the exposure standard.
- (3) The employer must ensure that medical examinations are provided—
 - (a) before the employee commences asbestos removal work for the first time for that employer unless the employee has had an

appropriate medical examination within the preceding 2 years; and

- (b) at intervals of not more than 2 years; and
- (c) within 30 days after the employee has ceased asbestos removal work unless the employee has had an appropriate medical examination within the preceding year.

Note

Act compliance—section 22(1) (see regulation 7).

- (4) In this regulation the duties of an employer in relation to medical examinations extend to an independent contractor.

Note

Act compliance—section 23 (see regulation 7).

263 Results of medical examinations

- (1) An employer must obtain a summary of results of a medical examination of a person carried out as required by regulation 262 indicating whether an asbestos-related disease exists and the fitness of the person to engage in limited asbestos removal work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) The employer must keep a copy of the summary of results obtained under this regulation for—
 - (a) a period (not exceeding 30 years) determined by the Authority; or
 - (b) if no period has been determined by the Authority, 30 years.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Subdivision 3—Class A and Class B asbestos removal work

264 Class A asbestos removal work

A person must not perform Class A asbestos removal work unless that person—

- (a) holds a Class A asbestos removal licence; or
- (b) is an employee of a person who holds a Class A asbestos removal licence; or
- (c) is an independent contractor who is—
 - (i) engaged by a person who holds a Class A asbestos removal licence; and
 - (ii) performing asbestos removal work involving the operation of an excavator; and
 - (iii) directly supervised at all times during the asbestos removal work by the person who holds the Class A asbestos removal licence and by the asbestos removal supervisor who is appointed under regulation 266.

Notes

- 1 See section 40(4) of the Act.
- 2 Under regulations 473 and 474 the terms and conditions of a Class A asbestos removal licence may limit the activities that can be carried out under the licence.

265 Class B asbestos removal work

A person must not perform Class B asbestos removal work unless that person—

- (a) holds a Class A asbestos removal licence or a Class B asbestos removal licence; or

- (b) is an employee of a person who holds a Class A asbestos removal licence or a Class B asbestos removal licence.

Notes

- 1 See section 40(4) of the Act.
- 2 Under regulations 473 and 474 the terms and conditions of a Class A or a Class B asbestos removal licence may limit the activities that can be carried out under the licence.

266 Appointment of asbestos removal supervisors

- (1) Subject to subregulation (2), an asbestos removal licence holder must appoint a person as an asbestos removal supervisor if the asbestos removal licence holder has nominated that person as a supervisor under regulation 462(1)(b).

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) An asbestos removal licence holder must not appoint a person as an asbestos removal supervisor if the Authority has not accepted the nomination of that supervisor under Part 6.1 (Licences).

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

267 Asbestos removal supervisor to be accessible

An asbestos removal licence holder must ensure that the asbestos removal supervisor appointed to supervise Class B asbestos removal work is readily accessible to the persons performing the asbestos removal work at all times when that work is being performed.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

268 Information to job applicants and independent contractors

An asbestos removal licence holder must provide each applicant who applies for employment with, and each independent contractor who seeks to be engaged by, the licence holder to perform asbestos removal work with information about—

- (a) the health effects and risks associated with exposure to airborne asbestos fibres; and
- (b) the need for, and details of, medical examinations required under this Subdivision.

Penalty: 5 penalty units for a natural person;
25 penalty units for a body corporate.

269 Persons performing asbestos removal work to be trained

An asbestos removal licence holder must not permit a person to perform asbestos removal work for the licence holder unless the person is informed, instructed and trained to perform that work in a manner that is safe and without risks to health and in particular in relation to—

- (a) the nature of the hazard, the risks and the health effects associated with exposure to airborne asbestos fibres; and
- (b) the need for, and proper use of, measures to control the risks including the maintenance, cleaning and storage of personal protective clothing and personal protective equipment.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

270 Training record

- (1) An asbestos removal licence holder performing asbestos removal work must make a record of the training undertaken by a person performing the asbestos removal work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) The asbestos removal licence holder must keep the record of training—
- (a) while the person performs asbestos removal work for the asbestos removal licence holder; and
 - (b) readily accessible where the asbestos removal work is being performed for inspection on request under the Act.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

271 Asbestos register to be obtained

- (1) An asbestos removal licence holder must obtain a copy of any relevant asbestos register or employer's asbestos register from the person who commissioned the asbestos removal work.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) This regulation does not apply if the asbestos removal work will be performed at domestic premises.

272 Asbestos control plan

- (1) Before commencing asbestos removal work, an asbestos removal licence holder must prepare an asbestos control plan in accordance with this regulation.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (2) An asbestos control plan must—
 - (a) take into account any asbestos register or any employer's asbestos register obtained under this Part; and
 - (b) include information on the items listed in Schedule 12.
- (3) Subregulation (2)(a) does not apply if the asbestos removal work will be performed at a domestic premises.

273 Asbestos control plan to be made available and accessible

- (1) An asbestos removal licence holder must provide a copy of the asbestos control plan prepared under regulation 272 to the person who commissioned the asbestos removal work.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) The asbestos removal licence holder must ensure that a copy of the asbestos control plan is readily accessible for the duration of the asbestos removal work—
 - (a) to employees at the workplace, including the health and safety representative of any affected designated work group;
 - (b) to an employer at the workplace;

- (c) to any person engaged to do work at the workplace;
- (d) for inspection under the Act, if required.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

274 Elimination of airborne asbestos fibres

An asbestos removal licence holder performing asbestos removal work must ensure that the asbestos removal work is performed in a manner that, so far as is reasonably practicable—

- (a) eliminates the release of airborne asbestos fibres; and
- (b) prevents the contamination of areas adjacent to the asbestos removal area.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

275 Requirements in respect of airborne asbestos fibres

- (1) This regulation applies if—
 - (a) an asbestos removal licence holder is performing asbestos removal work; and
 - (b) asbestos paraoccupational air monitoring is being conducted to establish whether airborne asbestos fibres are being released from the area where the asbestos removal work is being performed.
- (2) The asbestos removal licence holder must comply with subregulation (4) if airborne asbestos fibre levels in excess of 0.01 f/ml but not in excess of 0.05 f/ml are recorded.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (3) If airborne asbestos fibre levels in excess of 0.05 f/ml are recorded, the asbestos removal licence holder must immediately—
- (a) order the asbestos removal work to stop; and
 - (b) notify the Authority; and
 - (c) comply with subregulation (4).

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (4) The asbestos removal licence holder must immediately—
- (a) investigate the cause of the high levels of airborne asbestos fibres; and
 - (b) implement controls to—
 - (i) prevent exposure of any person to airborne asbestos fibres; and
 - (ii) prevent further release of airborne asbestos fibres.
- (5) If an asbestos removal licence holder has stopped the asbestos removal work due to airborne asbestos fibre levels in excess of 0.05 f/ml being recorded, the licence holder must ensure that the asbestos removal work does not recommence until asbestos paraoccupational air monitoring indicates the level of airborne asbestos fibres is at or below 0.01 f/ml.

Note

Act compliance—section 22(1) (see regulation 7).

276 Protective clothing and protective equipment for persons performing asbestos removal work

- (1) An asbestos removal licence holder must—
- (a) provide employees performing asbestos removal work with—
 - (i) personal protective clothing that is suitable for the asbestos removal work being performed; and
 - (ii) respiratory protective equipment that is suitable for the asbestos removal work being performed; and
 - (b) ensure that the clothing and equipment provided under paragraph (a) are correctly fitted.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) In this regulation the duties of an asbestos removal licence holder who is an employer extend to an independent contractor.

277 Signs and barricades

An asbestos removal licence holder performing asbestos removal work must ensure that—

- (a) appropriately placed signs and barricades are used to indicate the area where the removal work is being performed; and
- (b) access is denied to persons other than—
 - (i) persons performing the asbestos removal work; and

- (ii) persons engaged in work incidental to the asbestos removal work who require access during that work; and

Example

Occupational hygienist.

- (iii) officers or other members of Victoria Police or persons with a statutory right to be present.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

278 Decontamination facilities

- (1) An asbestos removal licence holder performing asbestos removal work must provide facilities for decontamination of the work area, tools and equipment and personal decontamination for the duration of the asbestos removal work that are suitable for the asbestos removal work being performed.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) An asbestos removal licence holder performing asbestos removal work must ensure that a person does not remove personal protective clothing or personal protective equipment that is likely to be contaminated with asbestos from the area where the asbestos removal work is being performed unless the clothing or equipment is decontaminated or contained before removal.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (3) An asbestos removal licence holder performing asbestos removal work must ensure that any equipment (other than personal protective

equipment) that is used for asbestos removal work and that is likely to be contaminated is—

- (a) decontaminated before removal from the area where the asbestos removal work is performed; or
- (b) placed in a sealed container, the exterior of which is decontaminated before the container is removed from the area where the asbestos removal work is performed.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

279 Waste containment

An asbestos removal licence holder who is performing asbestos removal work must ensure that—

- (a) the asbestos waste is contained so as to eliminate the release of airborne asbestos fibres; and
- (b) the exterior of the container—
 - (i) is decontaminated before being removed from the area where the removal work was performed; and
 - (ii) indicates the presence of asbestos.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

280 Disposal of asbestos waste

An asbestos removal licence holder performing asbestos removal work must ensure that asbestos waste is disposed of—

- (a) as soon as reasonably possible; and
- (b) in an appropriate manner that eliminates the release of airborne asbestos fibres; and

(c) at premises—

- (i) in respect of which the occupier is licensed by the Environment Protection Authority to dispose of asbestos waste; or
- (ii) to which regulation 12 of the Environment Protection (Scheduled Premises and Exemptions) Regulations 2007 applies in relation to the disposal; or
- (iii) set out in a classification issued under regulation 11(1)(b) of the Environment Protection (Industrial Waste Resource) Regulations 2009 that classifies asbestos waste as non-prescribed industrial waste.

Notes

- 1 Act compliance—sections 21, 23 and 24 (see regulation 7).
- 2 The transport of prescribed industrial waste for a fee or reward (including asbestos waste) is regulated by the Environment Protection Authority.

281 Laundering of clothing contaminated with asbestos

- (1) An asbestos removal licence holder performing asbestos removal work must provide for the laundering of personal protective clothing that is likely to be contaminated with asbestos at a laundry equipped to launder clothing contaminated with asbestos if that clothing is not contained and disposed of in accordance with regulations 279 and 280.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) If an asbestos removal licence holder performing asbestos removal work arranges for personal protective clothing that is likely to be contaminated with asbestos to be laundered, the licence holder must ensure that—
- (a) the clothing is contained so as to eliminate the release of airborne asbestos fibres; and
 - (b) the exterior of the container—
 - (i) is decontaminated before being removed from the area where the removal work is performed; and
 - (ii) indicates the presence of asbestos before the clothing is transferred to the laundry.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

282 Medical examinations

- (1) An asbestos removal licence holder must arrange for an appropriate medical examination to be conducted by a registered medical practitioner for each person engaged in asbestos removal work.

Note

Act compliance—section 22(1) (see regulation 7).

- (2) An asbestos removal licence holder must ensure that medical examinations are provided—
- (a) before the person commences asbestos removal work for the first time for that licence holder unless the person has had an appropriate medical examination within the preceding year; and
 - (b) at intervals of not more than 2 years; and

- (c) within 30 days after the person ceases asbestos removal work unless the person has had an appropriate medical examination within the preceding year.

Note

Act compliance—section 22(1) (see regulation 7).

- (3) In this regulation the duties of an asbestos removal licence holder who is an employer in relation to medical examinations extend to an independent contractor.

Note

Act compliance—section 23 (see regulation 7).

283 Results of medical examinations

- (1) The asbestos removal licence holder must obtain a summary of results of a medical examination of a person carried out as required by regulation 282, indicating whether an asbestos-related disease exists and the fitness of the person to engage in asbestos removal work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) The asbestos removal licence holder must keep a copy of the summary of results obtained under this regulation for—
 - (a) a period (not exceeding 30 years) determined by the Authority; or
 - (b) if no period has been determined by the Authority, 30 years.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Subdivision 4—Additional duties—Class A asbestos removal work

284 Application of Subdivision

This Subdivision applies to Class A asbestos removal work.

285 Asbestos removal supervisor to be on-site

An asbestos removal licence holder must ensure that an asbestos removal supervisor appointed in accordance with regulation 266 to supervise the asbestos removal work is on-site at all times when Class A asbestos removal work is being performed.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

286 Specific measures to control risk

- (1) A Class A asbestos removal licence holder must, so far as is reasonably practicable, enclose the area where the Class A asbestos removal work is performed so as to prevent the release of airborne asbestos fibres.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (2) For the purposes of subregulation (1), a Class A asbestos removal licence holder must ensure, so far as is reasonably practicable, that the enclosure is smoke-tested by using a smoke-generating device to detect any leaks or other deficiencies in the enclosure before asbestos removal work commences.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (3) A Class A asbestos removal licence holder must, so far as is reasonably practicable, use a wet method when performing Class A asbestos removal work.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (4) For the purposes of subregulation (3), *wet method* means the use of water or another wetting agent to soak or totally saturate the asbestos, or the spraying of water or another wetting agent on the asbestos, but does not include the use of a high pressure water jet.

Note

Regulation 216 prohibits the use of certain tools.

287 Asbestos paraoccupational air monitoring requirements

If asbestos paraoccupational air monitoring is required under regulation 292, the Class A asbestos removal licence holder must not—

- (a) commence asbestos removal work until the asbestos paraoccupational air monitoring has commenced; or
- (b) if asbestos paraoccupational air monitoring has already commenced, recommence asbestos removal work until the results of the most recent air monitoring have been obtained.

Note

Act compliance—section 22(1) (see regulation 7).

288 Results of asbestos paraoccupational air monitoring to be readily accessible

- (1) The Class A asbestos removal licence holder must ensure that results of asbestos paraoccupational air monitoring are readily accessible to employees at the workplace.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) In this regulation, the duties of an asbestos removal licence holder who is an employer extend to an independent contractor.

289 Use of glove bags

- (1) Regulations 286(2), 287 and 292 do not apply if glove bags are being used for removal work.
- (2) The Class A asbestos removal licence holder must, in a proper and safe manner, dismantle and dispose of any glove bag used to enclose the area where the asbestos removal work was performed.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

290 Requirements at the end of removal work

- (1) The Class A asbestos removal licence holder must not dismantle any structure used to enclose the area where the Class A asbestos removal work was performed until results of any asbestos paraoccupational air monitoring received from the person who commissioned the asbestos removal work in accordance with regulation 295 show that the airborne asbestos fibre level does not exceed 0.01 f/ml.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (2) The asbestos removal licence holder must dismantle any structure used to enclose the asbestos removal area in a manner that, so far as is reasonably practicable, eliminates the release of airborne asbestos fibres.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

Subdivision 5—Duties of person who commissioned asbestos removal work

291 Application of Subdivision

- (1) The duties in this Subdivision apply to a person who commissions Class A or Class B asbestos removal work.
- (2) In the case of domestic premises, the asbestos removal licence holder is the person who commissions asbestos removal work for the purposes of this Subdivision.

292 Asbestos paraoccupational air monitoring

- (1) A person who commissions Class A asbestos removal work must arrange for asbestos paraoccupational air monitoring to be conducted before the work commences and for the duration of the work if—
 - (a) the asbestos removal work will be performed indoors; or
 - (b) the asbestos removal work will be performed outdoors and will constitute a risk to other persons.

Note

Act compliance—sections 22(1) and 26 (see regulation 7).

- (2) A person who commissions Class A asbestos removal work must arrange for an asbestos paraoccupational air monitoring sample to be

analysed as soon as reasonably possible after it is taken.

Note

Act compliance—sections 22(1) and 26 (see regulation 7).

293 Results of monitoring to be made available

- (1) A person who commissions Class A asbestos removal work must provide the results of asbestos paraoccupational air monitoring to the asbestos removal licence holder as soon as the results are received.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) A person who commissions Class A asbestos removal work must ensure that a copy of the results of asbestos paraoccupational air monitoring is readily accessible to the health and safety representative of any affected designated work group and to any affected employees or independent contractors.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

294 Requirements at end of removal work

- (1) On completion of Class A or Class B asbestos removal work, the person who commissioned the asbestos removal work must arrange for a visual inspection by an independent person to verify that there is no visible asbestos residue remaining as a result of the work in the area where the work was performed or in the area immediately surrounding the area where the work was performed.

Note

Act compliance—sections 21, 23, 24 and 26 (see regulation 7).

(1A) Despite subregulation (1), a visual inspection by an independent person is not required if the asbestos removal work consisted only of the removal of non-friable asbestos-containing material not exceeding 10 square metres in total.

Reg. 294(1A)
inserted by
S.R. No.
71/2018
reg. 13.

(2) On completion of Class A asbestos removal work for which asbestos paraoccupational air monitoring was required, the person who commissioned the asbestos removal work must arrange for asbestos paraoccupational air monitoring to be conducted within the enclosed area, to verify that the airborne asbestos fibre level is less than 0.01 f/ml.

Note

Act compliance—sections 22(1) and 26 (see regulation 7).

295 Results of inspection and monitoring to go to licence holder

The person who commissioned the Class A or Class B asbestos removal work must ensure that the results of the inspection and monitoring under regulation 294 are provided to the asbestos removal licence holder.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

296 Independent person to have requisite knowledge, skills and experience

The person who commissioned the Class A or Class B asbestos removal work must ensure that the independent person performing duties under regulation 294 or 297 has the requisite knowledge, skills and experience to undertake those duties.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

297 Clearance certificates

- (1) The person who commissioned the Class A or Class B asbestos removal work must obtain a clearance certificate from an independent person on completion of the asbestos removal work and before the area where the asbestos removal work was being performed is re-occupied.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.
- (2) A clearance certificate must state that—
 - (a) an inspection by an independent person has found that there is no visible asbestos residue remaining as a result of the asbestos removal work in the area where the asbestos removal work was performed or in the area immediately surrounding the area where the asbestos removal work was performed; and
 - (b) if required under regulation 292 or 294, asbestos paraoccupational air monitoring in the area where the asbestos removal work was performed indicates that the airborne asbestos fibre level is less than 0.01 f/ml.
- (3) Despite subregulations (1) and (2), a clearance certificate is not required if the asbestos removal work consisted only of the removal of non-friable asbestos-containing material not exceeding 10 square metres in total.

Subdivision 6—Notice procedures

298 Notice of asbestos removal work

- (1) Subject to subregulation (7) and regulation 299(2), an asbestos removal licence holder must notify the Authority of asbestos removal work in accordance with subregulation (2)—

- (a) if the work involves removal of a total area of 10 square metres or less of non-friable asbestos-containing material that is present in a building, structure, ship or plant, at least 24 hours before the work commences; or
- (b) in any other case, at least 5 days before the work commences.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) A notice under subregulation (1) must be in writing and include the information in Schedule 13.
- (3) Before commencing the asbestos removal work, the asbestos removal licence holder must give a copy of the notice under subregulation (1) to the person who commissioned the asbestos removal work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (4) If any change occurs to any information provided at any time by the asbestos removal licence holder to the Authority in relation to the notice of a matter that is ongoing (whether in notifying the matter, under this regulation or in any other circumstance), the asbestos removal licence holder must advise the Authority in writing of that change as soon as reasonably possible after the licence holder becomes aware that the change has occurred.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (5) Subregulation (4) does not apply in relation to a change of supervisor.

- (6) An asbestos removal licence holder may proceed with the asbestos removal work despite advising the Authority of a change under subregulation (4).
- (7) The Authority may vary the notice requirements under this regulation by including a specific condition in a licence with respect to notice.

299 Notice in an unexpected situation

- (1) This regulation applies to the following situations (an *unexpected situation*)—
 - (a) a sudden, unexpected event, including work required by non-routine failures of equipment, that may result in persons being exposed to airborne asbestos fibres; or
 - (b) an unexpected breakdown of an essential service (including gas, water, sewerage, electricity and telecommunications) that requires immediate rectification to enable continuance of that service.
- (2) In an unexpected situation, the asbestos removal licence holder must, not later than 24 hours after commencing asbestos removal work, notify the Authority of the removal work in accordance with subregulation (3).

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.
- (3) A notice under subregulation (2) must be in writing and include the information in Schedule 13.
- (4) If any change occurs to any information provided at any time by the asbestos removal licence holder to the Authority in relation to the notice of a matter that is ongoing (whether in notifying the matter, under this regulation or in any other circumstance), the asbestos removal licence holder must advise the Authority in writing of

that change as soon as reasonably possible after the licence holder becomes aware that the change has occurred.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (5) Subregulation (4) does not apply in relation to a change of supervisor.
- (6) The Authority may vary the notice requirements under this regulation by including a specific condition in a licence with respect to the notice.

Subdivision 7—Duties to inform

300 Information to be provided to those in area

An employer at a workplace must, before asbestos removal work commences at the workplace, inform employees in the immediate and adjacent areas of the workplace of the proposed removal work.

Note

Act compliance—sections 21 and 23 (see regulation 7).

301 Information to be provided to persons occupying premises in immediate and adjacent areas

- (1) An employer or self-employed person who is commissioned to perform work for a person and intends to perform limited asbestos removal work must, before the limited asbestos removal work commences, inform the person who commissioned the asbestos removal work about the proposed limited asbestos removal work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) A person who commissions asbestos removal work or who has been informed of proposed limited asbestos removal work under subregulation (1) must before the work commences inform all employers and other persons occupying premises in the immediate and adjacent areas to where the work will take place about the work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (3) An employer who has been informed about asbestos removal work in accordance with subregulation (2) must before the work commences inform employees in the immediate and adjacent areas to where the work will take place about the work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (4) For the purposes of this regulation, the employer or self-employed person performing the asbestos removal work is the person who commissions the asbestos removal work if the work will be performed at domestic premises.

Division 8—Activities involving asbestos

302 Application of Division

This Division applies to the following activities (*asbestos-related activities*) that are carried out at a workplace—

- (a) the handling, including for the purpose of removal or transport for disposal, of aircraft and automotive components that are asbestos-containing material or that have asbestos-containing material fixed to them or installed in them;

- (b) the laundering of clothing contaminated with asbestos;
- (c) research involving asbestos;
- (d) sampling or analysis involving suspected asbestos;
- (e) the transport of asbestos waste for disposal purposes;
- (f) working at premises—
 - (i) in respect of which the occupier is licensed by the Environment Protection Authority to dispose of asbestos waste; or
 - (ii) to which the Environment Protection (Scheduled Premises and Exemptions) Regulations 2007 applies in relation to the disposal; or
 - (iii) set out in a classification issued under regulation 11(1)(b) of the Environment Protection (Industrial Waste Resource) Regulations 2009 that classifies asbestos waste as non-prescribed industrial waste;
- (g) the enclosing or sealing of asbestos;
- (h) hand-drilling and cutting of asbestos-containing material;
- (i) maintenance of dust extraction equipment, contaminated with asbestos;
- (j) processing of construction and demolition material in accordance with the method determined by the Authority under regulation 206(b);
- (k) any other activity (other than asbestos removal work to which Division 7 applies) that is likely to produce airborne asbestos

fibres in excess of one half of the asbestos exposure standard;

- (l) any other activity determined by the Authority for the purposes of this Division.

Note

The general requirements of Divisions 1 and 2, and the prohibitions in Divisions 3 and 4, also apply to the activities listed in this Division.

303 Identification of asbestos-related activities

An employer must identify whether an asbestos-related activity is being carried out at the employer's workplace.

Note

Act compliance—sections 21 and 23 (see regulation 7).

304 Uncertainty as to presence of asbestos

- (1) If there is uncertainty (based on reasonable grounds) as to whether an activity is an asbestos-related activity, the employer must—
 - (a) assume that asbestos is present; or
 - (b) arrange for analysis of a sample to be undertaken.

Note

Act compliance—sections 21 and 23 (see regulation 7).

- (2) If asbestos is assumed to be present under subregulation (1), it is taken to be identified for the purposes of this Division.

305 Asbestos register must be obtained

- (1) If any asbestos-related activities set out in subregulation (2) are carried out at an employer's workplace, the employer must obtain—
 - (a) a copy of the asbestos register in relation to the activities; or

- (b) if there are other employers at the workplace where the activities are carried out, a copy of the employer's asbestos register of each of those other employers.

Note

Act compliance—sections 21 and 23 (see regulation 7).

- (2) For the purposes of subregulation (1) the relevant asbestos-related activities are—
 - (a) activities specified in paragraphs (d), (g) and (h) of regulation 302; and
 - (b) activities specified in paragraphs (c), (k) and (l) of regulation 302, if an asbestos register or employer's asbestos register is available.
- (3) This regulation does not apply if the asbestos-related activity will be carried out at a domestic premises and the person who commissioned the activity is the occupier of those premises.

306 Elimination of airborne asbestos fibres

An employer must ensure that, when carrying out an asbestos-related activity, the activity is carried out in a manner that, so far as is reasonably practicable, eliminates the release of airborne asbestos fibres.

Note

Act compliance—sections 21 and 23 (see regulation 7).

307 Specific measures to control risk

- (1) An employer must, so far as is reasonably practicable, eliminate any risk associated with an asbestos-related activity.

- (2) If it is not reasonably practicable to eliminate a risk associated with an asbestos-related activity, the employer must reduce the risk so far as is reasonably practicable by—
 - (a) isolation; or
 - (b) using engineering controls; or
 - (c) combining the risk control measures referred to in paragraphs (a) and (b).
- (3) If the employer has complied with subregulations (1) and (2) so far as is reasonably practicable and a risk associated with an asbestos-related activity remains, the employer must reduce the risk so far as is reasonably practicable by using administrative controls.
- (4) If the employer has complied with subregulations (1), (2) and (3) so far as is reasonably practicable and a risk associated with an asbestos-related activity remains, the employer must reduce the risk so far as is reasonably practicable by providing personal protective equipment to employees at risk.
- (5) If an employer provides personal protective equipment under subregulation (4), the employer must ensure that—
 - (a) the person carrying out the asbestos-related activity is provided with—
 - (i) personal protective clothing that is suitable for the activity being carried out; and
 - (ii) respiratory protective equipment that is suitable for the activity being carried out; and

- (b) the clothing and equipment provided under paragraph (a) are correctly fitted.

Notes

- 1 Act compliance—sections 21 and 23 (see regulation 7).
- 2 Part 4 of the Act sets out the duty of the employer to consult with employees, including in respect of making decisions about the measures to be taken to control risks to health or safety. This consultation must involve the health and safety representative (if any). See also regulation 21.

308 Review of risk control measures

- (1) An employer must review and, if necessary, revise any measures implemented to control risks associated with an asbestos-related activity—
 - (a) before any change is made to systems of work related to the activity that is likely to increase the risk to health or safety; or
 - (b) after any incident occurs to which Part 5 of the Act applies that involves an asbestos-related activity; or
 - (c) if, for any other reason, the risk control measures do not adequately control the risks; or
 - (d) after receiving a request from a health and safety representative.

Note

Act compliance—sections 21 and 23 (see regulation 7).

- (2) A health and safety representative may make a request under subregulation (1)(d) if the health and safety representative believes on reasonable grounds that—
 - (a) any of the circumstances referred to in subregulation (1)(a), (b) and (c) exist; or

- (b) the employer has failed—
 - (i) to properly review the risk control measures; or
 - (ii) to take account of any of the circumstances referred to in subregulation (1)(a), (b) and (c) in conducting a review of, or revising, the risk control measures.

309 Work area to be separate and signed

An employer must ensure that the work area used for an asbestos-related activity—

- (a) is kept separate from any other work area; and
- (b) so far as is reasonably possible, has appropriately placed signs and barricades that indicate the area where the activity is being carried out.

Note

Act compliance—sections 21 and 23 (see regulation 7).

310 Work area to be kept clean

- (1) An employer must ensure, so far as is reasonably practicable, that the work area used for an asbestos-related activity is kept clean.

Note

Act compliance—sections 21 and 23 (see regulation 7).

- (2) An employer must ensure that the methods used to clean the work area—
 - (a) do not create a risk to health; and

- (b) do not have the potential to spread airborne asbestos fibres beyond the work area.

Notes

- 1 Act compliance—sections 21 and 23 (see regulation 7).
- 2 Regulation 216 prohibits the use of certain tools at a workplace.

311 Medical examinations

- (1) An employer must arrange for an appropriate medical examination to be conducted by a registered medical practitioner for each employee engaged in ongoing asbestos-related activities if there is a risk of exposure to airborne asbestos fibres in excess of one half of the asbestos exposure standard.

Note

Act compliance—section 22(1) (see regulation 7).

- (2) Respiratory protective equipment must not be taken into account in establishing whether there is a risk of exposure to airborne asbestos fibres in excess of one half of the asbestos exposure standard.
- (3) An employer must ensure that atmospheric monitoring is provided if there is uncertainty (based on reasonable grounds) as to whether a medical examination may be required under this Division.

Note

Act compliance—section 22(1) (see regulation 7).

- (4) An employer must ensure that medical examinations are provided to an employee—
 - (a) at intervals of not more than 2 years; and

- (b) within 30 days after the employee has ceased an asbestos-related activity, unless the employee has had a medical examination within the preceding year.

Note

Act compliance—section 22(1) (see regulation 7).

- (5) In this regulation the duties of an employer in relation to medical examinations extend to an independent contractor.

Note

Act compliance—section 23 (see regulation 7).

312 Results of atmospheric monitoring to be made available

An employer must ensure that copies of the results of atmospheric monitoring under this Part are readily accessible to the health and safety representative of any affected designated work group and to the affected employees.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

313 Results of medical examinations

- (1) An employer must obtain a summary of results of a medical examination of a person carried out as required by regulation 311 indicating whether an asbestos-related disease exists and the person's fitness for asbestos-related activities.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) The employer must keep a copy of the summary of results obtained under subregulation (1) for—
 - (a) a period (not exceeding 30 years) determined by the Authority; or

- (b) if no period has been determined by the Authority, 30 years.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

314 Decontamination facilities

- (1) An employer carrying out an asbestos-related activity must ensure that a person does not remove personal protective equipment that is likely to be contaminated with asbestos from the work area used for the activity unless the equipment is decontaminated or contained before its removal.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) An employer carrying out an asbestos-related activity must ensure that any equipment (other than personal protective equipment) that is used for the activity and that is likely to be contaminated with asbestos is—
- (a) decontaminated before removal from the work area used for the activity; or
 - (b) placed in a sealed container, the exterior of which is decontaminated before the container is removed from the work area used for the activity.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

Note

Personal protective equipment includes personal protective clothing under regulation 5.

315 Waste containment

An employer carrying out an asbestos-related activity must ensure that—

- (a) any asbestos derived from or associated with the activity, and that is no longer required in connection with the activity, is contained so as to eliminate the release of airborne asbestos fibres; and
- (b) the exterior of the container—
 - (i) is decontaminated before being removed from the work area used for the activity; and
 - (ii) indicates the presence of asbestos.

Note

Act compliance—sections 21 and 23 (see regulation 7).

316 Disposal of asbestos waste

An employer carrying out an asbestos-related activity must ensure that asbestos waste is disposed of—

- (a) as soon as reasonably possible; and
- (b) in an appropriate manner that eliminates the release of airborne asbestos fibres; and
- (c) at premises—
 - (i) in respect of which the occupier is licensed by the Environment Protection Authority to dispose of asbestos waste; or
 - (ii) to which regulation 12 of the Environment Protection (Scheduled Premises and Exemptions) Regulations 2007 applies in relation to the disposal; or

- (iii) set out in a classification issued under regulation 11(1)(b) of the Environment Protection (Industrial Waste Resource) Regulations 2009 that classifies asbestos waste as non-prescribed industrial waste.

Notes

- 1 Act compliance—sections 21 and 23 (see regulation 7).
- 2 The transport of prescribed industrial waste for a fee or reward (including asbestos waste) is regulated by the Environment Protection Authority.

317 Laundering of clothing contaminated with asbestos

- (1) An employer carrying out an asbestos-related activity must provide for the laundering of personal protective clothing that is used for an activity and that is likely to be contaminated with asbestos at a laundry equipped to launder clothing contaminated with asbestos if that clothing is not contained and disposed of in accordance with regulations 315 and 316.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) If the employer arranges for personal protective clothing that is likely to be contaminated with asbestos to be laundered, the employer must ensure that—
 - (a) the clothing is contained so as to eliminate the release of airborne asbestos fibres; and
 - (b) the exterior of the container—
 - (i) is decontaminated before being removed from the work area; and

- (ii) indicates the presence of asbestos before the clothing is transferred to the laundry.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

318 Provision of information to job applicants

An employer must provide each applicant who applies for employment with the employer to carry out an asbestos-related activity (other than activities specified in paragraphs (h) and (k) of regulation 302) with information about the nature of the hazard and the risks associated with exposure to airborne asbestos fibres.

Penalty: 5 penalty units for a natural person;
25 penalty units for a body corporate.

319 Training record

An employer must—

- (a) make a record of any training provided in relation to carrying out asbestos-related activities; and
- (b) keep that record for so long as it is applicable.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Part 4.5—Crystalline silica

Pt 4.5
(Heading and
regs 319A–
319C)
inserted by
S.R. No.
71/2019 reg. 4.

319A Application of Part

Reg. 319A
inserted by
S.R. No.
71/2019 reg. 4.

- (1) This Part applies for the period commencing on 20 August 2019 and ending on 19 February 2021.
- (2) This Part applies in addition to Part 4.1.

Reg. 319A(1)
amended by
S.R. No.
84/2020 reg. 3.

319B Definitions

Reg. 319B
inserted by
S.R. No.
71/2019 reg. 4.

In this Part—

Dust Class H Vacuum means—

- (a) a vacuum that complies with the Class H requirements in AS/NZS 60335.2.69 Household and similar electrical appliances—Safety—Part 2.69: Particular requirements for wet and dry vacuum cleaners, including power brush, for commercial use; or
- (b) a vacuum that is equivalent to a vacuum referred to in paragraph (a);

engineered stone means a manufactured composite stone material that contains resins and has a crystalline silica content of 80 per cent or greater;

local exhaust ventilation means an engineering control that reduces worker exposure to airborne contaminants in the workplace by capturing the emission at the source and transporting it to a safe emission point or to a filter or scrubber;

respiratory protective equipment means personal protective equipment that—

- (a) is designed to protect the wearer from the inhalation of airborne contaminants entering into the nose, mouth and lungs; and
- (b) complies with AS/NZS 1716—Respiratory protective devices.

Reg. 319C
inserted by
S.R. No.
71/2019 reg. 4.

319C Use of power tools—engineered stone

- (1) An employer, a self-employed person or a person who manages or controls a workplace must ensure that a power tool is not used for cutting, grinding or abrasive polishing of engineered stone at a workplace unless the use is controlled.

Note

Act compliance—sections 21, 23, 24 and 26
(see regulation 7).

- (2) For the purposes of subregulation (1), the use of a power tool is controlled if—
 - (a) it is used with—
 - (i) an integrated water delivery system that supplies a continuous feed of water; or
 - (ii) a commercially available on tool extraction system connected to a Dust Class H Vacuum or other suitable system that captures the dust generated; or
 - (iii) if subparagraphs (i) and (ii) are not reasonably practicable, local exhaust ventilation; and
 - (b) the person who is cutting, grinding or undertaking abrasive polishing of engineered stone is provided with respiratory protective equipment.

- (3) An employer, a self-employed person or a person who manages or controls a workplace must ensure that any controls used in accordance with subregulation (2) are properly designed, installed, used and maintained so that the controls are effective in reducing exposure to airborne crystalline silica dust generated as a result of cutting, grinding or abrasive polishing of engineered stone.

Chapter 5—Hazardous industries

Part 5.1—Construction

Division 1—Introductory matters

320 Application of Part

- (1) This Part applies to workplaces where construction work is performed.
- (2) To avoid doubt, this Part does not apply to the owner of domestic premises—
 - (a) personally performing construction work at those premises; or
 - (b) if those premises become a workplace due to construction work being performed, and the owner engages a person to manage or control the workplace under regulation 333(2).

321 What is construction work?

- (1) In these Regulations, **construction work** means any work performed in connection with the construction, alteration, conversion, fitting out, commissioning, renovation, refurbishment, decommissioning, or demolition of any building or structure, or any similar activity.
- (2) Without limiting subregulation (1), work referred to in that subregulation includes the following—
 - (a) installation, testing, maintenance and repair work performed in connection with the construction work;
 - (b) the removal from the workplace of any product or waste resulting from the demolition;

- (c) the prefabrication or testing of elements at a place specifically established for the construction project;

Example

An example of a prefabricated element of a structure is a concrete panel.

- (d) the assembly of prefabricated elements to form a building or structure or the disassembly of prefabricated elements, that, immediately before the disassembly, formed a building or structure;
 - (e) the installation, testing and maintenance of gas, water, sewerage, electricity or telecommunications services in or of any building or structure;
 - (f) any work in connection with any excavation, landscaping, preparatory work, or site preparation performed for the purpose of any work referred to in subregulation (1) or this subregulation;
 - (g) any work referred to in subregulation (1) performed under water, including work on buoys, obstructions to navigation, rafts, ships and wrecks.
- (3) In these Regulations, ***construction work*** does not include the following—
- (a) the assembly, disassembly, prefabrication or manufacture of fixed plant;
 - (b) the prefabrication of elements, other than at a place specifically established for the construction project;
 - (c) routine or minor testing, maintenance or repair work performed in connection with a building or structure;

- (d) the exploration for, or extraction of, minerals or stone.

322 What is high risk construction work?

In this Part, *high risk construction work* means any of the following construction work—

- (a) where there is a risk of a person falling more than 2 metres;
- (b) on telecommunications towers;
- (c) involving demolition;
- (d) involving the removal or likely disturbance of asbestos;
- (e) involving structural alterations that require temporary support to prevent collapse;
- (f) involving a confined space;
- (g) involving a trench or shaft if the excavated depth is more than 1·5 metres;
- (h) involving a tunnel;
- (i) involving the use of explosives;
- (j) on or near pressurised gas distribution mains or piping;
- (k) on or near chemical, fuel or refrigerant lines;
- (l) on or near energised electrical installations or services;
- (m) in an area that may have a contaminated or flammable atmosphere;
- (n) involving tilt-up or precast concrete;
- (o) on or adjacent to roadways or railways used by road or rail traffic;
- (p) at workplaces where there is any movement of powered mobile plant;

- (q) in an area where there are artificial extremes of temperature;
- (r) in, over or adjacent to water or other liquids where there is a risk of drowning;
- (s) involving diving.

323 What is a structure?

In this Part, *structure* includes the following—

- (a) any construction wall, mast, tower, pylon, or structural cable;
- (b) any tunnel, shaft, underground tank, pipe or pipeline, sea defence works, river works, earthworks, earth retaining construction, or construction designed to preserve or alter any natural feature;
- (c) any road, railway line or siding, tramway line, airfield, dock, harbour, inland navigation channel, bridge, viaduct, waterworks, reservoir, aqueduct, constructed lagoon, dam, sewer, sewerage or drainage works, electricity generation facility, electricity transmission facility, electricity distribution facility, gas generation facility, gasholder, gas transmission facility, gas distribution facility, or park or recreation ground facility;
- (d) any ship or submarine;
- (e) any fixed plant;
- (f) any formwork, falsework, scaffold or other construction designed or used to provide support or access or containment during construction;
- (g) any part of a thing set out in paragraphs (a) to (f).

324 What is a safe work method statement?

In this Part, a *safe work method statement* means a document that—

- (a) identifies work that is high risk construction work; and
- (b) states the hazards and risks of that work; and
- (c) sufficiently describes measures to control those risks; and
- (d) describes how the risk control measures are to be implemented; and
- (e) is set out and expressed in a way that is readily accessible and comprehensible to the persons who use it.

Division 2—Control of risk

Subdivision 1—Duties of employers and self-employed persons

325 Control of risk

- (1) An employer or self-employed person must, so far as is reasonably practicable, eliminate any risk associated with construction work.
- (2) If it is not reasonably practicable to eliminate a risk associated with construction work, the employer or self-employed person must reduce the risk so far as is reasonably practicable by—
 - (a) substituting, for the hazard giving rise to the risk to health or safety, a new activity, procedure, plant, process or substance that gives rise to a lesser risk to health or safety; or
 - (b) isolating persons from the hazard; or
 - (c) using engineering controls; or

- (d) combining any of the risk control measures in paragraphs (a), (b) and (c).

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (3) If the employer or self-employed person has complied with subregulations (1) and (2) so far as is reasonably practicable and a risk associated with the construction work remains, the employer or self-employed person must reduce the risk so far as is reasonably practicable by using administrative controls.
- (4) If the employer or self-employed person has complied with subregulations (1), (2) and (3) so far as is reasonably practicable and a risk associated with the construction work remains, the employer or self-employed person must reduce the risk so far as is reasonably practicable by providing appropriate personal protective equipment to persons at risk.

Notes

- 1 Act compliance—sections 21, 23 and 24 (see regulation 7).
- 2 Part 4 of the Act sets out the duty of the employer to consult with employees, including in respect of making decisions about the measures to be taken to control risks to health or safety. This consultation must involve the health and safety representative (if any). See also regulation 21.

326 Review of risk control measures

- (1) An employer or self-employed person must review and, if necessary, revise any measures implemented to control risks associated with construction work—
- (a) before any change is made to the way the construction work is performed or to the system of work associated with the construction work, including a change in the location of the construction work; or

- (b) if new or additional information about hazards relating to the construction work becomes available to the employer or self-employed person; or
- (c) if, for any other reason, the risk control measures do not adequately control the risks; or
- (d) after receiving a request from a health and safety representative.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (2) A health and safety representative may make a request under subregulation (1)(d) if the health and safety representative believes on reasonable grounds that—
 - (a) any of the circumstances referred to in subregulation (1)(a), (b) and (c) exists; or
 - (b) the employer or self-employed person has failed—
 - (i) to properly review the risk control measures; or
 - (ii) to take account of any of the circumstances referred to in subregulation (1)(a), (b) and (c) in conducting a review of, or revising, the risk control measures.

327 Safe work method statement required for high risk construction work

- (1) An employer or self-employed person must not perform high risk construction work if there is a risk to the health or safety of any person arising from the work, unless—

- (a) a safe work method statement is prepared for the work before the work commences; and
- (b) the work is performed in accordance with the statement.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (2) If there is non-compliance with a safe work method statement prepared under subregulation (1) in relation to particular work, the employer or self-employed person must—
 - (a) stop that work immediately or as soon as it is safe to do so; and
 - (b) not resume the work until the statement is complied with or reviewed and, if necessary, revised in accordance with regulation 328.

Note

Act compliance—sections 21, 22 and 23 (see regulation 7).

- (3) For high risk construction work involving the removal or likely disturbance of asbestos, if there is a risk to the health or safety of any person arising from the work—
 - (a) preparation of an asbestos control plan in accordance with regulation 272 is taken to be preparation of a safe work method statement; and
 - (b) compliance with the asbestos control plan is taken to be compliance with a safe work method statement in relation to the risk to health or safety of exposure to airborne asbestos fibres.

328 Safe work method statement to be reviewed and revised

An employer or self-employed person performing high risk construction work for which a safe work method statement is required under regulation 327 must review and, if necessary, revise the safe work method statement—

- (a) whenever the high risk construction work changes; or
- (b) if there is an indication that risk control measures (including risk control measures required under any other Part of these Regulations) are not controlling the risks adequately, including after any incident that occurs during high risk construction work.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

329 Copy of safe work method statement to be kept

An employer or self-employed person must keep a copy of a safe work method statement for the duration of the high risk construction work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

330 Site-specific training

An employer must ensure that a person whom the employer employs to perform construction work is provided with occupational health and safety training that relates to the particular workplace at which the construction work is to be performed.

Note

Act compliance—section 21 (see regulation 7).

331 Emergency procedures

- (1) This regulation applies to construction work if there is a risk of a person becoming engulfed by soil or other material when the work is performed.
- (2) An employer or self-employed person must establish emergency procedures in accordance with subregulations (3) and (4) before the construction work is undertaken.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (3) The employer or self-employed person must ensure that the emergency procedures—
 - (a) so far as is reasonably practicable, enable—
 - (i) the rescue of a person in the event that the person becomes engulfed by soil or other material; and
 - (ii) the provision of first aid to a person who has become engulfed; and
 - (b) can be carried out immediately after a person becomes, or is likely to become, engulfed.
- (4) The employer or self-employed person must ensure that any risk associated with carrying out the emergency procedures is—
 - (a) so far as is reasonably practicable, eliminated; or
 - (b) if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Examples

Examples of risks associated with carrying out emergency procedures are risks of engulfment, a fall, electric shock, crushing and musculoskeletal disorder.

- (5) The employer or self-employed person must ensure that the emergency procedures are carried out immediately after a person becomes, or is likely to become, engulfed.

Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (6) This regulation does not apply to excavation of a shaft, trench or tunnel being—
- (a) a mine; or
 - (b) a bore to which the **Water Act 1989** applies; or
 - (c) a quarry within the meaning of the **Mineral Resources (Sustainable Development) Act 1990**; or
 - (d) made for the purpose of undertaking emergency work; or
 - (e) made for the rescue of any person or the carrying out an emergency response by an emergency service; or
 - (f) made for use as a place of burial or interment of the dead.

Subdivision 2—Duties of principal contractors

332 Application of Subdivision

- (1) This Subdivision applies to a construction project if the cost of the project is \$350 000 or more.

Note

This Subdivision only applies to construction projects where the construction contract was entered into on or after 1 July 2014. This Subdivision applies to construction projects costing \$250 000 or more if the construction contract for the project was entered into before 1 July 2014. (See regulation 558).

- (2) For the purposes of this Part, the cost of a construction project is to be valued in the same way that construction work under a construction contract is valued under section 11 of the **Building and Construction Industry Security of Payment Act 2002**.

333 Who is the principal contractor for a construction project?

- (1) The owner is the principal contractor of the workplace where the construction project is to be carried out unless the owner—
- (a) appoints a principal contractor for the construction work performed for or on behalf of the owner; and
 - (b) authorises the principal contractor to manage or control the workplace to the extent necessary to discharge the duties imposed on a principal contractor under this Subdivision.
- (2) If domestic premises become a workplace due to construction work being performed and the owner of those premises engages a person to manage or control the workplace, the person engaged is taken to be the principal contractor for the purposes of this Subdivision.

334 Signage of principal contractor

- (1) A principal contractor must put in place signs that are clearly visible from outside the workplace where the construction work is being performed, showing the name and contact telephone numbers of the principal contractor.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) Subregulation (1) does not apply if the details required under subregulation (1) are displayed in accordance with regulation 317 of the Building Regulations 2006.

335 Health and safety co-ordination plans

A principal contractor for a construction project must—

- (a) prepare a health and safety co-ordination plan, in accordance with regulation 336, for construction work before that work commences; and
- (b) monitor, maintain and keep the plan up to date for the duration of the construction work.

Note

Act compliance—section 26 (see regulation 7).

336 Content of health and safety co-ordination plans

The principal contractor must include in the health and safety co-ordination plan—

- (a) a list of the names, positions and responsibilities of all persons who will have specific responsibilities for health and safety; and

Example

Persons who may have specific responsibilities for health and safety may include occupational health and safety managers, first aid officers, principal contractors or other persons who have responsibility for implementing the health and safety co-ordination plan.

- (b) the arrangements for the co-ordination of the health and safety of persons engaged to perform construction work; and
- (c) the arrangements for managing occupational health and safety incidents that occur; and

- (d) any site safety rules, with the arrangements for ensuring that all persons at the workplace are informed of the rules.

337 Health and safety co-ordination plan available for inspection

- (1) The principal contractor must keep a copy of the health and safety co-ordination plan prepared in accordance with regulation 336 and of any revisions to that plan for the duration of the construction project and make them available for inspection throughout the course of the construction work by persons including—
 - (a) any person engaged to perform construction work at the workplace; and
 - (b) any person about to commence work at the workplace; and
 - (c) an employee member of a health and safety committee, a health and safety representative or a person nominated under regulation 23(4).

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) Before any person commences construction work at a workplace the principal contractor must ensure that the person—
 - (a) is aware of the health and safety co-ordination plan for that workplace and any revisions of the plan; and
 - (b) is provided with access to the plan and any revisions of the plan.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Division 3—Construction induction training

338 Application of Division

This Division applies to all persons at a workplace at which construction work is performed, with the exception of—

- (a) visitors to the workplace who are accompanied at all times by a person who has received construction induction training; and
- (b) persons temporarily at the workplace to deliver plant, supplies or materials.

Note

A duty may still be owed under the Act to the persons referred to in paragraphs (a) and (b) to ensure they are not exposed to risks to their health or safety.

339 Construction induction training to be provided

- (1) Subject to regulation 342, an employer must ensure that construction induction training is provided in accordance with this regulation to a person who—
 - (a) is employed to perform construction work; and
 - (b) does not hold a current construction induction card.

Notes

- 1 Act compliance—sections 21 and 23 (see regulation 7).
 - 2 Regulation 349 provides that a person's construction induction card lapses if that person has not performed any construction work for any consecutive period of 2 years.
- (2) The construction induction training must be provided to the person before the person commences construction work.

- (3) The construction induction training must be provided by a construction RTO.

Note

In addition to this specific duty the employer has a general duty under section 21(2)(e) of the Act to provide such information, instruction, training or supervision to employees as is necessary to enable the employees to perform their work in a way that is safe and without risks to health.

340 Requirement to hold a current construction induction card

Subject to regulation 342, a person must not perform construction work at a workplace unless the person holds a current construction induction card.

Note

See section 41 of the Act.

341 Employer must not allow a person to perform construction work unless the person holds a current construction induction card

- (1) Subject to regulation 342, an employer must not knowingly allow a person whom the employer employs to perform construction work unless the person holds a current construction induction card.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) A reference in subregulation (1) to a person employed by the employer includes a person placed with the employer under a work experience arrangement under the **Education and Training Reform Act 2006**.

342 Exemptions

- (1) Regulations 339, 340 and 341 do not apply in relation to a person who is employed to perform construction work during the period of 28 days after the person's employment commences if—

- (a) the person has not performed construction work during the preceding 2 years; and
 - (b) the employer makes an application and pays for the person to undertake construction induction training before or during the period of 28 days; and
 - (c) the employer ensures that the person receives direct supervision, directions, demonstrations and monitoring appropriate to the construction work performed by the person for the 28-day period so that, so far as is reasonably practicable, the person can perform the work in a manner that is safe and without risks to health.
- (2) Regulations 339, 340 and 341 do not apply in relation to a person who is employed to perform construction work during the period of 60 days after the person has been issued with a construction statement of attainment.
- (3) Regulations 339, 340 and 341 do not apply in relation to a person who is employed to perform construction work if the person—
- (a) completed the Construction Industry Basic Induction training course before 1 July 2008 and holds a card evidencing that completion; and
 - (b) has performed construction work in the preceding 2 years.
- (4) Regulations 339, 340 and 341 do not apply in relation to a person who is employed to perform construction work if the person has recognised evidence of construction induction training and—
- (a) not more than 2 years have passed since the recognised evidence of construction induction training was issued; or

- (b) the person has performed construction work in the preceding 2 years.

Note

Act compliance—sections 21 and 23 (see regulation 7).

343 Offence to refuse to accept a current construction induction card

An employer must not knowingly refuse to accept from a person—

- (a) a current construction induction card; or
- (b) a construction statement of attainment issued to a person within the previous 60-day period; or
- (c) a card evidencing completion before 1 July 2008 of the Construction Industry Basic Induction training course; or
- (d) recognised evidence of construction induction training.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

344 Application for construction induction card

Without limiting regulation 532, an application for a construction induction card must—

- (a) include any evidence or proof of identity of the applicant required by the Authority; and
- (b) be accompanied by—
 - (i) a construction statement of attainment issued to the applicant; or
 - (ii) written evidence, satisfactory to the Authority, of the completion of construction induction training; or

- (iii) written evidence, satisfactory to the Authority, of the completion before 1 July 2008 of the Construction Industry Basic Induction training course; and

- (c) be accompanied by a fee of 1·8 fee units.

345 Authority may refuse to recognise or accept a construction statement of attainment obtained by fraud

The Authority may refuse to recognise or accept a construction statement of attainment if it is satisfied that the statement was obtained or provided on the basis of fraud or the provision of false or misleading information by any person or body.

Note

Person or body would include the applicant for a construction induction card or the construction RTO.

346 Construction induction card

- (1) The Authority must give a construction induction card to a person who makes an application in accordance with regulation 344 as soon as reasonably possible after the application is made.
- (2) A construction induction card must include—
 - (a) the name of the person; and
 - (b) the date on which the construction induction card takes effect; and
 - (c) an identifying number.
- (3) A construction induction card is evidence that a person has completed construction induction training.

347 Construction induction card to be of unlimited duration

Subject to regulations 349, 350 and 351, a construction induction card is of unlimited duration.

348 Destruction, loss and replacement of construction induction cards

- (1) A person, other than the Authority, must not intentionally or recklessly destroy, alter or deface a construction induction card.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) If the Authority is satisfied that a construction induction card has been lost, stolen or destroyed, the Authority may issue a duplicate construction induction card to a person on the evidence of a copy of a construction statement of attainment or other written evidence satisfactory to the Authority.

349 Lapse of construction induction cards

If a person who holds a construction induction card has not performed construction work during a consecutive period of 2 years, the construction induction card lapses and is no longer current at the end of that period of 2 years.

350 Authority may cancel construction induction card based on false or misleading information

- (1) The Authority may cancel a construction induction card if it is satisfied that the person who applied for the construction induction card—
 - (a) gave information in the application for the construction induction card that was false or misleading in a material particular (without advising the Authority in writing

- at the time that the information was given that it was false or misleading); or
- (b) did not disclose material information to the Authority.
- (2) Before cancelling a construction induction card the Authority must conduct an inquiry to determine whether there are grounds for taking action under subregulation (1).
- (3) The Authority must give the person who holds the construction induction card written notice of the inquiry.
- (4) The notice must—
- (a) state the subject of the inquiry and the reasons for conducting it; and
 - (b) set out an outline of all allegations, facts and circumstances known to the Authority that are relevant to the inquiry; and
 - (c) invite the person to make a submission to the inquiry; and
 - (d) specify a period of not less than 14 days within which the person may accept the invitation to make a submission.
- (5) After considering any submissions made by, or on behalf of, the person in the period allowed, the Authority must decide whether or not grounds exist to cancel the construction induction card.
- (6) If the Authority is satisfied that grounds exist to cancel the construction induction card, the Authority must—
- (a) cancel the construction induction card; and

(b) give the card holder written notice of the following—

- (i) its decision;
- (ii) the reasons for its decision;
- (iii) the date the cancellation is to take effect.

(7) In specifying the date that the cancellation is to take effect, the Authority must not specify a date that is less than 14 days after the person is given the notice.

351 Authority may cancel construction induction card on request

The Authority may cancel a construction induction card at the request of the person who holds the construction induction card.

352 Construction induction card to be kept available

A person who holds a construction induction card must keep that card available for immediate inspection on request under the Act.

Penalty: 5 penalty units.

353 Changes to information provided

- (1) This regulation applies if a change occurs to any information provided to the Authority in relation to a construction induction card at any time by the person who holds the construction induction card whether provided—
- (a) in applying for the construction induction card; or
 - (b) under this regulation; or
 - (c) in any other circumstance.

- (2) The person must advise the Authority in writing of that change as soon as reasonably possible after the person becomes aware that the change has occurred.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Division 4—Notice of construction excavation work

354 Application of Division

- (1) This Division applies to a proposed construction excavation if—
- (a) the excavation will be of sufficient dimensions or depth to allow the entry of a person; or
 - (b) there will be a risk to the health or safety of any person from the excavation.
- (2) Despite subregulation (1), this Division does not apply to excavation of a shaft or trench made as part of building work for which a building permit has been issued and is in force under the **Building Act 1993**.
- (3) Despite subregulation (1), this Division does not apply to excavation of a shaft, trench or tunnel being—
- (a) a mine; or
 - (b) a bore to which the **Water Act 1989** applies; or
 - (c) a quarry within the meaning of the **Mineral Resources (Sustainable Development) Act 1990**; or

- (d) made for the purpose of undertaking emergency work; or
- (e) made for the rescue of any person or the carrying out an emergency response by an emergency service; or
- (f) made for use as a place of burial or interment of the dead.

355 Requirement to notify intention to perform construction excavation work

- (1) An employer or self-employed person must notify the Authority in accordance with subregulation (2) that it intends to perform construction excavation work on a shaft, trench or tunnel at least 3 days before commencing that work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) The notice must be in writing and must include the following—
 - (a) the name of the person who is making the notice;
 - (b) the name of the person directly supervising the proposed construction excavation work and that person's contact details;
 - (c) the date of the notice;
 - (d) a description of the type of construction excavation proposed;
 - (e) whether explosives will be used in carrying out the proposed construction excavation;
 - (f) the date or dates on which construction excavation work is likely to commence and be completed;

- (g) the location or locations of the proposed construction excavation work.

Note

Paragraphs (f) and (g) allow the person notifying to give one notice for a construction excavation associated with a single project which may extend through several locations and be carried out over a period.

Part 5.2—Major hazard facilities

Division 1—Introductory matters

356 Application of Part

- (1) This Part does not apply to—
- (a) a building or other structure on land used for an activity to which section 157(2)(a) of the Act applies; or
 - (b) a pipeline in respect of which a licence has been issued under the **Pipelines Act 2005**; or
 - (c) a distribution pipeline within the meaning of the **Gas Industry Act 2001**; or
 - (d) a prescribed mine.
- (2) Subject to subregulation (3), Divisions 6, 7 and 9 do not apply in relation to a major hazard facility that is registered under Part 6.2 (Registration).
- (3) The operator of a registered major hazard facility must, so far as is reasonably practicable, comply with Divisions 6, 7 and 9.

Reg. 356(1)(c)
amended by
S.R. No.
176/2018
reg. 4(a).

Reg. 356(1)(d)
inserted by
S.R. No.
176/2018
reg. 4(b).

357 Schedule 14 materials

In this Part a reference to Schedule 14 materials likely to be present at a facility is a reference to the maximum quantity of the Schedule 14 materials that would meet the capacity of the facility, including—

- (a) the maximum capacity of process vessels and interconnecting piping systems to contain the materials; and

- (b) the maximum capacity of storage tanks and vessels used for the materials; and
- (c) the maximum storage capacity of other storage areas at the facility that could contain the materials; and
- (d) the maximum capacity of pipelines outside process areas to contain the materials; and
- (e) the maximum quantity of the materials that would, in the event of a failure, escape onto the premises of the facility from a pipeline that is situated off the premises but connected to the facility; and
- (f) the maximum quantity of the materials loaded into or onto, or unloaded from, vehicles, trailers, rolling stock and ships that are from time to time present at the facility in the course of the facility's operations.

Division 2—Requirement to be licensed or registered

358 Only licensed or registered major hazard facility to be operated

A person must not operate a major hazard facility unless—

- (a) a major hazard facility licence has been granted for the facility under Part 6.1 (Licences); or
- (b) the facility is registered under Part 6.2 (Registration).

Note

See section 40(1) of the Act.

Division 3—Authority may require information

359 Authority may require information

- (1) The Authority may by written notice require the operator of a facility or a person who intends to be the operator of a facility to provide any information about the operation of the facility that the Authority reasonably requires for the purposes of this Part.
- (2) A notice under subregulation (1) must specify—
 - (a) the information required; and
 - (b) the date by which the information must be provided.
- (3) A person who receives a notice under subregulation (1) must provide the information in accordance with the notice.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

Note

Section 154 of the Act provides that a natural person may refuse or fail to give information required by these Regulations if giving the information would tend to incriminate the person.

Division 4—Determination of major hazard facility

360 Operators of certain facilities to notify Authority

- (1) Subject to subregulation (2), the operator of a facility at which Schedule 14 materials are present, or likely to be present, in a quantity exceeding 10% of their threshold quantity must notify the Authority of this circumstance in accordance with this regulation.

Notes

- 1 Act compliance—sections 21, 23 and 26 (see regulation 7).
 - 2 *Threshold quantity* is defined in regulation 5.
- (2) Subregulation (1) does not apply to—
- (a) a person who has applied under regulation 514 to the Authority for registration to operate the facility as a major hazard facility; or
 - (b) an operator of a registered major hazard facility.
- (3) The notice under subregulation (1) must be given within 30 days after the operator becomes aware, or ought reasonably to have become aware, of the circumstance giving rise to the requirement to notify.
- (4) Without limiting regulation 532, the notice must contain—
- (a) the information specified in Schedule 18 with all necessary adaptations to the circumstance described in subregulation (1) that give rise to the requirement to notify; and
 - (b) if the facility or proposed facility is expected to operate as a major hazard facility, the date on which it will commence so operating.

Notes

- 1 Regulation 363 provides that the Authority may determine that a facility is a major hazard facility after receiving notice under this regulation.
- 2 See Division 1 of Part 7.1 (Administrative matters) for information regarding notices.

361 Changes to information provided

If any change occurs to the information provided at any time by the operator of a facility to the Authority in relation to a notice under regulation 360(1) that is ongoing, the operator must advise the Authority in writing of that change as soon as reasonably possible after the operator becomes aware that the change has occurred.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Note

Regulations 475 and 523 set out the circumstances under which an operator of a registered or licensed major hazard facility must notify the Authority of changes to information provided in the application for licence or registration.

362 Inquiry before making determination

- (1) The Authority must not make a determination under this Division unless the Authority has conducted an inquiry under this regulation.
- (2) The Authority must give the operator of a facility that may be the subject of a determination under this Division written notice that the Authority intends to conduct an inquiry.
- (3) A notice under subregulation (2) must—
 - (a) state the subject of the inquiry and the reasons for conducting it; and
 - (b) invite the operator to make submissions in relation to the inquiry within 14 days of the date of the notice.
- (4) The Authority must consider any submissions made by the operator.

363 Authority may determine facility to be a major hazard facility—notice

- (1) This regulation applies if the Authority receives notice under regulation 360.
- (2) The Authority may determine that the facility is a major hazard facility if it forms the opinion that there is a potential for a major incident to occur at the facility, having regard to all or any of the following—
 - (a) the quantity or combination of Schedule 14 materials present or likely to be present at the facility;
 - (b) the type of activity within the facility that involves those materials;
 - (c) the land use and activities of occupancy in the area surrounding the facility.

364 Authority may determine facility to be a major hazard facility—own initiative

The Authority, on its own initiative, may determine that a facility is a major hazard facility if—

- (a) the Authority becomes aware that Schedule 14 materials are present or likely to be present at the facility in a quantity exceeding 10% of their threshold quantity but not exceeding their threshold quantity; and
- (b) the Authority forms the opinion that there is a potential for a major incident to occur at the facility, having regard to all or any of the following—

- (i) the quantity or combination of Schedule 14 materials present or likely to be present at the facility;
- (ii) the type of activity within the facility that involves those materials;
- (iii) the land use and activities of occupancy in the area surrounding the facility.

365 Written notice of determination

- (1) The Authority must send to the operator of a facility in respect of which a determination is made under this Division a written notice that—
 - (a) sets out the determination; and
 - (b) states the reasons for the determination; and
 - (c) specifies the date on which the determination takes effect.
- (2) The date specified under subregulation (1)(c) must be not less than 30 days after the operator is sent the notice.

366 Effect of determination

A facility in respect of which a determination is made under this Division is taken to be registered as a major hazard facility under Part 6.2 (Registration) from the date on which the determination takes effect.

Division 5—Duties of operator of a registered major hazard facility

367 Outline of safety case

- (1) The operator of a registered major hazard facility must, within 90 days of the commencement of the registration of the facility, provide the Authority with an outline for the safety case (*safety case outline*) the operator proposes to include with its

major hazard facility licence application under Part 6.1 (Licences).

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (2) The safety case outline must include—
 - (a) a detailed written program and time frame for the preparation of the safety case, with specific reference being made to each of the matters required by regulation 385 to be included in a safety case; and
 - (b) details of the scope of consultation that will be undertaken when preparing the safety case; and
 - (c) a draft of the emergency plan the operator proposes to include in the safety case.
- (3) If the Authority is of the opinion that the safety case outline would not produce a safety case that meets the requirements of Division 8, the Authority may require amendments to be made to the safety case outline.
- (4) The Authority must not require the operator to make any amendments to the safety case outline unless the Authority has—
 - (a) by written notice informed the operator of the proposed amendments; and
 - (b) invited the operator to make written submissions within 14 days of the date of the notice; and
 - (c) considered any submissions that are made.
- (5) The operator must make any amendments to the safety case outline required by the Authority under subregulation (3).

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (6) The operator must provide the Authority with a safety case outline amended under this regulation, or amended by the operator on the operator's own initiative, as soon as reasonably possible after the amendments are made.
- (7) The operator of a registered major hazard facility must comply with the safety case outline provided to the Authority under this regulation.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (8) If the safety case outline has been amended under this regulation, the operator must comply with the outline as so amended.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

Division 6—Safety duties of operators

368 Identification of major incidents and major incident hazards

- (1) The operator of a major hazard facility must identify—
 - (a) all major incidents that could occur at the major hazard facility; and
 - (b) all major incident hazards.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (2) The operator must document all aspects of any identification made under this regulation, including—
 - (a) the methods and criteria used for identifying major incidents and major incident hazards; and

- (b) any conditions under which the major incident hazards might give rise to a major incident.

Notes

- 1 Act compliance—sections 21, 23 and 26 (see regulation 7).
- 2 Subregulation (2)(b) includes conditions within the major hazard facility such as a failure to maintain or replace aging plant or other infrastructure or to maintain critical staffing levels. It also includes external conditions such as wildfires, floods or other extreme weather events as well as activities at neighbouring sites or conditions relating to the security of the major hazard facility.

369 Safety assessment

- (1) The operator of a major hazard facility must conduct a comprehensive and systematic safety assessment, in accordance with this regulation, in relation to all potential major incidents and all major incident hazards.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (2) A safety assessment must involve an investigation and analysis of the major incident hazards and major incidents so as to provide the operator with a detailed understanding of all aspects of risks to health and safety associated with major incidents, including the following—
- (a) the nature of each major incident hazard and major incident;
 - (b) the likelihood of each major incident hazard causing a major incident;

- (c) in the event of a major incident occurring—
 - (i) its magnitude; and
 - (ii) the severity of its consequences to persons both on-site and off-site;
 - (d) the range of risk control measures considered.
- (3) In conducting a safety assessment, the operator must—
- (a) consider major incident hazards and major incidents cumulatively as well as individually; and
 - (b) use assessment methods (whether quantitative or qualitative, or both) that are appropriate to the major incident hazards being considered.
- (4) The operator must document all aspects of the safety assessment and the documentation must—
- (a) describe the methods used in the investigation and analysis; and
 - (b) state all the matters specified in subregulation (2)(a) to (d); and
 - (c) contain reasons for decisions as to the matters specified in subregulation (2)(b) and (c); and
 - (d) contain, in relation to the range of risk control measures considered—
 - (i) statements as to their viability and effectiveness; and
 - (ii) reasons for selecting certain risk control measures and rejecting others.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

370 Operator to keep safety assessment available

The operator of a major hazard facility must keep the safety assessment documentation available for inspection on request under the Act.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

371 Control of risk

- (1) The operator of a major hazard facility must, so far as is reasonably practicable, eliminate the risk of a major incident occurring.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (2) If it is not reasonably practicable to eliminate the risk of a major incident occurring, the operator must reduce the risk so far as is reasonably practicable by adopting risk control measures.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (3) The operator of a major hazard facility must adopt risk control measures that, if a major incident occurs, will reduce so far as is reasonably practicable its magnitude and the severity of its consequences to persons both on-site and off-site.

Notes

- 1 Act compliance—sections 21, 23 and 26 (see regulation 7).
- 2 Part 4 of the Act sets out the duty of the employer to consult with employees, including in respect of making decisions about the measures to be taken to control risks to health or safety. This consultation must involve the health and safety representative (if any). See also regulation 21.

372 Safety management system

- (1) The operator of a major hazard facility must establish and implement a safety management system for the major hazard facility, in accordance with this regulation, which provides a comprehensive and integrated management system for all risk control measures adopted under this Part.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (2) The operator must use the safety management system as the primary means of ensuring the safe operation of the major hazard facility.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (3) The operator of a major hazard facility must ensure that the safety management system—
 - (a) is documented; and
 - (b) is set out and expressed in a way that is readily accessible and comprehensible to persons who use it; and
 - (c) includes all of the matters specified in Schedule 15.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

373 Operator to keep safety management system available

The operator of a major hazard facility must keep the documented safety management system available for inspection on request under the Act.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

374 Review of safety management system

The operator of a major hazard facility must review and, if necessary, revise the safety management system at least once every 5 years as well as in the following circumstances—

- (a) before a modification is made to the major hazard facility;
- (b) after a major incident occurs at the major hazard facility.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

375 Emergency plan

- (1) The operator of a major hazard facility must prepare an emergency plan for the major hazard facility in accordance with this regulation.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (2) The emergency plan must be included as a risk control measure adopted under regulation 371 for that major hazard facility.
- (3) The emergency plan must—
 - (a) address the potential on-site and off-site consequences of a major incident occurring; and
 - (b) include all matters specified in Schedule 16; and
 - (c) be prepared in conjunction with—
 - (i) the emergency services that have responsibility for the area in which the major hazard facility is located; and

- (ii) in relation to the off-site consequences of a major incident occurring, the municipal councils in the area occupied by the local community.
- (4) The operator of a major hazard facility must ensure that the emergency plan is able to be carried out immediately if—
 - (a) a major incident occurs; or
 - (b) an uncontrolled event or incident occurs that could reasonably be expected to lead to a major incident.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

376 Emergency plan to be kept and sent to emergency services and municipal councils

After preparing an emergency plan, the operator of a major hazard facility must—

- (a) keep a copy of the emergency plan at the major hazard facility for use by emergency services; and
- (b) send a copy of the emergency plan to those emergency services involved in the preparation of the plan under regulation 375(3)(c)(i) and inform those emergency services of the plan's location at the major hazard facility; and
- (c) send to the municipal councils involved in the preparation of the plan under regulation 375(3)(c)(ii) a copy of those parts of the emergency plan relating to the off-site consequences of a major incident occurring.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

377 Emergency plan must be tested

The operator of a major hazard facility must—

- (a) test the emergency plan for the facility at suitable intervals, not exceeding 3 years; and
- (b) take all necessary steps to arrange for the emergency services consulted under regulation 375(3)(c)(i) to participate in the test of the emergency plan.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

378 Emergency plan to be put into action if a major incident occurs

- (1) The operator of a major hazard facility who has prepared an emergency plan for the facility must put the emergency plan into effect immediately if—
 - (a) a major incident occurs; or
 - (b) an uncontrolled event or incident occurs that could reasonably be expected to lead to a major incident.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (2) Immediately after becoming aware that a major incident has occurred, the operator of a major hazard facility must notify the emergency services that have responsibility for the area in which the major hazard facility is located.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

379 Review by operator

- (1) In order to ensure that an operator of a major hazard facility is complying with regulation 371 by adopting appropriate risk control measures, the operator must review and, if necessary, revise the following—
 - (a) the major incident hazards and possible major incidents identified under regulation 368;
 - (b) the safety assessment;
 - (c) the risk control measures adopted under regulation 371;
 - (d) the emergency plan.
- (2) A review under this regulation must be conducted at least every 5 years as well as in the following circumstances—
 - (a) at the direction of the Authority;
 - (b) before any modification is made to the major hazard facility;
 - (c) after any major incident occurs at the major hazard facility;
 - (d) when an effectiveness test indicates a deficiency in a risk control measure;
 - (e) if there has been any change to the circumstances that formed part of the property protection assessment under regulation 382;
 - (f) after receiving a request from a health and safety representative.

- (3) A health and safety representative may make a request under subregulation (2)(f) if the health and safety representative believes on reasonable grounds that—
 - (a) any of the circumstances referred to in subregulation (2)(a) to (e) exist; or
 - (b) the operator has failed—
 - (i) to properly review the risk control measures; or
 - (ii) to take into account any of the circumstances referred to in subregulation (2)(a) to (e) in conducting a review of, or revising, the risk control measures.
- (4) The operator must review and, if necessary, revise the emergency plan for the major hazard facility in conjunction with—
 - (a) the emergency services that have responsibility for the area in which the major hazard facility is located; and
 - (b) in relation to the off-site consequences of a major incident occurring, the municipal councils within the area occupied by the local community.

Notes

- 1 Act compliance—sections 21, 23 and 26 (see regulation 7).
- 2 *Emergency plan, emergency service, local community, major incident, major incident hazard, modification, operator* and *safety assessment* are defined in regulation 5.

380 Safety role for employees

- (1) The operator of a major hazard facility must develop a safety role for the operator's employees, including the specific procedures employees are required to follow to assist the operator to—
 - (a) identify major incident hazards and possible major incidents under regulation 368; and
 - (b) adopt or review risk control measures under regulations 371 and 379; and
 - (c) conduct and document a safety assessment; and
 - (d) review a safety assessment under regulation 379; and
 - (e) establish and implement a safety management system.
- (2) The operator must review the safety role for employees developed under this regulation if there is any change of circumstances, including a modification to a major hazard facility, that would require additional or different knowledge and skills on the part of employees to perform the role.

Notes

- 1 Act compliance—section 21 (see regulation 7).
- 2 Part 4 of the Act sets out the duty of the employer to consult, including involving the health and safety representative (if any). See also regulation 21 and the consultation requirements in Division 9 of this Part.
- 3 *Safety assessment* and *safety management system* are defined in regulation 5.

Division 7—Controls under Dangerous Goods Act 1985—Protection of property

381 Risk control measures

The operator of a major hazard facility must, in relation to Schedule 14 materials that are also dangerous goods, adopt risk control measures to, so far as is practicable, eliminate or, if it is not practicable to eliminate, to reduce so far as is practicable, the extent of damage to property that would be caused in the event of a major incident.

Penalty: 100 penalty units for a natural person;
400 penalty units for a body corporate.

382 Property protection assessment

- (1) For the purpose of complying with regulation 381, the operator of a major hazard facility must conduct a comprehensive and systematic property protection assessment in accordance with this regulation for matters relating to protection of property that have not been considered under Divisions 6 and 8.

Penalty: 100 penalty units for a natural person;
400 penalty units for a body corporate.

- (2) A property protection assessment must include all relevant procedures set out in regulation 369 for a safety assessment.
- (3) The operator may—
- (a) conduct and document the property protection assessment required by this regulation in conjunction with the safety assessment; and
 - (b) incorporate the contents of the property protection assessment into the safety assessment.

383 Review of property protection assessment

- (1) The operator of a major hazard facility must review and, if necessary, revise the existing property protection assessment for that facility—
 - (a) if there has been a change to the circumstances—
 - (i) of a safety case under Division 8; or
 - (ii) that formed part of the property protection assessment; or
 - (b) after receiving a request from a health and safety representative to review the assessment.

Penalty: 100 penalty units for a natural person;
400 penalty units for a body corporate.

- (2) A health and safety representative may make a request under subregulation (1)(b) if the health and safety representative believes on reasonable grounds that—
 - (a) a change to the circumstances referred to in subregulation (1)(a) has occurred; or
 - (b) the operator has failed to take account of any change to the circumstances referred to in subregulation (1)(a) in conducting a review of, or revising, the property protection assessment.

Division 8—Safety case

384 Operator to provide safety case

The operator of a major hazard facility must, in order to obtain a major hazard facility licence under Part 6.1 (Licences)—

- (a) prepare a safety case in accordance with this Part; and
- (b) provide the safety case to the Authority.

Note

An operator has an obligation, when applying for a major hazard facility licence under Part 6.1 (Licences), to provide the safety case to the Authority.

385 Content of safety case

- (1) A safety case prepared under this Part must include the information specified in Schedule 17.
- (2) The content of a safety case must demonstrate—
 - (a) that the safety management system provides a comprehensive and integrated management system of risk control measures in relation to major incident hazards and major incidents; and
 - (b) the adequacy of the risk control measures adopted under regulation 371 or reviewed and, if necessary, revised under regulation 379.
- (3) The operator of a major hazard facility must include in the safety case a signed statement by which the operator certifies that—
 - (a) the information provided under clauses 3, 4 and 7.1 of Schedule 17 is accurate; and
 - (b) as a consequence of conducting a safety assessment, the operator has a detailed understanding of all aspects of risks to health and safety associated with major incidents; and
 - (c) the risk control measures adopted in accordance with regulation 371 are such as—

- (i) to, so far as is reasonably practicable, eliminate or, if it is not reasonably practicable to eliminate, to reduce so far as is reasonably practicable, the risk of a major incident occurring; and
 - (ii) in the event of a major incident occurring, to reduce so far as is reasonably practicable its magnitude and the severity of its consequences to persons both on-site and off-site; and
 - (d) the persons who participate in the implementation of the safety management system have the necessary knowledge and skills to enable them to undertake their tasks and discharge their responsibilities in relation to the safety management system.
- (4) A signed statement prepared under subregulation (3) must—
- (a) if the operator is a body corporate and its chief executive resides in Victoria, be signed by the chief executive; or
 - (b) if the operator is a body corporate and its chief executive does not reside in Victoria, be signed by the chief executive and by the most senior officer of the body corporate resident in Victoria.

386 Co-ordination of safety cases

- (1) The Authority may require the operators of 2 or more major hazard facilities to co-ordinate the preparation of their respective safety cases if it believes that the co-ordinated preparation of safety cases is necessary in the interests of the safe operation or the effective safety management of either or both major hazard facilities.

- (2) Each of the operators of major hazard facilities who are required under subregulation (1) to co-ordinate the preparation of safety cases must provide to the other operators information about any circumstances at the operator's major hazard facility that could constitute a major incident hazard in relation to the other major hazard facilities.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (3) The operator of a major hazard facility who has co-ordinated the preparation of a safety case in accordance with this regulation must include reference to the information provided under subregulation (2) in the safety case prepared by the operator.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

387 Review of safety case

- (1) The operator of a major hazard facility must review and revise the safety case for the major hazard facility if—
- (a) the risk control measures are revised under regulation 379; or
 - (b) the operator intends to apply for the renewal of the operator's major hazard facility licence under Part 6.1 (Licences); or
 - (c) a property protection assessment for the facility is revised under regulation 383.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (2) A revised safety case must—
 - (a) include all of the matters required under regulation 385; and
 - (b) specify the changes made to the safety case in relation to matters specified in regulation 385(1).
- (3) If a safety case is revised by the operator of a major hazard facility, the operator must, as soon as reasonably possible after the revision is made, provide to the Authority a copy of—
 - (a) the revised safety case; or
 - (b) the changes made to the safety case as set out in subregulation (2)(b).
- (4) The Authority may request a copy of the revised safety case at any time.
- (5) The operator must provide to the Authority a copy of the revised safety case as soon as reasonably possible after receiving a request under subregulation (4).

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

**Division 9—Consulting, informing,
instructing and training**

**388 Consultation with employees and health and safety
representatives**

For the purposes of section 35(1) of the Act, the operator of a major hazard facility must consult in relation to the following matters—

- (a) identifying major incidents that could occur at the facility and major incident hazards under regulation 368;
- (b) conducting a safety assessment;

- (c) reviewing a safety assessment under regulation 379;
- (d) adopting or reviewing risk control measures under regulations 371 and 379;
- (e) establishing and implementing a safety management system;
- (f) preparing or revising a safety case;
- (g) developing or reviewing a safety role for employees under this Part;
- (h) preparing an emergency plan;
- (i) reviewing and revising an emergency plan under regulation 379.

Notes

- 1 Act compliance—sections 35 and 36 (see regulation 7).
- 2 Part 4 of the Act sets out the duty of the operator to consult, including involving the health and safety representative (if any). See also regulation 21.

389 Information, instruction and training

- (1) The operator of a major hazard facility must provide information, instruction and training to employees of the operator in relation to the following matters—
 - (a) the kind of major incidents that could occur at the major hazard facility;
 - (b) all major incident hazards;
 - (c) the implementation of risk control measures adopted under regulation 371;
 - (d) the content and operation of the safety management system;
 - (e) the emergency plan;

- (f) the safety role developed for employees under regulation 380.

Note

Act compliance—section 21 (see regulation 7).

- (2) The operator must monitor, review and, if necessary, revise the information, instruction and training provided under subregulation (1) in order to ensure it remains relevant and effective.

Note

Act compliance—section 21 (see regulation 7).

390 Record of training

The operator of a major hazard facility must make a record of all training provided to an employee under regulation 389 and keep that record while the employee is employed at the facility.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

391 Further information and access to documents

For the purpose of complying with regulation 389 the operator of a major hazard facility must—

- (a) inform the operator's employees about the content of the safety case for the major hazard facility, including any revision of the safety case; and
- (b) ensure that the safety management system, the safety case and the emergency plan, or copies of these documents, are readily accessible to employees of the operator.

Note

Act compliance—section 21 (see regulation 7).

392 Response to employee alert at major hazard facility

If an employee at a major hazard facility gives information under regulation 398(c) to the operator of the facility, the operator must inform the employee of what, if any, investigative or other action has been taken in response to the information.

Note

Act compliance—section 21 (see regulation 7).

393 Information and instruction to non-employees at the facility

The operator of a major hazard facility must ensure that any person other than an employee of the operator who enters the major hazard facility is, as soon as reasonably possible after entering—

- (a) informed generally about the major incident hazards at the major hazard facility; and
- (b) instructed about the safety precautions the person should take while at the major hazard facility; and
- (c) instructed about the action the person should take in the event of an emergency plan being activated while the person is at the major hazard facility.

Note

Act compliance—sections 23 and 26 (see regulation 7).

394 Information to local community

- (1) The operator of a major hazard facility must provide the local community and municipal councils for the area occupied by the local community, with information, in accordance with regulation 395, about the safety of the major hazard facility.

Note

Act compliance—sections 23 and 26 (see regulation 7).

- (2) Information provided under this regulation must be sent in writing to any community or public library serving the local community.

Note

Act compliance—sections 23 and 26 (see regulation 7).

395 Content of information

Information provided under regulation 394—

- (a) must include—
- (i) a summary of the safety case for the major hazard facility; and
 - (ii) a copy of the licence for the major hazard facility, including the terms and conditions of the licence; and
- (b) unless already included in the safety case summary, must include the following—
- (i) the name and location of the major hazard facility;
 - (ii) the name, position and telephone number of a contact person from whom further information can be obtained;
 - (iii) a general description of the operations at the major hazard facility, including a description of the Schedule 14 materials present or likely to be present at the major hazard facility;
 - (iv) a general description of major incident hazards identified at the major hazard facility and of the major incidents that have the potential to occur because of those hazards;

- (v) a general description of the magnitude of major incidents that could occur at the major hazard facility and of the severity of the consequences to health and safety if such incidents were to occur;
 - (vi) the means by which the local community will be notified of a major incident in the event of one occurring;
 - (vii) the action that members of the local community should take (in accordance with the emergency plan for the major hazard facility) in the event of a major incident occurring; and
- (c) must be presented and expressed in a way that can be readily understood by a person who is not familiar with the major hazard facility and its operations; and
- (d) must be reviewed and, if necessary, revised in the event of any modification being made to the major hazard facility.

Note

Act compliance—sections 23 and 26 (see regulation 7).

396 Consultation with municipal councils

The operator of a major hazard facility preparing or revising a safety case under Division 8 must consult with the municipal councils within the area occupied by the local community in relation to all matters that could affect the health and safety of members of the local community in the event of a major incident occurring.

Note

Act compliance—sections 23 and 26 (see regulation 7).

397 Further information on request

The operator of a major hazard facility who receives a written request from a person who, on reasonable grounds, believes that the occurrence of a major incident at the major hazard facility might adversely affect the person's health must provide the person with a copy of the information provided to the local community under regulation 394.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Division 10—Duties of employees

398 General requirements

An employee at a major hazard facility must—

- (a) follow the operator's procedures relating to the prevention and control of major incidents within the major hazard facility; and
- (b) follow the operator's emergency procedures in the event of a major incident occurring or in the event of the emergency procedures being activated; and
- (c) immediately inform the operator of any circumstance that the employee considers may be capable of leading to a major incident; and
- (d) without placing the employee or any other person at risk, take corrective action under those prevention and control and emergency procedures even if the corrective action could interrupt the operation of the major hazard facility; and

- (e) notify the employee's supervisor of any corrective action taken.

Note

Act compliance—section 25 (see regulation 7).

Part 5.3—Mines

Division 1—Introductory matters

399 What is a mine?

For the purposes of this Part—

mine has the same meaning as in section 37 of the Act and also includes the leased area, freehold land, prior land and purchased land within the meaning of the **Mines (Aluminium Agreement) Act 1961** and any other land acquired under section 7A of that Act;

tourist mine has the same meaning as in section 37 of the Act.

400 What is a mining hazard?

- (1) For the purposes of this Part, a *mining hazard* is—
- (a) any activity, procedure, plant, process, substance, situation or other circumstance relating to work performed at a mine that could pose a risk to health or safety in relation to any of the following—
 - (i) ground or strata failure, including ground control, slope stability, rock falls, rock bursts and susceptibility to seismic activity;
 - (ii) inundation or inrush of any substance;
 - (iii) mine shafts and winding operations;
 - (iv) mining plant, including mobile plant and remote control equipment;

- (v) heavy transport equipment;
- (vi) mine fire or explosion;
- (vii) gas outbursts;
- (viii) loss of ventilation;
- (ix) air quality including dust or other airborne contaminants;
- (x) radiation from rock strata or other sources;
- (xi) proximity to dangerous openings;
- (xii) tailings dams;
- (xiii) exposure to sodium cyanide and its reaction products; and
- (b) any other activity, procedure, plant, process, substance, situation or other circumstance determined by the Authority to be a mining hazard under regulation 6.

Reg. 400(2)
revoked by
S.R. No.
176/2018
reg. 5.

* * * * *

Reg. 401
amended by
S.R. No.
176/2018
reg. 6.

401 What is a prescribed mine?

A *prescribed mine* is—

- (a) an underground mine; or
- (b) a mine that is determined to be a prescribed mine by the Authority under regulation 403; or
- (c) a mine that is in a class of mines that are determined to be prescribed mines by the Authority under regulation 403.

402 Inquiry before making determination

- (1) The Authority may conduct an inquiry to determine whether or not—
 - (a) a mine is a prescribed mine, for the purposes of this Part; or
 - (b) mines in a class of mines are prescribed mines, for the purposes of this Part.
- (2) The Authority must give written notice of an inquiry under subregulation (1) to the operator of a mine that—
 - (a) is the subject of the proposed inquiry; or
 - (b) is or may be in the class of mines that is the subject of the proposed inquiry.
- (3) A notice under subregulation (2) must—
 - (a) state the subject of the inquiry and the reasons for conducting it; and
 - (b) invite the operator to make submissions in relation to the inquiry within 28 days of the date of the notice.
- (4) The Authority must consider any submissions made by the operator.

403 Authority may determine that a mine is a prescribed mine

After conducting an inquiry under regulation 402, the Authority may determine that, for the purposes of this Part—

- (a) a mine is a prescribed mine; or
- (b) mines in a class of mines are prescribed mines.

Division 2—Safety duties of mine operators

Subdivision 1—Risk control in all mines

404 Identification of mining hazards and assessment of risk

- (1) The operator of a mine must, so far as is reasonably practicable—
 - (a) identify all mining hazards at the mine; and
 - (b) assess the risks associated with all mining hazards at the mine.

Notes

- 1 Act compliance— sections 21, 23 and 26 (see regulation 7).
 - 2 Section 20 of the Act sets out the matters to which regard must be had by, in this case, an operator in determining what is reasonably practicable to ensure health and safety.
 - 3 Part 4 of the Act sets out the duty of the operator to consult, including involving the health and safety representative (if any). See also regulation 21 and the consultation requirements in Division 3 of this Part.
- (2) The operator must take into account the following when conducting an assessment of risk under subregulation (1)(b)—
 - (a) the nature of the mining hazard; and
 - (b) the likelihood of the mining hazard causing, or contributing to, any harm to any person; and
 - (c) the severity of the harm that may be caused.

405 Control of risk

- (1) The operator of a mine must, so far as is reasonably practicable, eliminate any risks associated with mining hazards at the mine.

- (2) If it is not reasonably practicable to eliminate a risk associated with mining hazards at the mine, the operator must reduce the risk so far as is reasonably practicable by—
 - (a) the substitution of a new activity, procedure, plant, process or substance for that which is related to the relevant mining hazard; or
 - (b) the isolation of persons from the mining hazard; or
 - (c) engineering controls; or
 - (d) combining any of the risk control measures referred to in paragraphs (a), (b) and (c) .
- (3) If the operator has complied with subregulations (1) and (2) so far as is reasonably practicable and a risk associated with mining hazards at the mine remains, the operator must reduce the risk so far as is reasonably practicable by using administrative controls.
- (4) If the operator has complied with subregulations (1), (2) and (3) so far as is reasonably practicable and a risk associated with mining hazards at the mine remains, the operator must reduce the risk so far as is reasonably practicable by providing appropriate personal protective equipment to persons at risk.

Notes

- 1 Act compliance—sections 21, 23 and 26 (see regulation 7).
- 2 Part 4 of the Act sets out the duty of the employer to consult with employees, including in respect of making decisions about the measures to be taken to control risks to health or safety. This consultation must involve the health and safety representative (if any). See also regulation 21 and the consultation requirements in Division 3 of this Part.

406 Review by operator of a mine

- (1) In order to ensure that the operator of a mine is complying with regulation 405(1) by implementing appropriate risk control measures, the operator must review and, if necessary, revise the following—
 - (a) the identification of mining hazards; and
 - (b) the assessment of risks associated with mining hazards; and
 - (c) the risk control measures implemented.
- (2) A review under subregulation (1) must be conducted at least once every 3 years as well as in the following circumstances—
 - (a) before any mine modification is made;
 - (b) after any incident involving a mining hazard occurs at the mine;
 - (c) if the operator of a mine has removed a person from the person's work or assigned the person to alternative work in the circumstances described in regulation 413;
 - (d) after receiving a request from a health and safety representative.
- (3) A health and safety representative may make a request under subregulation (2)(d) if the health and safety representative believes on reasonable grounds that—
 - (a) any of the circumstances referred to in subregulation (2)(a), (b) and (c) exists; or

- (b) the operator has failed—
 - (i) to properly review the risk control measures; or
 - (ii) to take account of any of the circumstances referred to in subregulation (2)(a), (b) and (c) in conducting a review of, or revising, the risk control measures.

Notes

- 1 Act compliance—sections 21, 23 and 26 (see regulation 7).
- 2 Part 4 of the Act sets out the duty of the employer to consult with employees, including in respect of making decisions about the measures to be taken to control risks to health or safety. This consultation must involve the health and safety representative (if any). See also regulation 21 and the consultation requirements in Division 3 of this Part.

Subdivision 2—Specific safety duties in all mines

407 Application of this Subdivision

Nothing in this Subdivision limits the requirements imposed by Subdivision 1.

408 Who may enter mine

- (1) The operator of a mine must ensure, so far as is reasonably practicable, that—
 - (a) no person, other than an inspector, or a person authorised under section 87 of the Act, enters the mine without permission; and

Note

Section 87 of the Act allows for entry at a workplace by an authorised representative of a registered employee organisation if that representative reasonably suspects there has been a contravention of the Act.

- (b) no person under the age of 16 years is engaged to carry out work in any open cut workings or in an underground mine; and
- (c) no person under the age of 18 years is engaged to carry out work in an underground mine, unless the person—
 - (i) is over the age of 16 years; and
 - (ii) is an apprentice or trainee under direct supervision by a suitably qualified and experienced supervisor authorised by the operator, as required under subregulation (2).

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (2) For the purposes of subregulation (1)(c)(ii), the operator of the mine must ensure that—
 - (a) the apprentice or trainee is given directions, demonstrations and monitoring so that the apprentice or trainee can perform the work in a manner that is safe and without risks to health, and that the directions, demonstrations and monitoring are appropriate having regard to—
 - (i) the tasks assigned to the apprentice or trainee; and
 - (ii) the competence of the apprentice or trainee; and
 - (b) should an emergency involving the apprentice or trainee arise, immediate action to rectify any hazardous situation can be taken; and

- (c) the apprentice or trainee is always under direct supervision unless the authorised supervisor of the apprentice or trainee reasonably believes—
 - (i) that the circumstances of a particular task make such direct supervision impracticable or unnecessary; and
 - (ii) that the level of competence of the apprentice or trainee is sufficient so that direct supervision in relation to that task is unnecessary; and
 - (iii) that the lesser degree of supervision will not place the apprentice or trainee or any other person at risk.

Note

Act compliance—section 21 (see regulation 7).

409 Alcohol and drugs

- (1) The operator of a mine must develop and implement strategies to protect persons at the mine from any risk to their health or safety arising from the consumption of alcohol or the use of drugs by any person.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (2) Strategies under this regulation must include the introduction of risk control measures on the presence and use of alcohol and drugs at the mine during working hours.
- (3) Without limiting subregulations (1) and (2), the operator of a mine must ensure that—
 - (a) a person who, in the opinion of the operator, is adversely affected by alcohol or drugs does not enter or remain at the mine; and

- (b) a person only uses drugs at the mine if a registered medical practitioner has prescribed the drugs and authorised their use at the mine.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (4) In this Part, a person is *adversely affected* by alcohol or drugs if the person's judgment or capacity is impaired to the extent that the person may expose—
 - (a) the person's health or safety to a risk; or
 - (b) another person's health or safety to a risk.

410 Employee fatigue

- (1) The operator of a mine must develop and implement strategies for the control of any risks associated with employee fatigue.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (2) Strategies under this regulation must include work arrangements that, so far as is reasonably practicable, eliminate employee fatigue.

411 Health monitoring

- (1) The operator of a mine must arrange for the ongoing health monitoring of an employee—
 - (a) who, having regard to the nature of the employee's work at the mine, is exposed to a mining hazard that may reasonably be expected to have an adverse effect on the employee's health; or
 - (b) if the operator, in consultation with a registered medical practitioner, reasonably believes that, having regard to the nature of the employee's work at the mine, the condition of the employee exposes—

- (i) the employee to a risk to their health or safety; or
- (ii) any other person at the mine to a risk to their health or safety.

Note

Act compliance—section 22(1) (see regulation 7).

- (2) The monitoring of an employee's health may include a medical examination which must be conducted—
 - (a) only in relation to the employee's work at the mine; and
 - (b) by, or under the supervision of, a registered medical practitioner; and
 - (c) at a frequency determined by the operator in consultation with a registered medical practitioner.

Note

Act compliance—section 22(1) (see regulation 7).

- (3) The duties of an operator of a mine to an employee under this regulation extend to an independent contractor.

Note

Act compliance—section 23 (see regulation 7).

412 Report of health monitoring

- (1) This regulation applies in relation to health monitoring that is conducted in relation to a person under regulation 411.
- (2) The operator of a mine must ensure that the person who conducted the monitoring prepares a report of the results of the monitoring, that includes the following—
 - (a) an explanation of the results of the monitoring;

(b) any indications of adverse health effects identified by the registered medical practitioner who conducted or supervised the monitoring;

(c) any recommendations by the registered medical practitioner as to measures that the operator should take in relation to the employee's work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

(3) The operator of a mine must obtain a copy of the health monitoring report under subregulation (2).

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Note

The operator must provide a copy of the health monitoring report to the employee to whom the report relates as soon as reasonably possible after receiving the report (see regulation 20(2)(a)).

413 Notice to Authority

The operator of a mine must notify the Authority in writing as soon as reasonably possible if—

(a) a report under regulation 412 provided to the operator indicates adverse health effects in relation to a person; and

(b) as a result of the report, the operator removes the person from the person's work or assigns the person to alternative work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

414 Report provided on person ceasing work at mine

The operator of a mine must return the copy of the report obtained by the operator under regulation 412(3) to the person to whom it relates if the person ceases to work at the mine.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

415 Communication in the event of an employee working alone

The operator of the mine must ensure, so far as is reasonably practicable, that there are available means for effective communication with an employee who is working alone at an isolated location at a mine.

Note

Act compliance—section 21 (see regulation 7).

416 Communication in respect of shift change-over

The operator of a mine must ensure that there is a system by which—

- (a) the supervisor of each outgoing shift provides a written report to the supervisor of the incoming shift, in relation to the state of the mine workings and plant and any other matters that relate to health or safety; and
- (b) the supervisor of the incoming shift communicates the content of the report provided under paragraph (a) to the employees on the incoming shift.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

Subdivision 3—Additional duties in prescribed mines

417 Application of this Subdivision

Nothing in this Subdivision limits the requirements imposed by Subdivisions 1 and 2 on operators of prescribed mines.

418 Safety management system

- (1) The operator of a prescribed mine must establish and implement a safety management system for the mine, in accordance with this regulation, which provides a comprehensive and integrated management system for all risk control measures implemented under regulation 405.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (2) The operator of a prescribed mine must use the safety management system as the primary means of ensuring the safe operation of the mine.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (3) The operator of a prescribed mine must ensure that the safety management system—
 - (a) is documented; and
 - (b) is set out and expressed in a way that is readily comprehensible to persons who use it; and
 - (c) contains a description of—
 - (i) the safety assessment; and
 - (ii) the operator's safety policy; and

- (d) sets out the systems, procedures and other risk control measures by means of which risks associated with mining hazards are to be controlled; and
- (e) sets out the performance standards for measuring the effectiveness of the safety management system, that—
 - (i) relate to all aspects of the safety management system; and
 - (ii) are sufficiently detailed to enable the operator to ensure that the effectiveness of all aspects of the safety management system is apparent; and
 - (iii) include steps that are to be taken to continually improve the safety management system; and
- (f) sets out the way in which performance standards are to be met; and
- (g) sets out the process, including method and frequency, for the audit of the effectiveness of the safety management system against the performance standards.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

419 Operator to keep safety management system available

The operator of a prescribed mine must keep the safety management system available for inspection on request under the Act.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

420 Review of safety management system

The operator of a prescribed mine must review and, if necessary, revise the safety management system at least once every 3 years as well as in the following circumstances—

- (a) before a mine modification is made;
- (b) after an incident involving a mining hazard occurs.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

421 Safety assessment of major mining hazards

- (1) The operator of a prescribed mine must conduct a comprehensive and systematic safety assessment in accordance with this regulation to assess the risks associated with major mining hazards.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (2) A safety assessment must involve an investigation and analysis of the major mining hazards in order to provide the operator of a prescribed mine with a detailed understanding of all aspects of risks associated with major mining hazards.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (3) In conducting a safety assessment under this regulation, the operator of a prescribed mine must—
 - (a) consider the major mining hazards cumulatively as well as individually; and

- (b) use assessment methods, whether quantitative, qualitative or both, that are appropriate to the major mining hazards being considered.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (4) The operator of a prescribed mine must document all aspects of the safety assessment and the documentation must—
 - (a) describe the methods used in the investigation and analysis; and
 - (b) state—
 - (i) the nature of each major mining hazard; and
 - (ii) the likelihood of the major mining hazard causing, or contributing to, harm to any person on-site or off-site; and
 - (iii) the severity of the harm that may be caused; and
 - (c) contain reasons for the decisions reached about the matters referred to in paragraph (b)(ii) and (iii); and
 - (d) describe all measures considered for the control of risks associated with major mining hazards; and
 - (e) describe the reasons for implementing or rejecting all risk control measures considered; and
 - (f) be set out and expressed in a way that is readily comprehensible to all who use it.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

422 Operator to keep safety assessment available

The operator of a prescribed mine must keep the safety assessment documentation available for inspection on request under the Act.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

423 Testing risk control measures for major mining hazards

The operator of a prescribed mine must, in relation to the control of risk associated with major mining hazards, test all risk control measures documented under regulation 418(3)(d) as often as necessary to ensure compliance with regulation 405 in relation to those hazards.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

Reg. 423A
inserted by
S.R. No.
176/2018
reg. 7.

423A Operators of prescribed mines to notify Authority

- (1) The operator of a prescribed mine at which Schedule 14 materials are present, or likely to be present, in a quantity exceeding 10% of their threshold quantity must notify the Authority of this circumstance in accordance with this regulation.

Notes

- 1 Act compliance—sections 21, 23 and 26 (see regulation 7).
 - 2 *Threshold quantity* is defined in regulation 5.
- (2) The notice under subregulation (1) must be given within 30 days after the operator becomes aware, or ought reasonably to have become aware, of the circumstance giving rise to the requirement to notify.

- (3) Without limiting regulation 532, the notice must contain the information specified in Schedule 18 with all necessary adaptations to the circumstance described in subregulation (1) that give rise to the requirement to notify.

423B Changes to information provided—prescribed mines

Reg. 423B
inserted by
S.R. No.
176/2018
reg. 7.

If any change occurs to the information provided at any time by the operator of a prescribed mine to the Authority in relation to a notice under regulation 423A(1) that is ongoing, the operator must advise the Authority in writing of that change as soon as reasonably possible after the operator becomes aware that the change has occurred.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

424 Safety role for employees

- (1) The operator of a prescribed mine must develop a safety role for the operator's employees, including the specific procedures employees are required to follow to assist the operator to—
- (a) identify mining hazards at the mine under regulation 404; and
 - (b) implement, review and test risk control measures under regulations 405, 406 and 423; and
 - (c) establish and implement a safety management system; and
 - (d) conduct and document a safety assessment.
- (2) The operator of a prescribed mine must review the role of the employees developed under this regulation if there is any change of circumstances, including a mine modification, that would require

additional or different knowledge or skills on the part of employees to perform the role.

Notes

- 1 Act compliance—section 21 (see regulation 7).
- 2 Part 4 of the Act sets out the duty of the employer to consult, including involving the health and safety representative (if any). See also regulation 21 and the consultation requirements in Division 3 of this Part.
- 3 *Mine modification, mining hazard, safety assessment* and *safety management system* are defined in regulation 5.

425 Shafts and winding

The operator of a prescribed mine must—

- (a) ensure that every winding system for a shaft at the mine includes—
 - (i) ropes that will enable the shaft conveyance to bear the weight that can reasonably be expected to be borne by the shaft conveyance; and
 - (ii) controls and limiting devices to prevent any shaft conveyance from being overwound or overrun or from travelling at an unsafe speed; and
 - (iii) devices that detect slack rope or drum slip conditions, or tail rope malfunctions; and
 - (iv) devices that cause the winder to stop when a condition or malfunction referred to in subparagraph (iii) is detected; and
 - (v) an appropriate means of communication to and from every entrance to the winder room that is in use; and

- (b) ensure that the ropes in the winding system of any shaft are tested regularly to ensure the safe performance of the ropes; and
- (c) if a shaft conveyance carrying persons and a shaft conveyance carrying material operate in the same shaft, ensure that the persons being carried are adequately protected from the shaft conveyance carrying material and from any material that might leave its shaft conveyance and cause injury; and
- (d) if a shaft conveyance that combines a cage and skip is used, ensure that material is not carried in the skip while persons are being carried in the cage; and
- (e) ensure that energy lockout devices are fitted to all mechanical and electrical plant associated with any shaft at the mine, including any mechanical and electrical plant associated with the operation, maintenance or use of the shaft; and
- (f) ensure that material or plant being carried in shaft conveyances—
 - (i) does not protrude from the shaft conveyance while the shaft conveyance is moving; and
 - (ii) is so secured within the shaft conveyance that it cannot leave the shaft conveyance except by being removed deliberately; and
- (g) ensure that, in relation to the automatic winding system for any shaft at the mine—
 - (i) the functions of the winder can be monitored from outside the winder house; and

- (ii) warning systems are installed to alert persons at the mine of any emergency in the shaft; and
- (iii) radio or other means of communication between the surface and any shaft conveyance carrying persons is provided and maintained; and
- (h) ensure that facilities for loading material or plant onto or into a shaft conveyance are designed and operated so as to prevent spillage into the shaft.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

426 Progress of mine workings

- (1) The operator of a prescribed mine must do the following if any underground mine workings are, or may be, near or approaching an area that contains water or flammable, toxic or noxious gases that may pose a risk to the health or safety of any person at the mine—
 - (a) ensure that the person whose health or safety may be at risk is at all times aware of the location of the faces being advanced;
 - (b) ensure bore-holes are drilled from the workings that will indicate the presence and location of the water or gas.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (2) If any underground workings are proposed to be connected to other workings (including disused workings), the operator of a prescribed mine must ensure that the other workings are inspected for the following—

- (a) water;
- (b) gas;
- (c) misfires;
- (d) butts;
- (e) any other circumstance that may pose a risk to the health or safety of any person at the mine.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (3) If 2 working faces are approaching each other, the operator of a prescribed mine must ensure that one of the workings is stopped, made safe and barricaded as soon as reasonably possible before the distance separating the faces is reduced to 10 metres.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

427 Emergency exit

The operator of a prescribed mine into which a shaft has been sunk or a decline or adit has been driven must, so far as is reasonably practicable—

- (a) provide for a means of exiting the mine workings in addition to the hoisting shaft or the exit normally used; and
- (b) ensure that the additional exit is—
 - (i) maintained so that it remains a functional exit; and
 - (ii) marked or signposted so that it can be readily located in the event of an incident.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

428 Filling

The operator of a prescribed mine must ensure, so far as is reasonably practicable, that the material used for the filling of mined out areas does not pose a risk to the health or safety of any person.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

429 Working environment

- (1) The operator of a prescribed mine must ensure that—
 - (a) the air throughout the mine where persons work or travel, or areas of the mine where a person may work or travel, is maintained at a safe level; and
 - (b) the atmosphere is subject to controls that prevent thermal stress; and
 - (c) the moisture content of the atmosphere is maintained at a level that enables work to be performed safely; and
 - (d) lighting within the mine is sufficient to enable work to be performed safely.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (2) Without limiting subregulation (1)(a), the air is at a safe level if the air—
 - (a) contains a safe oxygen level; and
 - (b) does not contain a harmful level of any contaminant or impurity, including a concentration of any hazardous substance that is above the exposure standard (if any) for that hazardous substance or any or all of its ingredients.

430 Ventilation system

- (1) The operator of a prescribed mine must ensure that—
 - (a) ventilation circuits at the mine do not allow airflows to recirculate; and
 - (b) structures that regulate airflow are maintained in operating condition; and
 - (c) air does not pass through so many work areas that it becomes unfit to breathe; and
 - (d) dead-end openings are not worked unless adequate auxiliary ventilation is provided; and
 - (e) underground workings are not ventilated with contaminated air.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (2) The operator of a prescribed mine must regularly monitor and test the operation of all aspects of the ventilation system at the mine to ensure that the system complies with subregulation (1).

Note

Act compliance—section 22(1) (see regulation 7).

431 Record of monitoring and testing

- (1) The operator of a prescribed mine must, in accordance with subregulation (2), make and keep a record of the monitoring and testing of the ventilation system under regulation 430.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) The record of the monitoring and testing of the ventilation system must be set out and expressed in a way that is readily comprehensible to all who use it.

- (3) The operator of a prescribed mine must keep the record made under this regulation available for inspection on request under the Act.

Penalty: 5 penalty units for a natural person;
25 penalty units for a body corporate.

432 Prohibitions

The operator of a prescribed mine must not allow the following to be used underground—

- (a) an internal combustion engine (other than a compression ignition engine);
- (b) polyurethane foam.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

433 Emergency plan

- (1) The operator of a prescribed mine must prepare an emergency plan for the mine in accordance with subregulation (2).

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (2) The emergency plan must—
- (a) address all aspects of emergency response, including—
 - (i) ensuring that a system exists that enables all persons within the mine at any given time to be promptly located; and
 - (ii) the provision of adequate rescue equipment; and
 - (iii) ensuring that persons trained in the use of rescue equipment are available on site, or are on call, whenever any person is working at the mine; and

- (b) be prepared in conjunction with—
 - (i) the emergency services that have responsibility for the area in which the mine is located; and
 - (ii) in relation to major mining hazards that could adversely affect the health or safety of persons in the area surrounding the mine, any municipal council in that area; and
 - (c) be documented in a form that it is readily comprehensible to persons who use it; and
 - (d) be able to be implemented immediately in response to an incident involving a significant risk of serious injury or death.
- (3) The operator must immediately implement the emergency plan in responding to incidents involving a significant risk of serious injury or death.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (4) The operator of a prescribed mine must ensure that the emergency plan is kept available for inspection on request under the Act.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

434 Emergency plan to be kept and sent to emergency services and municipal councils

After preparing an emergency plan the operator of the prescribed mine must—

- (a) keep a copy of the emergency plan at the prescribed mine for use by emergency services; and

- (b) send a copy of the emergency plan to—
 - (i) the emergency services involved in the preparation of the plan under regulation 433(2)(b)(i) and inform them of the plan's location at the prescribed mine; and
 - (ii) the municipal councils involved in the preparation of the plan under regulation 433(2)(b)(ii).

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

435 Emergency plan must be tested

The operator of a prescribed mine must at least once a year—

- (a) test the emergency plan in order to ensure its continued effectiveness; and
- (b) take all necessary steps to arrange for the emergency services consulted under regulation 433(2)(b)(i) to participate in those tests.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

436 Self-rescue

- (1) The operator of an underground mine must ensure that every person who goes underground—
 - (a) is, so far as is reasonably practicable, provided with a self-contained self-rescuer or, if this is not reasonably practicable, is provided with a filter self-rescuer; and

- (b) is trained in the operation and use of the self-rescuer provided.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (2) This regulation does not apply in relation to a person (including a guide, if any) participating in an organised tour of a tourist mine.

437 Plan of mine

- (1) The operator of a prescribed mine must ensure that a detailed plan of the mine in accordance with subregulation (2) is kept at the mine.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

- (2) The plan must clearly show the following—
 - (a) the workings, including disused workings of the mine;
 - (b) the ventilation system, including all ventilation fans;
 - (c) the location of switchboards, transformers and other fixed plant associated with the distribution of electricity;
 - (d) the location of telephones and other fixed plant associated with the radio and telecommunications systems;
 - (e) water dams and tailings dams;
 - (f) natural features surrounding the mine;
 - (g) places where hydrocarbons or explosives are stored;
 - (h) emergency exits.

- (3) The operator of the prescribed mine must revise the plan regularly so that it always accurately shows which mine workings are still in use and which are disused.

Note

Act compliance—sections 21, 23 and 26 (see regulation 7).

438 Plan of mine to be available for inspection

The operator of a prescribed mine must keep the plan of the mine, prepared and revised under regulation 437, available for inspection on request under the Act.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

Division 3—Consultation and information

439 Consultation with employees and health and safety representatives

For the purposes of section 35(1) of the Act, the operator of a mine must consult in relation to—

- (a) developing and implementing strategies under regulations 409 and 410; and
- (b) identifying mining hazards under regulation 404; and
- (c) in the case of a prescribed mine—
 - (i) implementing a safety management system; and
 - (ii) conducting a safety assessment; and
 - (iii) developing a safety role for employees under regulation 424; and
 - (iv) preparing an emergency plan; and

- (v) reviewing and revising an emergency plan.

Notes

- 1 Act compliance—sections 35 and 36 (see regulation 7).
- 2 Part 4 of the Act sets out the duty of the operator to consult, including involving the health and safety representative (if any). See also regulation 21.
- 3 *Safety assessment* and *safety management system* are defined in regulation 5.

440 Information about adoption of risk control measure

If, after consulting under section 35 of the Act, the operator adopts a risk control measure in relation to a major mining hazard, the operator must inform the health and safety representative and, if there is no health and safety representative, the employees of—

- (a) the reasons for adopting the measure; and
- (b) the reasons for rejecting any alternative risk control measures that were discussed during the consultation.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

441 Information, instruction and training

- (1) The operator of a mine must provide information, instruction and training to employees of the operator at the mine in relation to the following—
 - (a) all mining hazards at the mine;
 - (b) the implementation of risk control measures under regulation 405;
 - (c) the strategies developed, implemented and maintained under regulation 409 or 410;

(d) in the case of prescribed mines—

- (i) the content and implementation of the safety management system;
- (ii) the emergency plan;
- (iii) the safety role for employees developed under regulation 424.

Note

Act compliance—section 21 (see regulation 7).

- (2) The operator of a mine must ensure that the information, instruction and training provided is monitored, reviewed and, if necessary, revised in order to remain relevant and effective.

Note

Act compliance—section 21 (see regulation 7).

442 Record of training

The operator of a mine must make a record of all training provided to an employee under regulation 441 and keep that record while that employee is employed at the mine.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

443 Further information and availability of documents in respect of prescribed mines

The operator of a prescribed mine must ensure that the following are readily accessible to employees of the operator—

- (a) the documented safety management system;
- (b) the emergency plan;

- (c) the plan of the mine prepared under regulation 437.

Note

Act compliance—section 21 (see regulation 7).

444 Response to employee alert at prescribed mine

An operator of a prescribed mine to whom an employee of that operator gives information about a major mining hazard under regulation 448(c) must inform the employee what, if any, investigative or other action has been taken in response to the information.

Note

Act compliance—section 21 (see regulation 7).

445 Information and instruction to non-employees

The operator of a mine must ensure that any person, other than an employee of the operator, who enters a mine is, as soon as reasonably possible after entering—

- (a) informed about any mining hazards to which the person might be exposed while at the mine; and
- (b) instructed in the safety precautions the person should take while at the mine; and
- (c) in the case of a prescribed mine, instructed about the action the person should take in the event of the emergency plan being activated while the person is at the mine.

Note

Act compliance—sections 23 and 26 (see regulation 7).

446 Information to job applicants

If a person applies to work at a mine, the employer, before employing the person to work at the mine, must provide the person with information about the purpose, and the type or nature, of the medical examinations and other health monitoring that are required under this Part to be conducted in respect of employees.

Penalty: 5 penalty units for a natural person;
25 penalty units for a body corporate.

Division 4—Duties of employees

447 General requirements

- (1) An employee of an operator of a mine must—
 - (a) wear or use appropriate personal protective equipment or rescue equipment provided by the operator under this Part in accordance with instructions given by the operator; and
 - (b) follow all other instructions given by the operator in complying with any provision of this Part; and
 - (c) alert immediate co-workers to any mining hazard of which the employee becomes aware; and
 - (d) inform the operator if the employee observes any person who appears to be in a condition that may cause a danger to the person or to any other person at the mine; and
 - (e) not enter or remain at the mine if adversely affected by alcohol or drugs; and
 - (f) not, without the permission of the operator of the mine, take into the mine—
 - (i) any alcohol; or

- (ii) any drugs that may adversely affect the employee, whether or not a registered medical practitioner has prescribed the drugs and authorised their use at work.

Note

Act compliance—section 25 (see regulation 7).

- (2) An employee at a mine must, in the event of an incident occurring that involves a mining hazard, take appropriate corrective action in accordance with the instruction and training the employee has received under regulation 441.

Note

Act compliance—section 25 (see regulation 7).

- (3) An employee taking corrective action under subregulation (2)—
 - (a) must do so without placing the employee or any other person at risk; and
 - (b) must do so even if that corrective action could interrupt the operation of the mine.

Note

Act compliance—section 25 (see regulation 7).

448 Major mining hazards in prescribed mines

An employee at a prescribed mine must—

- (a) participate in the testing of the emergency plan; and
- (b) follow the emergency plan when it is activated; and
- (c) immediately inform the operator of any circumstance that the employee considers might be a major mining hazard.

Note

Act compliance—section 25 (see regulation 7).

Chapter 6—Licensing and registration

Part 6.1—Licences

Division 1—Applications

Subdivision 1—General provisions

449 Matters to be included in licence application

An applicant for a licence must include the following in the application—

- (a) any evidence of identity required by the Authority;
- (b) if required by the Authority, a photograph of the applicant of the size and in the form specified by the Authority;
- (c) a declaration as to whether or not the applicant (and in the case of a body corporate, any officer of the applicant body corporate) has ever been found guilty of any offence under any relevant occupational health and safety legislation;
- (d) details of any finding of guilt declared under paragraph (c);
- (e) a declaration as to whether the applicant (and in the case of a body corporate, any officer of the applicant body corporate) has ever previously had a licence or approval suspended or cancelled under any relevant occupational health and safety legislation, and if so, details of the suspension or cancellation;

- (f) a declaration to the effect that the information contained in the application is, to the best of the applicant's knowledge, true;
- (g) if the applicant seeks to have the licence granted in the name of a business, the business name and written evidence required by the Authority of the registration of the business name.

Notes

- 1 ***Relevant occupational health and safety legislation*** is defined in regulation 5.
- 2 Regulation 532 enables the Authority to specify the form of the application, how it is to be made and to specify other information and documents that must be included in or with applications. There are also additional requirements that must be complied with in relation to applications for particular types of licences—see Subdivision 2 (high risk work licences), Subdivision 3 (asbestos removal licences), Subdivision 4 (carcinogens licences) and Subdivision 5 (major hazard facility licences).

450 Application fees—high risk work licences

An application for a high risk work licence must be accompanied by a fee of 4·5 fee units in respect of each class of work for which a licence is sought.

451 Application fees—asbestos removal licences

- (1) In relation to an application for a Class A asbestos removal licence, or for a renewal of a Class A asbestos removal licence, the relevant application fee for an application made within the period specified in column 1 of Table 1 is the fee specified in column 2 of the table in respect of that period.

Occupational Health and Safety Regulations 2017
S.R. No. 22/2017
Part 6.1—Licences

Table 1—Class A asbestos removal licence

<i>Column 1</i> <i>Period within which the application is lodged</i> <i>(both dates inclusive)</i>	<i>Column 2</i> <i>Fee</i>
18 June 2017–30 June 2018	44·9 fee units
1 July 2018–30 June 2019	52·6 fee units
1 July 2019–30 June 2020	60·3 fee units
1 July 2020–30 June 2021	68 fee units
On or after 1 July 2021	75·7 fee units

- (2) In relation to an application for a Class B asbestos removal licence, or for a renewal of a Class B asbestos removal licence, the relevant application fee for an application made within the period specified in column 1 of Table 2 is the fee specified in column 2 of the table in respect of that period.

Table 2—Class B asbestos removal licence

<i>Column 1</i> <i>Period within which the application is lodged</i> <i>(both dates inclusive)</i>	<i>Column 2</i> <i>Fee</i>
18 June 2017–30 June 2018	40·5 fee units
1 July 2018–30 June 2019	46·5 fee units
1 July 2019–30 June 2020	52·5 fee units
1 July 2020–30 June 2021	58·5 fee units
On or after 1 July 2021	64·5 fee units

452 Matters to be satisfied before licence can be granted

- (1) The Authority must refuse to grant a licence if—
- (a) the application has not been made in accordance with these Regulations; or

- (b) it is not satisfied of the following—
 - (i) in the case of an application for a licence other than a major hazard facility licence, that the applicant will be able to perform safely and competently the activities that the licence would authorise the applicant to perform if it were granted;
 - (ii) in the case of an application for a major hazard facility licence, that the applicant will be able to safely and competently operate the major hazard facility that is the subject of the application;
 - (iii) that the applicant is likely to comply with the terms and conditions that will apply to the licence;
 - (iv) as to the identity of the applicant; or
- (c) it is satisfied that the applicant—
 - (i) has given information in the application that was false or misleading in a material particular (without advising the Authority in writing at the time that the information was given that it was false or misleading); or
 - (ii) did not disclose material information to the Authority.

Note

The Authority is also required to refuse a licence if certain additional requirements in respect of particular licences are not met—see Subdivision 2 (high risk work licences), Subdivision 3 (asbestos removal licences), Subdivision 4 (carcinogens licences) and Subdivision 5 (major hazard facility licences).

- (2) If the Authority is not required to refuse to grant a licence under any provision of this Division, it must grant the licence.

Note

Subdivision 4 (carcinogens licences) and Subdivision 5 (major hazard facility licences) require the payment of a fee before the Authority may grant a licence to a person who is otherwise eligible to be granted the licence.

- (3) For the purposes of subregulation (1)(b)(i) to (iii), the Authority may take into account any matter that it considers to be relevant, including, for example, the following—
- (a) any findings of guilt of the applicant (and in the case of a body corporate, any officer of the applicant body corporate) under any relevant occupational health and safety legislation;
 - (b) whether the applicant has previously had a licence or approval suspended or cancelled under any relevant occupational health and safety legislation;
 - (c) if the applicant has previously held a licence of the type that is the subject of the application, the applicant's record of performance while performing work under that licence;
 - (d) the applicant's record with respect to any matters arising under any relevant occupational health and safety legislation;
 - (e) in the case of an application for an asbestos removal licence, any findings of guilt of the applicant (and in the case of a body corporate, any officer of the applicant body corporate) under the **Environment Protection Act 1970** or the Environment Protection (Industrial Waste Resource)

Regulations 2009 in relation to the transport or disposal of asbestos.

453 Time for processing licence application

- (1) This regulation applies if the Authority receives an application for a licence that has been made in accordance with these Regulations.
- (2) The Authority must give the applicant a written notice stating the Authority's intention to grant, or to propose to refuse to grant, the licence—
 - (a) subject to regulation 471, in the case of an application for a major hazard facility licence, within 6 months after receiving the application; or
 - (b) in the case of an application for a high risk work licence, within 45 days after receiving the application; or
 - (c) in the case of any other application for a licence, within 60 days after receiving the application.

Note

Regulation 454 provides for the suspension of these periods if the Authority requests additional information from the applicant.

454 Authority may request additional information

- (1) If the Authority receives an application for a licence that does not contain sufficient information to enable the Authority to make a decision whether or not to grant the licence, the Authority may ask the applicant to provide additional information to enable it to make a decision.
- (2) A request for additional information under subregulation (1) must—
 - (a) be made in writing; and

- (b) specify a period within which the information must be given to the Authority; and
 - (c) advise the applicant that the time limit that applies to the processing of the application under regulation 453 has been suspended and will remain suspended—
 - (i) until the additional information requested is provided; or
 - (ii) if that information is not provided, until the end of the period specified under paragraph (b).
- (3) In specifying a period under subregulation (2)(b), the Authority must not specify a period that is longer than—
- (a) subject to regulation 471, in the case of a major hazard facility licence, 6 months;
 - (b) in the case of a high risk work licence, 45 days;
 - (c) in the case of any other licence, 60 days.
- (4) If the Authority requests additional information from an applicant, the following periods are not to be counted for the purposes of calculating the periods specified in regulation 453(2)—
- (a) the period from when the request is sent to the applicant to when the additional information is received by the Authority; or
 - (b) if the information is not provided, the period from when the request is sent to the applicant to the end of the period specified under subregulation (2)(b).

- (5) Nothing in this regulation restricts the number of requests for additional information that the Authority may make, however, if the Authority makes more than one request it must ensure that the cumulative total of the periods specified or used (whichever is the shorter) under subregulation (2)(b) in respect of the requests does not exceed the period listed in regulation 453(2) with respect to the relevant type of licence.

Example

A person applies for a high risk work licence. The Authority seeks additional information and gives the applicant a notice requesting the information within 45 days. The applicant provides the information 27 days after the notice is given. If the Authority seeks further additional information under this subregulation it may specify a period of up to 18 days for the applicant to provide the second lot of information. This is because only 27 days were used of the 45 days specified for the provision of the first response, and the 27-day period actually used is shorter than the 45-day period originally specified.

455 Procedure if the Authority proposes to refuse to grant licence

- (1) If the Authority proposes to refuse to grant a licence, the Authority must include in the notice required by regulation 453(2)—
- (a) the reasons why it proposes to refuse to grant the licence; and
 - (b) an invitation to the applicant to make a submission to the Authority, within a specified period of not less than 14 days, in relation to the proposed refusal.

- (2) Within 30 days after the end of the period specified for the purposes of subregulation (1)(b), the Authority must—
- (a) consider any submission made by, or on behalf of, the applicant before the end of the period; and
 - (b) decide whether it will grant or refuse to grant the licence; and
 - (c) give the applicant written notice of that decision.

456 Form of evidence of licence document

After granting a licence, the Authority must give the licence holder a document that includes the following—

- (a) the name of the licence holder;
- (b) the date on which the licence was granted and, if the licence specifies a date on which the licence takes effect, the date on which the licence takes effect;
- (c) the date on which the licence expires;
- (d) any terms and conditions to which the licence is subject;
- (e) an identifying number;
- (f) in the case of a high risk work licence—
 - (i) a photograph of the licence holder; and
 - (ii) the date of birth of the licence holder; and
 - (iii) either a copy of the signature of the licence holder or provision for the signature of the licence holder; and

- (iv) the class or classes of high risk work authorised by the licence;
- (g) in the case of an asbestos removal licence—
 - (i) the class of activity authorised by the licence; and
 - (ii) the specific types of asbestos, if relevant, that can be removed under the licence;
- (h) in the case of a carcinogens licence—
 - (i) the class or classes of activity authorised by the licence; and
 - (ii) the name of the scheduled carcinogenic substance that may be used under the licence; and
 - (iii) the address of the workplace at which the substance may be used; and
 - (iv) the purpose for which the substance may be used under the licence;
- (i) in the case of a major hazard facility licence, the name of the major hazard facility and the Schedule 14 materials that may be present at the facility.

457 When licence starts and ends

- (1) A licence takes effect on the day it is granted or on any later date specified in the evidence of licence document by the Authority.
- (2) A licence, unless earlier cancelled, ends on the day specified by the Authority in the evidence of licence document, which may be—

- (a) a period of up to 5 years from the day on which the licence was granted; or
- (b) if the licence has been renewed, a period of up to 5 years from the day on which the last renewal took effect.

Subdivision 2—Additional provisions in relation to a high risk work licence

458 Additional information to be included in high risk work licence application

In addition to any other information required by these Regulations, a person applying for a high risk work licence must also include with the application, in relation to the work in respect of which the licence is sought, a notice of assessment (satisfactory) issued for that work.

Note

Notice of assessment (satisfactory) is defined in regulation 5.

459 Additional matters to be satisfied before high risk work licence can be granted

- (1) In addition to the requirements specified in Subdivision 1, the Authority must refuse to grant a high risk work licence if—
 - (a) it is satisfied that the applicant, in relation to the class or classes of high risk work being sought, holds or held a high risk work licence or certificate that was issued by a corresponding Authority that—
 - (i) was suspended at the time the application was made; or
 - (ii) had been cancelled in the 2 years immediately before the date the application was made; or

- (b) it is satisfied that the applicant already holds a licence to perform that high risk work that has been granted or issued by a corresponding Authority; or
- (c) it is not satisfied that—
 - (i) the applicant resides in Victoria or, in the case of an applicant who does not reside in Victoria, that the applicant has reasonable grounds for applying for the licence in Victoria; or
 - (ii) the applicant is at least 18 years of age; or
 - (iii) any notice of assessment (satisfactory) on which the applicant relies was issued 60 days or less before the date on which the application was made.
- (2) The Authority must refuse to grant a high risk work licence if it is satisfied that the notice of assessment (satisfactory) accompanying the application for the licence was obtained or provided on the basis of fraud or the provision of false or misleading information by any person or body.

Note

Person or body would include the applicant and the authorised assessor who issued the notice of assessment (satisfactory).

Subdivision 3—Additional provisions in relation to an asbestos removal licence

460 Restriction on who may apply for asbestos removal licence

Only an employer or self-employed person may apply for an asbestos removal licence.

461 Scope of licence

- (1) Only the asbestos removal work specified in an asbestos removal licence can be performed under that licence.
- (2) An asbestos removal licence does not extend to the transport of asbestos waste.

Note

The transport of prescribed industrial waste for a fee or reward (including asbestos waste) is regulated by the Environment Protection Authority.

462 Additional information to be included in asbestos removal licence application

- (1) In addition to any other information required by these Regulations, a person applying for an asbestos removal licence must also include the following with the application—
 - (a) details of the specific types of asbestos, if relevant, that is intended to be removed under the licence;
 - (b) the name of each person who will supervise the asbestos removal work to be performed under the licence;
 - (c) detailed information on the training and experience of each supervisor;
 - (d) detailed information on the type of training undertaken by the employees who are to be engaged in the asbestos removal work;
 - (e) detailed information on the personal protective equipment that the applicant intends to provide to persons engaged in the asbestos removal work;

- (f) if the applicant intends to use a vacuum cleaner with a HEPA filter, detailed information on the vacuum cleaner;
- (g) details of laundering arrangements proposed in relation to the asbestos removal work, including the name and address of any laundry intended to be used for the laundering of personal protective clothing;
- (h) a declaration as to whether or not the applicant (and in the case of a body corporate, any officer of the applicant body corporate) has ever been found guilty of any offence under the **Environment Protection Act 1970** or the Environment Protection (Industrial Waste Resource) Regulations 2009 in relation to the transport or disposal of asbestos;
- (i) the details of any finding of guilt declared under paragraph (h);
- (j) whether the applicant (and if the applicant is a body corporate, any officer of the applicant body corporate) holds a licence or approval for asbestos removal work in any other Australian State or Territory;
- (k) information as to whether the applicant (and if the applicant is a body corporate, any officer of the applicant body corporate) has ever had a previous application for a licence as an asbestos removalist refused, suspended or cancelled by any Government or non-Government body in any Australian State or Territory.

- (2) In addition to any other information required by these Regulations, a person applying for a Class A asbestos removal licence must include with the application—
- (a) details of the current certification of the asbestos occupational health and safety management systems together with evidence of that current certification; or
 - (b) if the person has not been previously granted a Class A asbestos removal licence, evidence of a satisfactory review by an occupational health and safety auditor within the period of 6 months immediately preceding the receipt of the application of the person's asbestos occupational health and safety management system documents.

463 Additional matters to be satisfied before asbestos removal licence can be granted

- (1) In addition to the requirements specified in Subdivision 1, the Authority must refuse to grant an asbestos removal licence if it is not satisfied that the information given with the application indicates that—
- (a) the supervisor or supervisors nominated in the application is, or are, appropriately trained and experienced; or
 - (b) in relation to an application for a Class A asbestos removal licence—
 - (i) the applicant has current certification for an asbestos occupational health and safety management system; or

- (ii) there has been a satisfactory review by an occupational health and safety auditor within the period of 6 months immediately preceding the receipt of the application of the applicant's asbestos occupational health and safety management system documents.
- (2) A Class A asbestos removal licence granted to an applicant who does not have current certification for an asbestos occupational health and safety management system is granted on the condition that the certification must be obtained by the date specified in the licence, or in any event no later than 12 months after the licence takes effect.

Subdivision 4—Additional provisions in relation to a carcinogens licence

464 Restriction on who may apply for carcinogens licence

- (1) Only an employer or self-employed person may apply for a carcinogens licence.
- (2) A carcinogens licence can only be granted in respect of the workplace of that employer or self-employed person.

465 Additional information to be included in carcinogens licence application

In addition to any other information required by these Regulations, a person applying for a carcinogens licence must include with the application the following information in relation to the scheduled carcinogenic substance in respect of which the licence is sought—

- (a) the name of the substance;

- (b) the workplace address at which the substance is intended to be used;
- (c) the quantity of the substance that is intended to be used each year;
- (d) the purposes for which the substance is intended to be used;
- (e) a statement, supported by reasons, that the elimination or substitution of the substance from the workplace is not reasonably practicable;
- (f) a description of the risk control measures intended to be put in place to, so far as is reasonably practicable, eliminate risks or to reduce risks so far as is reasonably practicable and a justification of those risk control measures;
- (g) the number of employees who might be exposed to the substance;
- (h) the name and address of the supplier from whom the person intends to obtain the substance.

466 Fee to be paid before a carcinogens licence can be granted

- (1) Despite Subdivision 1, the Authority must not grant a carcinogens licence to a person unless the person has paid a fee of 7·9 fee units for each hour the application took to be processed by the Authority.
- (2) The Authority must not seek a fee of more than 86·9 fee units under subregulation (1).

Subdivision 5—Additional provisions in relation to a major hazard facility licence

467 Restriction on who may apply for major hazard facility licence

Only an operator who holds the registration for a major hazard facility under Part 6.2 (Registration) may apply for a major hazard facility licence in respect of the major hazard facility.

468 Time limit for applications in relation to a registered major hazard facility

If a licence is sought for a major hazard facility that is registered under Part 6.2 (Registration), the operator of the major hazard facility must apply to the Authority for a licence no later than 6 months before the registration expiry date for that registration.

Note

Registration expiry date has the meaning given by regulation 517.

469 Additional information to be included in major hazard facility licence application

In addition to any other information required by these Regulations, a person applying for a major hazard facility licence must also include with the application—

- (a) sufficient details to enable the major hazard facility to be identified; and
- (b) the safety case prepared in accordance with Part 5.2 (Major hazard facilities).

470 Additional matters to be satisfied before major hazard facility licence can be granted

In addition to the requirements specified in Subdivision 1, the Authority must refuse to grant a major hazard facility licence if it is not satisfied that—

- (a) the safety case accompanying the application has been prepared in accordance with Division 8 of Part 5.2 (Major hazard facilities); or
- (b) the applicant has complied with the provisions of Divisions 6 and 9 of Part 5.2 (Major hazard facilities), other than regulation 395(a)(ii).

471 Additional time limits for notifying applicants

- (1) The time limits set out in regulations 453 and 454 do not apply to an application for a major hazard facility licence if—
 - (a) the Authority is of the opinion that it will not be able to satisfy itself of the matters referred to in this Subdivision and Subdivision 1 within 6 months; and
 - (b) the Authority gives the applicant written notice of that opinion within 6 months after the date the application was received, and that notice specifies the date by which the Authority will decide the application.
- (2) For the purposes of subregulation (1)(b), the Authority may only specify a date that is within 12 months after the date it received the application.
- (3) If subregulation (1) applies, the Authority must give the applicant a written notice stating that the Authority intends to grant, or to propose to refuse to grant, the licence on or before the date specified under subregulation (1)(b).

Note

If the decision period is extended under subregulation (1), regulation 519(d) provides that the registration of the major hazard facility does not expire before the end of the extended period (unless one of the other paragraphs in regulation 519 applies).

472 Fee to be paid before major hazard facility licence can be granted

- (1) Despite Subdivision 1, the Authority must not grant a major hazard facility licence unless the applicant for the licence has paid a fee of 9·3 fee units for each hour the application took to be processed by the Authority.
- (2) The Authority must not seek a fee of more than 6570·9 fee units under subregulation (1).
- (3) The activities involved in processing an application for a major hazard facility licence include the following—
 - (a) checking the completeness of the safety case and the other information and material accompanying the application;
 - (b) determining that further information or material are required, and obtaining the information or material from the applicant;
 - (c) verifying the information provided by the applicant by—
 - (i) examining the safety case and the other information and material provided; and
 - (ii) visiting and examining the site of the major hazard facility to which the application relates;
 - (d) considering and deciding on the merits of the application;
 - (e) taking all necessary administrative steps.

Division 2—Other provisions concerning a licence

Subdivision 1—General

473 Authority may impose terms and conditions on licence

- (1) This regulation applies to—
 - (a) the grant or renewal of a licence under this Part; or
 - (b) the transfer of a major hazard facility licence under regulation 479.
- (2) The Authority may impose on the licence any terms and conditions that it considers to be appropriate to further the purposes for which the licence is granted, renewed or transferred.
- (3) Without limiting subregulation (2), the Authority may impose, in relation to any activity that may be carried out by the licence holder under the licence, the following terms or conditions—
 - (a) specifying risk control measures to be used or implemented;
 - (b) requiring—
 - (i) monitoring (including atmospheric monitoring of the workplace);
 - (ii) the provision of health monitoring for anyone who may be at risk as a result of carrying out that activity;
 - (iii) the recording or keeping of information (including health and safety information);
 - (iv) the provision of information, instruction and training to specified persons or classes of person;

- (v) the use or implementation of systems of work or processes;
- (c) requiring the reporting of information to the Authority, including health and safety information and the results of any required monitoring, health monitoring, examinations or testing;
- (d) limiting the quantity of anything to be used while carrying out that activity at the workplace;
- (e) in the case of a licence held by a body corporate, limiting who may perform activities under the licence;
- (f) limiting the activities that may be carried out under the licence, or specifying that only certain activities may be carried out under the licence;
- (g) requiring that notice be given that the licence has been granted, and of any conditions of the licence, to any specified person who may be affected by the granting of the licence;
- (h) imposing time limits on when any action required to be taken under this regulation is to be taken.

474 Licence holder must comply with terms and conditions

A licence holder must comply with the terms and conditions of the licence imposed under this Division or under Division 3.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

475 Changes to information given in relation to a licence

- (1) A licence holder must advise the Authority in writing of any change that occurs to any information given at any time by the licence holder to the Authority in relation to the licence as soon as reasonably possible after the licence holder becomes aware that the change has occurred.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Examples

- 1 The Authority must be notified of any change in the contact address of the licence holder that had been given in the application for the licence or renewal.
 - 2 In the case of a major hazard facility licence holder, the Authority must be notified of any change to the quantity or type of Schedule 14 materials present or likely to be present at the facility.
- (2) Subregulation (1) applies whether the information was given—
- (a) in the application for the licence; or
 - (b) in an application for the renewal of the licence; or
 - (c) under this regulation; or
 - (d) in any other circumstance.
- (3) This regulation does not apply to revisions to the safety case of a major hazard facility.

Note

Part 5.2 (Major hazard facilities) contains provisions that specifically deal with safety case revisions.

476 Licence holder to keep evidence of licence available

- (1) A person who holds a high risk work licence must keep the person's evidence of licence document available for inspection on request under the Act.

Penalty: 5 penalty units.

- (2) A person who holds any other class of licence must keep the evidence of licence document available for inspection on request under the Act.

Penalty: 5 penalty units for a natural person;

25 penalty units for a body corporate.

477 Replacement of lost, stolen or destroyed licence documents

- (1) If an evidence of licence document is lost, stolen or destroyed, the licence holder may apply to the Authority for a replacement document.

Note

The application must be made in the form and manner required by the Authority and must include any information or document required by the Authority (see regulation 532).

- (2) The application must be accompanied by a fee of 1 fee unit.
- (3) The Authority may issue a replacement document if the Authority is satisfied that the licence holder's evidence of licence document has been lost, stolen or destroyed.
- (4) If the Authority refuses to issue a replacement evidence of licence document, it must give the licence holder a written notice of refusal that sets out the reasons why it is not satisfied that the evidence of licence document has been lost, stolen or destroyed.

478 Nomination of additional asbestos removal supervisors

- (1) An asbestos removal licence holder may apply to the Authority to have a person recognised by the Authority as a supervisor who may supervise the asbestos removal work that can be performed under the licence.
- (2) The licence holder must include in the application—
 - (a) the name of the person; and
 - (b) detailed information on the person's training and experience.
- (3) The Authority must refuse to grant an application if it is not satisfied that the person has appropriate training or experience to supervise the asbestos removal work.

Subdivision 2—Additional provisions in relation to a major hazard facility licence

479 Transfer of a major hazard facility licence

- (1) The Authority may transfer a major hazard facility licence to another person who is to become the operator of the major hazard facility if the Authority is satisfied that the person to whom the licence is to be transferred is capable of achieving a level of health and safety for the operation of the major hazard facility that is at least equivalent to that achieved by the licence holder.

Note

The Authority may impose terms and conditions on a major hazard facility licence when it is transferred (see regulation 473).

- (2) Despite subregulation (1), the Authority must not transfer a major hazard facility licence unless the person who is to become the operator of the major hazard facility has paid a fee of 9·3 fee units for each hour the application took to be processed by the Authority.
- (3) The Authority must not seek a fee of more than 6570·9 fee units under subregulation (2).

480 Notice of major hazard facility licence details in the Government Gazette

- (1) If the Authority grants, renews, amends, transfers, suspends or cancels a major hazard facility licence, it must publish a notice of that event in the Government Gazette as soon as reasonably possible after the event occurs.
- (2) The notice must include details of any terms and conditions attached to the licence that have not previously been provided in a notice under this regulation in respect of the licence.

481 Additional requirements concerning availability of copy of major hazard facility licence

In addition to the requirements of Subdivision 1, a major hazard facility licence holder must ensure that a copy of the evidence of licence document is made available on request—

- (a) to any employee of the operator working at the major hazard facility; and
- (b) to the emergency services that have responsibility for the area in which the major hazard facility is located.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Division 3—Amendment of licence

482 Authority may amend licence unilaterally

- (1) The Authority may determine on its own initiative to amend a licence.
- (2) Without limiting subregulation (1), the Authority may impose any terms or conditions on a licence that it may impose under Division 2 at any time, and it may amend or delete any existing terms or conditions of a licence.
- (3) If a proposed amendment merely corrects an obvious error in a licence, or is of a nature that is not likely to impose any significant burden on the licence holder, the Authority may make the amendment, and must then give the licence holder written notice that it has done so.
- (4) If subregulation (3) does not apply, before amending a licence under this regulation the Authority must give the licence holder written notice (the *first notice*) of the proposed amendment—
 - (a) setting out the proposed amendment and the reasons for it; and
 - (b) inviting the licence holder to make a submission to the Authority in relation to the proposed amendment within a specified period of not less than 14 days.
- (5) After considering any submission made by, or on behalf of, the licence holder in the period allowed, the Authority may amend the licence by giving a second written notice (the *second notice*) to the licence holder.

- (6) A notice under subregulation (5) must—
 - (a) set out the amendment; and
 - (b) if a submission was made by, or on behalf of, the licence holder in relation to the amendment, set out the Authority's reasons for making the amendment in the light of the submission; and
 - (c) specify the date on which the amendment is to take effect.
- (7) In specifying the date that the amendment is to take effect, the Authority must not specify a date that is less than 30 days after the licence holder is given the second notice.
- (8) Despite subregulation (7), if in the opinion of the Authority there exists an immediate risk to health or safety, the Authority may specify that an amendment is to take effect on a date that is within that 30-day period.
- (9) The amendment set out in the second notice can be different from the amendment set out in the first notice if the difference is the result of taking into account, or of anything arising from, any submission made by, or on behalf of, the licence holder.

483 Authority may amend licence at the request of the licence holder

- (1) The Authority may amend a licence on the application of the licence holder.

Note

The application must be made in the form and manner required by the Authority and must include any information or document required by the Authority (see regulation 532).

- (2) Despite subregulation (1), the Authority must not amend a major hazard facility licence unless the licence holder has paid a fee of 9·3 fee units for each hour the application took to be processed by the Authority.
- (3) The Authority must not seek a fee of more than 6570·9 fee units under subregulation (2).
- (4) If the Authority proposes to refuse to amend a licence in accordance with the application, it must give the licence holder a written notice—
 - (a) that states that intention to refuse the application; and
 - (b) that sets out its reasons for refusing the application; and
 - (c) that invites the licence holder to make a submission to the Authority in relation to the proposed refusal within a specified period of not less than 14 days.
- (5) The Authority must consider any submission made by, or on behalf of, the licence holder in the period allowed before refusing the application.

484 Evidence of licence document to be returned on request if licence amended

- (1) If the Authority amends a licence, it must give the licence holder an evidence of licence document containing the amended details to replace the former document.
- (2) The holder of a licence that has been amended by the Authority must return the evidence of licence document to the Authority within 14 days after receiving a written request from the Authority to do so.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Division 4—Renewal of licence

485 Application for the renewal of licence (except a high risk work licence)

- (1) This regulation does not apply to a high risk work licence.
- (2) A licence holder may apply to the Authority to renew the licence, but may only do so—
 - (a) in the case of a major hazard facility licence, at least 6 months before the date the licence is due to expire; or
 - (b) in any other case, at least 60 days before the date the licence is due to expire.

Notes

- 1 Regulation 532 enables the Authority to specify the form of applications and to specify other information and documents that must be included in or with applications.
- 2 If a licence holder did not apply for a renewal of the licence within the period permitted by subregulation (2), it will be necessary for the licence holder to apply for a new licence.
- (3) For the purposes of this regulation, regulation 452 applies as if a reference in that regulation to an application for a licence were a reference to an application to renew a licence.
- (4) If a person applies to renew a licence under subregulation (2) and before the licence expires the Authority gives the person written notice that it intends to refuse to renew the licence, the licence continues to have effect, even if its expiry date passes, until the relevant period specified in regulation 489.
- (5) In the case of an application to renew a major hazard facility licence, if the Authority gives the applicant written notice under regulation 488(1)(b) the licence continues to have effect,

even if its expiry date passes, until the earlier of the following—

- (a) the application is granted or refused;
- (b) the date specified in the notice.

486 Notice of intention to renew or refuse to renew a licence (except a high risk work licence)

- (1) This regulation applies if the Authority receives an application to renew a licence (other than a high risk work licence) that has been made in accordance with these Regulations.
- (2) The Authority must give the applicant a written notice stating that the Authority intends to renew, or to propose to refuse to renew, the licence.
- (3) The written notice required by subregulation (2) must be given—
 - (a) in the case of an application to renew a major hazard facility licence, within 6 months after receiving the application; or
 - (b) in the case of any other application for a licence renewal, within 60 days after receiving the application.

487 Procedure if the Authority proposes to refuse to renew licence (except a high risk work licence)

- (1) If the Authority proposes to refuse to renew a licence (other than a high risk work licence), the Authority must include in the notice required by regulation 486(2)—
 - (a) the reasons why it proposes to refuse to renew the licence; and
 - (b) an invitation to the applicant to make a submission to the Authority, within a specified period of not less than 14 days, in relation to the proposed refusal.

- (2) Within 30 days after the end of the period set for the purposes of subregulation (1)(b), the Authority must—
 - (a) consider any submission made by, or on behalf of, the applicant before the end of the period; and
 - (b) decide whether it will renew, or refuse to renew, the licence; and
 - (c) give the applicant written notice of that decision.

488 Additional time limits for notifying applicants

- (1) The time limit set out in regulation 486(3)(a) does not apply to an application to renew a major hazard facility licence if—
 - (a) the Authority is of the opinion that it will not be able to satisfy itself of the matters referred to in Subdivisions 1 and 5 of Division 1 and regulation 494 within 6 months; and
 - (b) the Authority gives the applicant written notice of that opinion within 6 months after the date the application was received, and that notice specifies the date by which the Authority will decide the application.
- (2) For the purposes of subregulation (1)(b), the Authority may only specify a date that is within 18 months after the date it received the application.
- (3) If subregulation (1) applies, the Authority must give the applicant a written notice stating the Authority's intention to renew, or to propose to refuse to renew the licence on or before the date specified under subregulation (1)(b).

489 Time in which licence continues to have effect

- (1) If the Authority gives a licence holder written notice that it intends to refuse to renew the person's licence, the licence continues to have effect—
 - (a) if the licence holder has applied for a process review of the decision and the Authority has confirmed the decision and the person applies to the Tribunal for a review of the decision, until whichever of the following occurs first—
 - (i) the person withdraws the application for review;
 - (ii) the Tribunal makes its determination on the application for review; or
 - (b) if the licence holder applied for a process review of the decision and the Authority confirmed the decision and the person does not apply to the Tribunal for a review of the decision, until 14 days after the person received written notice of the process review decision.

Note

Part 6.3 (Review of decisions) provides for a right of review by VCAT of certain reviewable decisions and *process review* has the meaning given by regulation 525.

- (2) Subject to subregulation (3), if the person applied for a process review of the decision and the Authority set aside the decision, the licence continues to have effect until the new decision is made.
- (3) If the new decision is to refuse to renew the licence and the person applies to the Tribunal for a review of the new decision in accordance with these Regulations, the licence continues to

have effect until whichever of the following occurs first—

- (a) the person withdraws the application for review;
 - (b) the Tribunal makes its determination on the application for review.
- (4) If the new decision is to refuse to renew the licence and the person does not apply to the Tribunal for a review of the decision in accordance with these Regulations, the licence continues to have effect until 14 days after the person received written notice of the new decision.

490 Application for the renewal of high risk work licence

- (1) The holder of a high risk work licence may apply to the Authority to renew the licence.

Note

Regulation 532 enables the Authority to specify the form of applications and to specify other information and documents that must be included in or with applications.

- (2) An application under subregulation (1) may also be made by a person who—
- (a) either—
 - (i) resides in Victoria; or
 - (ii) does not reside in Victoria but satisfies the Authority that the person has reasonable grounds for applying for a licence renewal in Victoria; and
 - (b) holds an equivalent licence or certificate recognised under regulation 131.
- (3) A person whose high risk work licence has expired may apply to the Authority to renew the licence—

- (a) within 12 months after the day on which the licence expired; or
- (b) if the applicant satisfies the Authority that exceptional circumstances exist, within any longer period that the Authority allows.

Example

An example of "exceptional circumstances" might be where the applicant has lived overseas for some years and continued to perform the high risk work for which the applicant had formerly held an appropriate high risk work licence.

Notes

- 1 Regulation 532 enables the Authority to specify the form of applications and to specify other information and documents that must be included in or with applications.
 - 2 It is an offence for a person to perform high risk work if the person is not licensed to perform the work in accordance with these Regulations (see section 40(4) of the Act). This includes a person who is performing high risk work after their licence has expired and not been renewed (unless regulation 138(2) applies to enable a person who has applied for a renewal on or before the licence expiry date to continue working until the renewal is granted or until 14 days after the person is given written notice that the renewal application has been refused).
- (4) An application under subregulation (3) may also be made by a person who—
- (a) either—
 - (i) resides in Victoria; or
 - (ii) does not reside in Victoria but satisfies the Authority that the person has reasonable grounds for applying for a licence renewal in Victoria; and
 - (b) held an equivalent licence or certificate recognised under regulation 131.

- (5) The Authority may request the applicant to provide additional information to enable it to be satisfied as to whether exceptional circumstances under subregulation (3)(b) exist.
- (6) The Authority must renew the licence if the application—
 - (a) includes the name and residential address of the applicant; and
 - (b) includes any evidence of identity required by the Authority; and
 - (c) includes a photograph of the applicant that is the size and in the form specified by the Authority; and
 - (d) contains a declaration by the applicant that the applicant has maintained competency to perform the high risk work; and
 - (e) is accompanied by the fee required by regulation 492(1).
- (7) The Authority must, within 45 days after receiving an application that has been made in accordance with this regulation, give the applicant a written notice stating that the Authority intends to grant, or to refuse to grant, the renewal.
- (8) If the Authority grants a renewal of a licence to a person who holds or held an equivalent licence or certificate recognised under regulation 131, it must notify the corresponding Authority that issued that licence or certificate.
- (9) In this regulation an equivalent licence or certificate under regulation 131 expires if it ceases to have effect in any circumstance other than by being cancelled, suspended or surrendered.

491 Combining interstate and Victorian high risk work licences on renewal

- (1) This regulation applies if a person who resides in Victoria—
 - (a) holds a licence issued by the Authority to perform one or more classes of high risk work; and
 - (b) also holds a licence or certificate issued by a corresponding Authority to perform one or more other classes of high risk work.
- (2) The person may apply to the Authority for a renewal of a licence that authorises the person to perform the high risk work authorised by each of the licences or certificates referred to in subregulation (1)(a) and (b).
- (3) The Authority must grant the person the licence sought if—
 - (a) the Authority is satisfied that this regulation applies; and
 - (b) the application for the licence complies with regulation 490(2) and (6).
- (4) If the Authority grants a licence under this regulation, it must notify the corresponding Authority referred to in subregulation (1)(b) that issued the licence or certificate.

492 Renewal fees for certain licences

- (1) An application for the renewal of a high risk work licence must be accompanied by a fee of 3.4 fee units.
- (2) An application for the renewal of a Class A asbestos removal licence must be accompanied by the relevant fee as set out in Table 1 of regulation 451.

- (3) An application for the renewal of a Class B asbestos removal licence must be accompanied by the relevant fee as set out in Table 2 of regulation 451.

493 Fee to be paid before carcinogens licence can be renewed

- (1) In addition to the other requirements specified in this Division, the Authority must not renew a carcinogens licence unless the licence holder has paid a fee of 7·9 fee units for each hour the application took to be processed by the Authority.
- (2) The Authority must not seek a fee of more than 86·9 fee units under subregulation (1).

494 Additional information required for the renewal of major hazard facility licence

In addition to any other information required under these Regulations, a person applying for the renewal of a major hazard facility licence must also include with the application a revised safety case prepared in accordance with Division 8 of Part 5.2 (Major hazard facilities).

495 Fee to be paid before major hazard facility licence can be renewed

- (1) In addition to the other requirements specified in this Division, the Authority must not renew a major hazard facility licence unless the licence holder has paid a fee of 9·3 fee units for each hour the application took to be processed by the Authority.
- (2) The Authority must not seek a fee of more than 6570·9 fee units under subregulation (1).
- (3) Regulation 472(3) applies to fees under this regulation.

Division 5—Suspension and cancellation of a licence

496 Grounds for suspension or cancellation

The Authority may suspend or cancel a licence if it is satisfied of any of the following matters—

- (a) that the licence holder is not complying, or did not comply, with any of the terms and conditions of the licence;
- (b) that the licence holder—
 - (i) gave information in the application for, or the renewal of, the licence, or in any other circumstance, that was false or misleading in a material particular (without advising the Authority in writing at the time that the information was given that it was false or misleading);
 - (ii) did not, at any time, disclose material information to the Authority;
- (c) that the licence was granted on the basis of a notice of assessment (satisfactory) that was obtained or provided on the basis of fraud or the provision of false or misleading information by any person or body;
- (d) in the case of a licence, other than a major hazard facility licence, that the licence holder is not, or has not been, safely and competently performing the activities that the licence authorises the licence holder to perform;

- (e) in the case of a major hazard facility licence—
 - (i) that the licence holder is not, or has not been, safely and competently operating the major hazard facility;
 - (ii) that the safety management system for the major hazard facility no longer provides a comprehensive and integrated management system for all aspects of risk control measures adopted in relation to major incident hazards and major incidents;
 - (iii) that risk control measures adopted by the licence holder under regulation 371 are materially deficient;
 - (iv) that the licence holder no longer understands the content of the safety assessment;
 - (v) that the licence holder no longer has the ability to safely and competently operate the major hazard facility;
- (f) in the case of the holder of a high risk work licence, that the licence holder is not competent to perform the high risk work authorised by the licence without risk to the licence holder's health or safety or the health or safety of other persons;
- (g) in the case of the holder of a Class A asbestos removal licence, that the licence holder did not maintain certification for an asbestos occupational health and safety management system;

- (h) in the case of the holder of a carcinogens licence—
 - (i) that the licence holder has ceased to carry on business at the address to which the licence relates;
 - (ii) that the activities of the licence holder under the licence pose an immediate risk to health or safety.

Note

In paragraph (c), "person or body" would include the licence holder and the authorised assessor who issued the notice of assessment (satisfactory).

497 Matters that may be taken into account

For the purposes of regulation 496, the Authority may take into account any matter that it considers to be relevant, including, for example, the following—

- (a) any findings of guilt, since the licence was granted or last renewed, of the licence holder (and in the case of a body corporate, any officer of the licence holder) under any relevant occupational health and safety legislation;
- (b) whether, since the licence was granted or last renewed, the licence holder has had any other licence suspended or cancelled or any registration withdrawn by the Authority under these Regulations;
- (c) the licence holder's record of performance while performing work under the licence (including the number and nature of any complaints made about that work);
- (d) the applicant's record with respect to any matters arising under any relevant occupational health and safety legislation

since the licence was granted or last renewed;

- (e) the results of any inquiry conducted by the Authority under regulation 499;
- (f) in the case of an asbestos removal licence, any findings of guilt, since the licence was granted or last renewed, of the licence holder (and in the case of a body corporate, any officer of the licence holder) under the **Environment Protection Act 1970** or the Environment Protection (Industrial Waste Resource) Regulations 2009 in relation to the transport or disposal of asbestos.

Note

Relevant occupational health and safety legislation is defined in regulation 5.

498 Automatic suspension or cancellation of a high risk work licence

- (1) The Authority must suspend a high risk work licence in relation to a particular class of high risk work if it is satisfied that a corresponding Authority has recommended that the licence be suspended in relation to that class of high risk work after that corresponding Authority has conducted an inquiry equivalent to the inquiry required by regulation 499.
- (2) The period of suspension must be the same period recommended by the corresponding Authority, or if that corresponding Authority recommended a termination date for the suspension, the suspension must end on that date.
- (3) The Authority must cancel a high risk work licence in relation to a particular class of high risk work if it is satisfied that a corresponding Authority has recommended that the licence

be cancelled in relation to that class of high risk work after that corresponding Authority has conducted an inquiry equivalent to the inquiry required by regulation 499.

- (4) The cancellation must occur as soon as reasonably possible after the date the Authority receives the recommendation by a corresponding Authority, but not less than 14 days after that date.
- (5) If the Authority is required to suspend or cancel a licence, or a part of a licence, under this regulation, it must give the licence holder written notice of the suspension or cancellation, and must include in the notice a copy of the recommendation on which it based the suspension or cancellation.
- (6) The 14 day minimum period specified in subregulation (4) does not apply if, in the opinion of the Authority, there are exceptional circumstances that pose an immediate significant risk to health or safety.

499 Process for suspending or cancelling a licence in all other cases

- (1) The Authority may, on its own initiative or after receiving a complaint, conduct an inquiry to determine whether grounds exist to suspend or cancel a licence.
- (2) The Authority must give the licence holder written notice of the inquiry.
- (3) The notice must—
 - (a) state the subject of the inquiry and the reasons for conducting it; and
 - (b) set out an outline of all allegations, facts and circumstances known to the Authority that are relevant to the inquiry; and

- (c) invite the licence holder to make a submission to the inquiry; and
 - (d) specify a period of not less than 14 days within which the licence holder may make a submission.
- (4) After considering any submission made by, or on behalf of, the licence holder in the period allowed, the Authority must decide—
 - (a) whether or not grounds exist to suspend or cancel the licence; and
 - (b) if such grounds exist, whether or not to suspend or cancel the licence.
- (5) The Authority must give the licence holder written notice of its decision.
- (6) If the Authority decides to suspend or cancel the licence, the Authority must include in the notice—
 - (a) a statement of its reasons for its decision; and
 - (b) if it decides to suspend the licence, a statement of when the suspension is to begin and when it is to end; and
 - (c) if it decides to cancel the licence, a statement of when the cancellation is to take effect.
- (7) In specifying the date that the suspension or cancellation is to take effect, unless there exists an immediate risk to health or safety, the Authority must specify a date that is at least—
 - (a) in the case of a major hazard facility licence, 30 days after the licence holder is given the notice; or
 - (b) in any other case, 14 days after the licence holder is given the notice.

- (8) The 14 day minimum period specified in subregulation (3)(d) does not apply if, in the opinion of the Authority, there are exceptional circumstances that pose an immediate significant risk to health or safety.
- (9) If the Authority intends to suspend a high risk work licence on the ground that the licence holder is not, or has not been, safely and competently performing the relevant high risk work then, despite subregulation (6)(b), the Authority may suspend the licence until the licence holder provides it with satisfactory new evidence that the licence holder is competent to perform that work.
- (10) This regulation does not apply to a suspension or cancellation that is required by regulation 498.

500 Extension of date of suspension or cancellation if review sought

- (1) Despite anything to the contrary in regulation 499, if the Authority decides to suspend or cancel a licence and the licence holder applies for a process review of the decision under Part 6.3 (Review of decisions), the licence continues to have effect for the period specified in this regulation as if it had not been suspended or cancelled.
- (2) If the person applied for a process review of the decision and the Authority confirmed the decision and the person applies to the Tribunal for a review of the decision in accordance with these Regulations, the licence continues to have effect until whichever of the following occurs first—
 - (a) the person withdraws the application for review; or

- (b) the Tribunal makes its determination on the application for review.
- (3) If the person applied for a process review of the decision and the Authority confirmed the decision and the person does not apply to the Tribunal for a review of the decision in accordance with these Regulations, the licence continues to have effect until 14 days after the person received written notice of the process review decision.
- (4) Subject to subregulations (5) and (6), if the person applied for a process review of the decision and the Authority set aside the decision, the licence continues to have effect until the new decision is made.
- (5) If the new decision is to cancel or suspend the licence and the person applies to the Tribunal for a review of the new decision in accordance with these Regulations the licence continues to have effect until whichever of the following occurs first—
 - (a) the person withdraws the application for review;
 - (b) the Tribunal makes its determination on the application for review.
- (6) If the new decision is to cancel or suspend the licence and the person does not apply to the Tribunal for a review of the decision in accordance with these Regulations, the licence continues to have effect until 14 days after the person received written notice of the new decision.
- (7) This regulation does not apply in relation to a licence if the Authority specified a period of less than 14 days under regulation 499 in taking action under that regulation.

501 Partial suspension or cancellation of high risk work licence

- (1) Subject to regulation 502(2), this regulation applies if—
 - (a) a person holds a high risk work licence that authorises the person to perform more than one class of high risk work under the licence; and
 - (b) the Authority is satisfied that a ground of suspension or cancellation only exists in relation to one or some, but not to all, of those classes of high risk work.
- (2) A reference in regulation 499 to the suspension or cancellation of the licence is to be read as a reference to the suspension or removal from the licence of those classes of high risk work in respect of which a ground of suspension or cancellation exists.
- (3) The Authority must issue the licence holder with a replacement evidence of licence document that sets out the classes of high risk work that are still authorised under the licence.

502 Flow on suspension or cancellation of some classes of high risk work licence

- (1) This regulation applies if—
 - (a) a person holds a high risk work licence that authorises the person to perform more than one class of high risk work under the licence; and
 - (b) the Authority is satisfied that a ground of suspension or cancellation only exists in relation to one or some, but not to all, of those classes of high risk work; and

- (c) the skills required to do the class of high risk work in relation to which a ground of suspension or cancellation exists are also necessary to do another class of high risk work under the licence.
- (2) Despite regulation 501, the Authority must also suspend or cancel the licence to the extent that it applies to the other class of high risk work referred to in subregulation (1)(c).

Example

A person holds a high risk work licence that authorises the performance of dogging work and work involving the operation of non-slewing mobile cranes and slewing mobile cranes of up to 20 tonnes. The licence holder operates a non-slewing mobile crane unsafely and the Authority decides that grounds exist to suspend the licence in relation to the authorisation to operate those cranes. This regulation requires that the Authority also suspend the licence holder's authorisation to operate a slewing mobile crane of up to 20 tonnes because the skills required to operate a non-slewing mobile crane are required in order to operate a slewing mobile crane. However, regulation 501 ensures that the licence holder's ability to perform dogging work under the licence is not suspended unless there has also been a breach by the licence holder in relation to dogging activities.

503 Authority may grant alternative asbestos removal licence

- (1) This regulation applies if the Authority is satisfied that a ground of suspension or cancellation exists in relation to a Class A asbestos removal licence held by a person.
- (2) On suspending or cancelling the licence, the Authority may immediately grant a Class B asbestos removal licence to the person, despite anything to the contrary in Division 1.

504 Inquiry into an interstate high risk work licence

- (1) This regulation applies if a person who holds a licence or certificate granted or issued by a corresponding Authority that is equivalent to a

high risk work licence does, or is alleged to have done, anything in Victoria while acting under the authority of the licence or certificate that might constitute a ground for the suspension or cancellation of the licence or certificate had it been granted in Victoria.

- (2) The Authority may conduct an inquiry to determine whether grounds exist to recommend to the corresponding Authority that granted or issued the licence or certificate that the licence or certificate be suspended or cancelled.
- (3) Regulations 499 and 501 apply for the purposes of this regulation as if a reference in those regulations to the suspension or cancellation of a licence or certificate were a reference to a recommendation to the corresponding Authority that granted or issued the licence or certificate that the licence or certificate be suspended or cancelled.

505 Request to suspend or cancel licence

The Authority may suspend or cancel a licence on the written request of the licence holder.

506 Evidence of licence document of suspended or cancelled licence must be surrendered on demand

If the Authority suspends or cancels a licence, the licence holder must surrender the evidence of licence document to the Authority on demand, once the suspension or cancellation takes effect.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Part 6.2—Registration

Division 1—Application of Part

507 Application of this Part

This Part applies to—

- (a) the registration of a plant design required under Division 6 of Part 3.5 (Plant); and
- (b) the registration of a major hazard facility required under Part 5.2 (Major hazard facilities).

Division 2—Registration of plant designs

508 Application for registration of plant design

An application for registration of a plant design must—

- (a) include the information required under regulation 509; and
- (b) include any evidence of identity of the applicant required by the Authority; and
- (c) be accompanied by a fee of 20 fee units.

509 Information to be included in application for registration of plant design

- (1) An application for registration of a plant design must include—
 - (a) a design verification statement that states that the plant design was prepared in accordance with the record of published technical standards or engineering principles (as the case may be) referred to in regulation 84; and

- (b) the name, business address and qualifications of the person who made the design verification statement, and if applicable, the name and business address of the person employing the design verifier; and
 - (c) a representational drawing of the plant design; and
 - (d) any information about the plant design that may be required by the Authority under subregulation (2).
- (2) Without limiting regulation 532, the Authority may require additional information relating to the plant design to be included with the application for registration of the plant design.
- (3) The information required under subregulation (2) may include the following—
 - (a) the dates of the commencement and completion of the plant design;
 - (b) whether the design is for an alteration to existing plant;
 - (c) whether the registration is the first registration of the plant design;
 - (d) the intended primary use and performance capacity of the plant;
 - (e) if known by the designer of the plant, the intended manufacturer's name and address;
 - (f) the type and model number (if applicable) of the plant;
 - (g) if known by the designer of the plant, the intended fixed location of plant at the workplace;
 - (h) a description of controls, safety devices, supporting system and communication system for the plant (if applicable);

- (i) the hazard level of pressure equipment and the type of fluid to be used in the pressure equipment (if applicable).
- (4) The information required by the Authority under subregulation (2) may be information applicable generally to all plant designs, or a type of plant design, or it may be specific to an individual plant design.

510 Duties of various persons associated with design verification

- (1) The person who applies for registration of a plant design must ensure that the design verification statement referred to in regulation 509 is made by a design verifier—
 - (a) who did not participate in preparing the plant design that is the subject of the statement; and
 - (b) who has an appropriate level of skill and knowledge to be able to verify the plant design; and
 - (c) who has checked the plant design to ensure that it has been prepared in accordance with the technical standards or engineering principles recorded by the designer of the plant in relation to the plant design in accordance with regulation 84.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) A person who has participated in preparing a plant design must not knowingly act as a design verifier for that plant design.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

511 Authority to notify applicant of deferral

- (1) The Authority may defer registration of a plant design if—
 - (a) the Authority considers that the information provided with the application for registration is inadequate to comply with this Division or regulation 532; or
 - (b) the applicant has not paid the required fee.
- (2) The Authority must give the applicant written notice of a deferral under subregulation (1)—
 - (a) stating the Authority's reasons for deferring registration; and
 - (b) specifying what further information is required.
- (3) The Authority must treat any information and fee provided in response to any notice given under this regulation as if it were provided with the application for registration.
- (4) If the Authority does not notify the applicant of the registration or its deferral within 30 days after receiving the application, the plant design is taken to have been registered under this Part.

Note

Notice of the registration under subregulation (4) will be given under regulation 512.

512 Notice of registration

- (1) The Authority must give the person who applied for the registration written notice of the registration as soon as reasonably possible after the plant design is registered.
- (2) The notice must include—
 - (a) the type of registration; and
 - (b) details of what has been registered; and

- (c) the name of the person who applied for the registration; and
- (d) the date on which the registration took effect, or is to take effect; and
- (e) an identifying number.

513 Registration to be of unlimited duration

Subject to Division 4, a registration of a plant design is of unlimited duration.

Division 3—Registration of a major hazard facility

514 Eligibility to apply for registration to operate a major hazard facility

- (1) A person who intends to operate a major hazard facility may apply to the Authority for registration of the proposed major hazard facility under this Part.
- (2) Without limiting regulation 532, an application for registration of a major hazard facility must include the following—
 - (a) the information required under Schedule 18;
 - (b) any evidence of identity of the applicant required by the Authority;
 - (c) the date on which the proposed facility is expected to operate as a major hazard facility.
- (3) For the purposes of this regulation, a person intends to operate a major hazard facility if—
 - (a) the person is operating a facility and intends to make alterations to the facility so that Schedule 14 materials are present or likely to be present in a quantity that exceeds their threshold quantity; or

- (b) the person who intends to operate a facility where Schedule 14 materials are present or likely to be present in a quantity that exceeds their threshold quantity has received planning approval from the relevant planning authority for the proposed major hazard facility.

Note

In complying with this regulation, persons intending to make alterations should be aware of the duties of designers of buildings or structures under section 28 of the Act.

515 Registration of a major hazard facility

- (1) Subject to subregulation (2), the Authority, within 90 days of receipt of an application for registration of a major hazard facility, must register the facility as a major hazard facility.
- (2) Subregulation (1) does not apply if the Authority is satisfied that the applicant does not intend to operate a major hazard facility.

Example

If the applicant has registered the facility several times without ever obtaining a major hazard facility licence then the Authority may be satisfied that the applicant does not intend to operate a major hazard facility.

516 Notice of registration

- (1) The Authority must give the operator of the facility a written notice of the registration as soon as reasonably possible after the facility is registered, or taken to be registered, under this Part.

Note

Written notice would include email correspondence if the applicant has provided a contact email address.

- (2) The notice must include—
- (a) the type of registration; and
 - (b) details of the facility that has been registered; and
 - (c) the name of the operator of the facility; and
 - (d) the date on which the registration took effect or will take effect; and
 - (e) the registration expiry date; and
 - (f) an identifying number.

517 Registration expiry date

- (1) The *registration expiry date* for a major hazard facility is—
- (a) subject to paragraph (b), a date no later than 30 months after the date of alteration or completion of the facility or proposed major hazard facility;
 - (b) if a major hazard facility has been determined under regulation 363 or 364, a date no later than 30 months after the date specified by the Authority in the notice under regulation 365 as the date on which the determination takes effect.
- (2) For the purposes of subregulation (1) and regulation 518, *completion* means the earlier of—
- (a) the time at which Schedule 14 materials are able to be introduced in the quantities provided in the application; or
 - (b) the time at which quantities are able to be introduced at 100% of the threshold quantity.

518 Variation of registration expiry date

- (1) Within the period of registration of a major hazard facility, the operator may apply for a variation to the registration expiry date, for the purpose of extending the period of registration.
- (2) The Authority may grant a variation extending the period of registration if—
 - (a) it is satisfied that—
 - (i) in the case of a facility registered under regulation 515, there has been a change in the planned date of completion; and
 - (ii) the matters specified in regulation 470 are likely to be achieved before the end of the extended period of registration; and
 - (b) the period is extended to a date no later than 36 months after—
 - (i) subject to subparagraph (ii), the original date of completion or alteration of the facility or proposed major hazard facility; or
 - (ii) if a major hazard facility has been determined under regulation 363 or 364, the date on which the determination took effect.

519 Expiry of registration

Registration of a major hazard facility under this Part expires on the registration expiry date unless—

- (a) a major hazard facility licence is granted, in which case registration expires on the date specified by the licence as the date on which its grant is effective; or

- (b) the Authority decides to refuse to grant a major hazard facility licence and no application is made to the Tribunal for a review of the decision, in which case registration expires 30 days after the date specified in the notice of the refusal; or
- (c) the Authority decides to refuse to grant a major hazard facility licence and an application is made to the Tribunal for a review of the decision and that application is refused by the Tribunal, in which case registration expires 30 days after the day on which the decision that results from the review is made; or
- (d) subject to paragraphs (a), (b) or (c), the decision period is extended under regulation 471, in which case registration does not expire before the end of the extended period.

Division 4—Withdrawal of registration

520 Authority may withdraw registration based on false, misleading or incomplete information

- (1) The Authority may withdraw a registration under this Part if it is satisfied—
 - (a) that the applicant gave information in the application that was false or misleading in a material particular (without advising the Authority in writing at the time that the information was given that it was false or misleading); or
 - (b) that the applicant did not disclose material information to the Authority.

- (2) Before withdrawing a registration the Authority must conduct an inquiry to determine whether there are grounds for taking action under subregulation (1).
- (3) The Authority must give the person who holds the registration (*the registration holder*) written notice of the inquiry.
- (4) The notice must—
 - (a) state the subject of the inquiry and the reasons for conducting it; and
 - (b) set out an outline of all allegations, facts and circumstances known to the Authority that are relevant to the inquiry; and
 - (c) invite the registration holder to make a submission to the inquiry; and
 - (d) specify a period of not less than 14 days within which the registration holder may make a submission.
- (5) After considering any submission made by, or on behalf of, the registration holder in the period allowed, the Authority must decide whether or not grounds exist to withdraw the registration.
- (6) If the Authority is satisfied that grounds exist to withdraw the registration, the Authority must—
 - (a) withdraw the registration; and
 - (b) give the registration holder written notice of the following—
 - (i) its decision;
 - (ii) the reasons for its decision;
 - (iii) the date the withdrawal is to take effect.

- (7) In specifying the date that the withdrawal is to take effect, the Authority must not specify a date that is less than 14 days after the registration holder is given the notice.

521 Authority may withdraw registration on request

The Authority may withdraw the registration of a person or thing under these Regulations at the request of the person who holds the registration.

Division 5—General

522 Evidence of registration to be kept available

A person who holds a registration under this Part must keep the notice of registration available for inspection on request under the Act.

Penalty: 5 penalty units for a natural person;
25 penalty units for a body corporate.

523 Changes to registration information provided

If, in relation to a registration under these Regulations, a change occurs to any information provided at any time by the person who holds that registration (whether in applying for the registration, under this regulation or in any other circumstance), the person must advise the Authority in writing of that change as soon as reasonably possible after the person becomes aware that the change has occurred.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Part 6.3—Review of decisions

524 What is a reviewable decision?

For the purposes of this Part, a *reviewable decision* is a decision of the Authority—

- (a) to determine a process to be a lead process under regulation 180; or
- (b) to cancel a construction induction card under regulation 350; or
- (c) to refuse to grant a licence under Division 1 of Part 6.1 (Licences); or
- (d) to refuse to license the holder of a high risk work licence to perform one or more additional classes of high risk work under Division 1 of Part 6.1 (Licences); or
- (e) to impose any particular term or condition on a licence under regulation 473; or
- (f) to amend a licence, or to refuse to amend a licence, under Division 3 of Part 6.1 (Licences); or
- (g) to refuse to renew a licence under Division 4 of Part 6.1 (Licences); or
- (h) to suspend, cancel or amend a licence, or part of a licence, under Division 5 of Part 6.1 (Licences); or
- (i) to recommend to a corresponding Authority that a licence or certificate, or a part of a licence or certificate, be suspended or cancelled under regulation 504; or
- (j) to refuse to issue a replacement evidence of licence document under regulation 477; or

- (k) to refuse to transfer a major hazard facility licence under regulation 479; or
- (l) to withdraw a registration under regulation 520.

525 What is a process review?

In these Regulations, a *process review* of a decision is a review to determine whether the decision was made in accordance with all of the processes that apply under the Act and these Regulations in relation to the making of such a decision, but it does not involve any consideration of the merits of the decision.

526 Who may apply for a process review

- (1) An employer whose process is determined by the Authority to be a lead process may apply to the Authority for a process review of a reviewable decision of a type referred to in regulation 524(a).
- (2) A person who has had a construction induction card cancelled by the Authority may apply to the Authority for a process review of a reviewable decision of a type referred to in regulation 524(b).
- (3) A person who applied for a licence may apply to the Authority for a process review of a reviewable decision of a type referred to in regulation 524(c), (d) or (e).
- (4) A licence holder may apply to the Authority for a process review of a reviewable decision of a type referred to in regulation 524(e), (f), (g), (h), (i) or (j).
- (5) A person to whom a major hazard facility licence was requested to be transferred under regulation 479 may apply for a process review of a type referred to in regulation 524(k).

- (6) A person who has had a registration withdrawn by the Authority under regulation 520 may apply for a process review of a reviewable decision of a type referred to in regulation 524(l).

527 Time limits when applying for a process review

An application for a review must be made within—

- (a) 14 days after the day on which the decision first came to the applicant's notice; or
- (b) such longer period as the Authority allows.

528 Review by the Authority

- (1) If an application is made to the Authority in accordance with this Part, the Authority must make a decision—
 - (a) to confirm the reviewable decision either on the basis—
 - (i) that it was made in accordance with the Act and these Regulations; or
 - (ii) that even though it was not made in accordance with the Act or these Regulations, the process failure was not reasonably likely to have affected the outcome of the decision; or
 - (b) to set aside the reviewable decision.
- (2) The Authority must give a written notice to the applicant setting out—
 - (a) the Authority's decision under subregulation (1) and the reasons for the decision; and
 - (b) the findings on material questions of fact that led to the decision, referring to the evidence or other material on which those findings were based.

- (3) The Authority must comply with subregulation (2)—
 - (a) within 14 days after the application is made; or
 - (b) with the consent of the applicant, within a further period of up to 14 days.
- (4) If the Authority does not notify an applicant of a decision in accordance with subregulations (2) and (3), the Authority is taken to have made a decision to confirm that the reviewable decision was made in accordance with the Act and these Regulations.
- (5) Subject to regulations 485(4) and 500, an application under this regulation does not affect the operation of the reviewable decision or prevent the taking of any action to implement it.

529 Process for new decisions to be started within 7 days

If the Authority sets a decision aside under regulation 528(1)(b), it must start the process to remake the decision within 7 days after it sets the decision aside.

530 Right of Tribunal review

For the purposes of this Part, section 129 of the Act applies as if—

- (a) a reference in section 129(1)(a) to a reviewable decision were a reference to—
 - (i) a reviewable decision that a person was entitled to have reviewed under this Part and that has been confirmed by the Authority after it has conducted a process review of the decision under this Part; or

- (ii) a reviewable decision that was a new decision made after an earlier decision was set aside following a process review by the Authority; and
- (b) section 129(1)(b) were omitted; and
- (c) a reference in section 129(1) to an eligible person were a reference to a person who was entitled to seek a review of the decision under this Part; and
- (d) for section 129(2) there were substituted the following provision—

"(2) The application must be made—

 - (a) within 14 days after the person received notice of the process review decision or the new decision (as the case requires); or
 - (b) if the Authority is required by the **Victorian Civil and Administrative Tribunal Act 1998** to give the person a statement of reasons, within 14 days after the day on which the person is given the statement—

whichever period ends last."

Note

This regulation has the effect of enabling a person who was entitled to seek a process review of a decision under this Part to apply to VCAT for a review of the decision, but only after the person has applied under this Part for a process review of the decision and had the decision confirmed by the Authority or a new decision is made.

531 Notices of decisions must contain a copy of review rights

The Authority must ensure that any written notice it gives to an applicant for a licence, or a licence holder, of any reviewable decision it makes includes a copy of this Part (other than this regulation).

Chapter 7—Administrative matters and exemptions

Part 7.1—Administrative matters

Division 1—Applications and notices

532 Form and information to be supplied

- (1) An application made, or notice required to be given, to the Authority under these Regulations—
 - (a) must be made or given in the form and manner required by the Authority; and
 - (b) must include, or be accompanied by, any information or document required by the Authority.
- (2) The Authority may only require, under subregulation (1), information or documents that will provide assistance in ensuring that the application or notice is dealt with in accordance with these Regulations.

533 Return of incomplete applications or notices

- (1) The Authority may return an incomplete application or notice to the person who made or gave it without processing it.
- (2) If the Authority returns an application or notice—
 - (a) it must advise the person of the reasons for returning the application or notice; and
 - (b) it must return or refund any fee that accompanied the application or notice.

Division 2—Notices

534 Means of giving written notice

A written notice under these Regulations may be given to a person by—

- (a) delivering it personally to that person; or
- (b) sending it to that person by a method agreed by that person; or
- (c) sending it by pre-paid post addressed to that person at the place that the sender of the notice has reasonable grounds to believe is the person's usual place of residence or business or is the person's last known place of residence or business.

Division 3—Submissions

535 Form of submissions to the Authority

- (1) In inviting a person to make a submission to it under these Regulations, the Authority may specify the form and manner in which the submission is to be made.
- (2) Despite anything to the contrary in these Regulations, the Authority may refuse to consider any submission that is not made in a form or manner that it has specified.

Division 4—Entry permits for authorised representatives

536 Information to be included in entry permits

For the purposes of Part 8 of the Act, an entry permit must include the following—

- (a) the name of the authorised representative;

- (b) the name of the registered employee organisation, or the relevant branch of the organisation, of which the authorised representative is a permanent employee or officer;
- (c) the address of the registered employee organisation or relevant branch of the organisation;
- (d) a photograph of the authorised representative that is of the size used in Australian passports and that was taken not more than 6 months before it is attached to the permit;
- (e) the date of issue of the permit;
- (f) a unique number that identifies the permit;
- (g) a statement to the effect of the statement set out in Schedule 19.

Part 7.2—Exemptions

537 Authority may grant exemptions from these Regulations

- (1) Subject to regulation 542, the Authority may exempt any person, or any class of person, from complying with any provision of—
 - (a) Part 3.2 (Noise); and
 - (b) Part 3.5 (Plant); and
 - (c) Part 4.1 (Hazardous substances); and
 - (d) Part 4.2 (Scheduled carcinogenic substances); and
 - (e) Part 4.3 (Lead); and
 - (f) Part 4.4 (Asbestos) other than the requirement to hold a licence under that Part; and
 - (g) Part 5.1 (Construction); and
 - (h) Part 5.2 (Major hazard facilities) other than the requirement to hold a licence under that Part or a requirement under Division 7 of that Part; and
 - (i) Part 5.3 (Mines).

Note

Regulation 538 also authorises the Authority to grant a limited exemption under Part 3.6 (High risk work).

- (2) Subject to regulation 542, the Authority may exempt any activity, process, substance or thing or any class of activity, process, substance or thing from any requirement of, or prohibition in, any Part listed in subregulation (1).

538 Exemptions in relation to high risk work

- (1) Subject to regulation 543, the Authority may exempt any person, or any class of person (including persons who are under 18 years of age) from complying with regulation 128 in relation to specified high risk work.
- (2) Subject to regulation 543, the Authority may exempt an employer, or a class of employer, from complying with regulation 129 in relation to specified high risk work that the employer seeks to have performed by a person, or class of person, who does not hold an appropriate high risk work licence (including persons who are under 18 years of age).

539 Who may apply for an exemption

- (1) The Authority may grant an exemption under regulation 537 or 538(1)—
 - (a) on its own initiative; or
 - (b) on the written application of any person.
- (2) The Authority may grant an exemption under regulation 538(2)—
 - (a) in the case of an exemption applying to a class of employer—
 - (i) on its own initiative; or
 - (ii) on the written application of an employer who seeks the exemption;
and
 - (b) in the case of an exemption that is to apply to only one employer, on the written application of the employer.

540 Consultation

- (1) For the purposes of section 35(1) of the Act, an employer must consult before applying for an exemption under this Part.
- (2) The Authority may refuse an application under this Part if it is not reasonably satisfied that the applicant has complied with Part 4 of the Act.

Note

Act compliance—sections 35 and 36 (see regulation 7).

541 Applications

- (1) An application for an exemption must—
 - (a) be made in writing; and
 - (b) be signed and dated by or for the applicant; and
 - (c) state the applicant's name and address; and
 - (d) state the name of the person to whom the application relates or a description of the class of person to whom the application relates; and
 - (e) if applicable, identify the workplace or undertaking in respect of which the exemption is sought; and
 - (f) identify the provision from which exemption is sought or identify the activity, process, substance or thing or class of activity, process, substance or thing to which the application relates; and
 - (g) explain why the exemption is sought; and
 - (h) detail the consultation undertaken under regulation 540; and

- (i) provide sufficient information to enable the Authority to decide whether it is able to grant the exemption under regulation 537 or 538.
- (2) An application for an exemption may be made in respect of more than one person, provision, activity, process, substance or thing.
- (3) The Authority may, by written notice, request the applicant to provide any additional information necessary for a proper consideration of the application.
- (4) The Authority may make as many requests for additional information as it considers necessary for a proper consideration of the application.

542 Grounds on which an exemption (other than in relation to high risk work) may be granted

- (1) The Authority must not grant an exemption under regulation 537 other than in accordance with this regulation.
- (2) The Authority may grant an exemption if it is satisfied—
 - (a) that the granting of the exemption will result in a level of health and safety at the relevant workplace, or with respect to the relevant undertaking, that is at least equivalent to that which would be achieved by observance of the relevant provision; or
 - (b) that the provision that is to be the subject of the exemption is an administrative requirement under these Regulations that is inappropriate or unnecessary in the circumstances.

- (3) The Authority may grant an exemption if—
 - (a) it is satisfied that the requirements of subregulation (2)(a) will be met if it imposes certain conditions in granting the exemption and those conditions are observed; and
 - (b) it imposes those conditions in granting the exemption.
- (4) The Authority may grant only part of an application for an exemption under regulation 537 or it may grant an exemption so that the exemption applies in a more limited way than was sought in the application for the exemption.
- (5) If a person applies for an exemption in relation to Division 4, 6, 8, 9 or 10 of Part 5.2 (Major hazard facilities), the Authority must not refuse to grant the exemption unless it has—
 - (a) invited the person to make a written submission; and
 - (b) specified a date, not less than 14 days after the date of the invitation, by which the person may make the submission; and
 - (c) considered any submission that is made by the person by the specified date in the form and manner specified by the Authority under regulation 535(1).

543 Grounds on which an exemption in relation to high risk work may be granted

- (1) The Authority must not grant an exemption under regulation 538 other than in accordance with these Regulations.

- (2) The Authority may grant an exemption if it is satisfied that—
 - (a) the work that is the subject of the application can be performed as safely by a person who does not hold a relevant high risk work licence as it could be performed by a person who holds such a licence; or
 - (b) the requirements of paragraph (a) will be met if it imposes certain conditions in granting the exemption and those conditions are observed and it imposes those conditions in granting the exemption.
- (3) In the case of an application for an exemption under regulation 538(1) in relation to specified high risk work, the Authority may require a person to satisfy it as to the competency of the person in relation to any relevant skill or knowledge.
- (4) In the case of an application by an employer for an exemption under regulation 538(2) in relation to a particular employee, the Authority may require the employer to satisfy it as to the competency of the employee in relation to any relevant skill or knowledge.
- (5) The Authority may provide for an exemption under regulation 538 to apply to all of the work, or part of the work, that would normally be required to be performed by a person with a relevant high risk work licence.

544 Conditions

- (1) The Authority may impose on an exemption any conditions that it considers to be appropriate.
- (2) Without limiting subregulation (1), the Authority may impose, in relation to anything that is permitted, or that may be affected, by

the exemption, all or any of the following conditions—

- (a) specifying risk control measures to be used or implemented;
- (b) requiring all or any of the following—
 - (i) monitoring (including atmospheric monitoring of the workplace);
 - (ii) the provision of health monitoring for anyone at a workplace to which the exemption applies;
 - (iii) the recording or keeping of information (including health and safety information);
 - (iv) the provision of information, instruction and training to specified persons or classes of person;
 - (v) the use or implementation of systems of work or processes;
- (c) requiring the reporting of information to the Authority, including health and safety information and the results of any required monitoring, health monitoring or testing;
- (d) imposing limits on the quantity to be used at the workplace of anything used under the exemption;
- (e) limiting who may carry out activities under the exemption;
- (f) limiting the activities that may be carried out under the exemption, or specifying that only certain activities may be carried out under the exemption;

- (g) requiring that notice be given that the exemption has been granted, and of any conditions of the exemption, to any specified person who may be affected by the granting of the exemption;
 - (h) imposing time limits on when any action required to be taken in relation to the exemption is to be taken.
- (3) A person to whom an exemption is granted must comply with the terms and conditions to which the exemption is subject.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

545 Form and contents of exemptions

- (1) An exemption—
- (a) must be in writing; and
 - (b) must specify—
 - (i) in the case of an exemption granted under regulation 538(2), the name of the employer or class of employer and the work that may be performed for the employer by employees who do not hold the relevant high risk work licence; and
 - (ii) in any other case, who or what is exempted; and
 - (iii) if applicable, the workplace or undertaking to which the exemption applies; and
 - (iv) the provision of these Regulations to which the exemption relates; and

- (v) when the exemption is to start; and
 - (vi) any conditions to which the exemption is subject.
- (2) The Authority may specify how long an exemption is to last.

546 Notice of exemptions to be given to individual applicants

If the Authority grants an exemption in response to an application, the Authority must give a copy of the exemption to the person who applied for the exemption within 14 days after granting the exemption.

547 Notice of exemptions to be published

- (1) If the Authority grants an exemption, it must publish a notice in the Government Gazette that—
- (a) must state that the exemption has been granted; and
 - (b) must identify to whom and to what the exemption applies; and
 - (c) must identify the provision or provisions of these Regulations to which the exemption relates; and
 - (d) must state when the exemption is to start; and
 - (e) may include any other details that the Authority considers to be appropriate.
- (2) An exemption takes effect on the day on which the notice is published in the Government Gazette, or on any later day specified in the notice.
- (3) As soon as reasonably possible after it has complied with subregulation (1), the Authority must cause a similar notice to be published in a

newspaper circulating generally throughout Victoria.

- (4) Nothing in subregulation (1) is intended to require the Authority to include in the notice confidential personal information about an individual or information relating to manufacturing or commercial secrets or working processes.

548 Additional obligation on the operator of a mine

The operator of a mine in relation to which an exemption is granted must, within 30 days after the exemption is granted, inform the health and safety representatives at the mine that the exemption has been granted.

Penalty: 5 penalty units for a natural person;
25 penalty units for a body corporate.

549 Notice of refusal

If the Authority refuses to grant an exemption, the Authority must notify the person who applied for the exemption of the reasons for the refusal in writing within 14 days after deciding to refuse the application.

550 Variation or revocation of exemption

- (1) The Authority may vary or revoke an exemption at any time—
- (a) in the case of an exemption applying to a class of person, process, substance, activity or thing, by placing a notice in the Government Gazette setting out the variation, or stating that the exemption has been revoked; or

- (b) in any other case, by giving a written notice of the variation or revocation to the person to whom the exemption applies within 14 days after deciding to vary or revoke the exemption.
- (2) The notice must include the Authority's reasons for varying or revoking the exemption.
- (3) A revocation, or variation, of an exemption takes effect—
 - (a) if subregulation (1)(a) applies, on the day on which the notice required by that subregulation is published in the Government Gazette or on any later day specified in the notice; or
 - (b) if subregulation (1)(b) applies, on the day on which the person is given the written notice of the revocation or variation, or on any later day specified in the notice.

551 Exemptions, revocations and variations not to have retrospective effect

Nothing in this Part authorises the Authority to specify—

- (a) that an exemption takes effect before it is granted; or
- (b) that a revocation or variation to an exemption takes effect before notice of it is given in accordance with this Part.

552 Terms and conditions to be made available

The Authority must make the current terms and conditions of an exemption available for inspection by any person affected by the exemption.

553 Fee for considering exemption application

- (1) An application for an exemption must be accompanied by a fee of 46·2 fee units.
- (2) The Authority must not grant an exemption to a person unless the person has paid the fee set out in subregulation (1).

Chapter 7A—Workplace Incidents Consultative Committee

Ch. 7A
(Heading and
regs 553A–
553O)
inserted by
S.R. No.
106/2020
reg. 3.

553A Objective of this Chapter

The objective of this Chapter is to provide for the membership and procedure of the Workplace Incidents Consultative Committee so that the membership broadly represents persons affected by workplace incidents that involve death, serious injury or serious illness.

Reg. 553A
inserted by
S.R. No.
106/2020
reg. 3.

553B Definitions

In this Chapter—

affected person means a person who has been affected, directly or indirectly, by a workplace incident that involves death or a serious injury or illness;

co-chairperson means—

- (a) the non-government co-chairperson or a person acting in that office; or
- (b) the government co-chairperson or a person acting in that office;

Committee means the Workplace Incidents Consultative Committee established by the Minister under section 126A of the Act;

committee member means a member of the Committee appointed under regulation 553D or 553F;

Department means the Department of Justice and Community Safety;

Reg. 553B
inserted by
S.R. No.
106/2020
reg. 3.

deputy non-government co-chairperson means the committee member elected as deputy co-chairperson under regulation 553C(2)(b);

government co-chairperson means the co-chairperson appointed under regulation 553F;

identifying information means information about a person whose identity is apparent or can reasonably be ascertained from the information;

non-government co-chairperson means the committee member elected as co-chairperson under regulation 553C(2)(a).

Reg. 553C
inserted by
S.R. No.
106/2020
reg. 3.

553C Membership of the Committee

- (1) The Committee consists of the following members—
 - (a) no fewer than 8 and no more than 15 affected persons appointed under regulation 553D;
 - (b) a government co-chairperson appointed under regulation 553F.
- (2) The Committee must elect, from among the committee members who are affected persons—
 - (a) a non-government co-chairperson; and
 - (b) a deputy non-government co-chairperson.

Reg. 553D
inserted by
S.R. No.
106/2020
reg. 3.

553D Appointment of members who are affected persons

- (1) A member who is an affected person must be appointed by the Minister in writing under this regulation.
- (2) In appointing an affected person as a committee member, the Minister must have regard to—
 - (a) representation of the Victorian community on the Committee and diversity in the gender, age, cultural and ethnic background,

region, industry and type of injury or illness of committee members; and

- (b) the ability of the affected person to successfully perform the functions and duties of a committee member.
- (3) An affected person appointed as a committee member is appointed on a part-time basis, for a term of no longer than 3 years.
- (4) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to an affected person appointed as a committee member in respect of the office of a committee member.

553E Terms of appointment and reappointment of members who are affected persons

Reg. 553E
inserted by
S.R. No.
106/2020
reg. 3.

- (1) An affected person's instrument of appointment as a committee member must specify—
 - (a) the terms and conditions of the appointment; and
 - (b) the remuneration and allowances to which the member is entitled.
- (2) An affected person appointed as a committee member is eligible to be reappointed for one additional term.
- (3) The Minister may reappoint an affected person as a committee member for a further additional term or terms if, in the Minister's opinion, there are exceptional circumstances.

553F Appointment of government co-chairperson

Reg. 553F
inserted by
S.R. No.
106/2020
reg. 3.

- (1) An eligible person must be appointed by the Minister in writing under this regulation to be the government co-chairperson of the Committee.

- (2) For the purpose of subregulation (1), an eligible person is a person who can demonstrate a professional commitment to workplace safety reform and—
 - (a) is a public sector employee (within the meaning of the **Public Administration Act 2004**) at the level of Deputy Secretary or higher or equivalent; or
 - (b) has knowledge, skills or experience in a field that the Minister considers relevant.
- (3) The government co-chairperson's instrument of appointment must specify the terms and conditions of the appointment.
- (4) The government co-chairperson is not entitled to remuneration or allowances in respect of the office of government co-chairperson.
- (5) If a person appointed to be the government co-chairperson ceases to be an eligible person under subregulation (2), the person ceases to be a committee member.

Reg. 553G
inserted by
S.R. No.
106/2020
reg. 3.

553G Provision of expert and technical advice

- (1) On behalf of the Committee and to assist the Committee to perform its function, the non-government co-chairperson may invite any of the following persons to attend meetings of the Committee for the purpose of providing expert or technical advice—
 - (a) the Secretary to the Department;
 - (b) the Chief Executive Officer of the Victorian WorkCover Authority;
 - (c) the Director of Public Prosecutions;
 - (d) the State Coroner;
 - (e) the Chief Commissioner of Police;

- (f) the chief executive officer of the Accident Compensation Conciliation Service;
 - (g) the Convenor of Medical Panels;
 - (h) the Victims of Crime Commissioner;
 - (i) employer and employee representatives;
 - (j) academics;
 - (k) any other persons the non-government co-chairperson considers appropriate.
- (2) A person invited to attend a meeting may send a delegate in the person's place with the written permission of the non-government co-chairperson.
- (3) A person invited to attend a meeting or a delegate in the person's place—
- (a) is not entitled to vote on any question arising at the meeting; and
 - (b) is entitled to the allowances (if any) determined by the non-government co-chairperson.

553H Vacancies in Committee membership

- (1) A committee member's office becomes vacant if—
- (a) the committee member resigns by signed notice given to the Minister; or
 - (b) the committee member is convicted of an indictable offence, or an offence that, if committed in Victoria, would be an indictable offence; or
 - (c) in the case of a committee member who is not a co-chairperson, the committee member is absent, without the co-chairpersons' leave and without reasonable excuse, from 3 consecutive meetings of the Committee; or

Reg. 553H
inserted by
S.R. No.
106/2020
reg. 3.

- (d) in the case of a co-chairperson, the co-chairperson is absent, without leave from the Minister and without reasonable excuse, from 3 consecutive meetings of the Committee; or
 - (e) the committee member is removed from office under subregulation (2).
- (2) The Minister may, at any time, remove a committee member from that office.
 - (3) The co-chairpersons may approve a leave of absence for a committee member.

Reg. 553I
inserted by
S.R. No.
106/2020
reg. 3.

553I Circumstances for acting non-government co-chairperson

- (1) The deputy non-government co-chairperson must act as the non-government co-chairperson—
 - (a) during a vacancy in the office of the non-government co-chairperson; or
 - (b) during any period when—
 - (i) the non-government co-chairperson is absent; or
 - (ii) the non-government co-chairperson is, for any other reason, unable to perform the functions and duties of that office.
- (2) If the deputy non-government co-chairperson is unable to perform the functions and duties of the non-government co-chairperson, the Committee may elect another committee member who is an affected person to act as the non-government co-chairperson.
- (3) A committee member elected under subregulation (2) acts as the non-government co-chairperson for a period not exceeding 3 consecutive meetings.

- (4) A committee member acting as the non-government co-chairperson—
 - (a) may exercise all the powers of the non-government co-chairperson; and
 - (b) must perform all the functions and duties of the non-government co-chairperson.

553J Appointment of acting government co-chairperson

Reg. 553J
inserted by
S.R. No.
106/2020
reg. 3.

- (1) The Minister may, in writing, appoint an eligible person to act as the government co-chairperson—
 - (a) during a vacancy in the office of the government co-chairperson; or
 - (b) during any period when—
 - (i) the government co-chairperson is absent; or
 - (ii) the government co-chairperson is, for any other reason, unable to perform the functions and duties of that office.
- (2) For the purpose of subregulation (1), an eligible person is a person who meets the criteria set out in regulation 553F(2).
- (3) An appointment under subregulation (1) is for a period not exceeding 3 consecutive meetings.
- (4) An eligible person acting as the government co-chairperson—
 - (a) may exercise all the powers of the government co-chairperson; and
 - (b) must perform all the functions and duties of the government co-chairperson.

553K Meetings of the Committee

Reg. 553K
inserted by
S.R. No.
106/2020
reg. 3.

- (1) The Committee must meet at least 4 times per calendar year.

- (2) The co-chairpersons must call a meeting if asked in writing to do so by—
 - (a) the Minister; or
 - (b) at least one-half of the total number of committee members.
- (3) A quorum for a meeting of the Committee is at least one-half of the total number of committee members.
- (4) Subject to these Regulations, the Committee may regulate its own proceedings.

Reg. 553L
inserted by
S.R. No.
106/2020
reg. 3.

553L Committee support

The Secretary to the Department must provide the Committee with administrative support from the Department and any additional support agreed between the Secretary and the co-chairpersons.

Reg. 553M
inserted by
S.R. No.
106/2020
reg. 3.

553M Duty to declare conflict of interest

- (1) A committee member who has a perceived or actual conflict of interest in a matter being considered by the Committee must declare that conflict.
- (2) The Committee must determine whether a conflict of interest declared under subregulation (1) would prejudice the Committee's operation and must decide whether the committee member should—
 - (a) be present when the Committee considers the relevant matter; or
 - (b) take part in any decision of the Committee about that matter.
- (3) If the Committee decides under subregulation (2)(a) or (b) that the committee member should not be present or take part in a decision, the remaining committee members present at the meeting are a quorum for considering and making

any decision about that matter despite regulation 553K(3).

553N Confidentiality

Reg. 553N
inserted by
S.R. No.
106/2020
reg. 3.

- (1) Subject to subregulation (2), materials and information obtained by the Committee in performing its function and not publicly available must be treated as confidential.
- (2) Subject to subregulation (3), a committee member may only disclose identifying information obtained as a result of the member's appointment as a committee member if the disclosure is—
 - (a) authorised in writing by—
 - (i) the co-chairpersons or, if the member is a co-chairperson, the other co-chairperson; and
 - (ii) the person to whom the identifying information relates; or
 - (b) otherwise permitted or required by law.
- (3) The co-chairpersons must not authorise disclosure of any materials or information that are commercial-in-confidence.

553O Review of this Chapter's operation

Reg. 553O
inserted by
S.R. No.
106/2020
reg. 3.

The Minister must ensure that a review of this Chapter's first year of operation is undertaken within two years of the appointment of the initial committee members.

Chapter 8—Saving and transitional provisions

Part 8.1—General transitional provisions

554 Commencement day

In this Chapter *commencement day* means 18 June 2017.

555 General transitional provisions

This Chapter does not affect or take away from the **Interpretation of Legislation Act 1984**.

556 Former Regulations

In this Chapter *former Regulations* means the Occupational Health and Safety Regulations 2007.

557 Licence classes for pressure equipment operation

- (1) The following high risk work licence classes listed in Schedule 3 of these Regulations do not apply until 18 June 2018—
 - (a) standard boiler operation licence (clause 26 of Schedule 3);
 - (b) advanced boiler operation licence (clause 27 of Schedule 3).
- (2) From the commencement day until 17 June 2018, the following high risk work classes listed in Schedule 3 of the former Regulations continue to apply for the purposes of these Regulations—
 - (a) basic boiler operation licence (clause 29 of Schedule 3 of the former Regulations);
 - (b) intermediate boiler operation licence (clause 30 of Schedule 3 of the former Regulations).

- (c) advanced boiler operation licence (clause 31 of Schedule 3 of the former Regulations).
- (3) Any basic boiler operation licence granted under these Regulations or the former Regulations before 18 June 2018, that was in force immediately before 18 June 2018, is taken to be on and from 18 June 2018 a standard boiler operation licence for the purpose of these Regulations and continues in force as if it had been granted under these Regulations.
- (4) Any intermediate boiler operation licence granted under these Regulations or the former Regulations before 18 June 2018, that was in force immediately before 18 June 2018, is taken to be on and from 18 June 2018 a standard boiler operation licence for the purpose of these Regulations and continues in force as if it had been granted under these Regulations except that, in addition to the scope of work set out in clause 26 of Schedule 3, the scope of the work for this licence covers the operation of a boiler with a single fuel source that has a superheater or economiser attached, until 18 June 2019.
- (5) On and from 19 June 2019, an advanced boiler operation licence is required to operate a boiler with a single fuel source that has a superheater or economiser.
- (6) Any advanced boiler operation licence granted under these Regulations or the former Regulations before 18 June 2018, that was in force immediately before 18 June 2018, is taken to be on and from 18 June 2018 an advanced boiler operation licence for the purpose of these Regulations and continues in force as if it had been granted under these Regulations.

558 Construction

- (1) Despite regulation 332, Subdivision 2 of Division 2 of Part 5.1 (Construction) applies to a construction project the cost of which is \$250 000 or more if the construction contract for the project was entered into before 1 July 2014.

Note

1 July 2014 was the commencement date of the Occupational Health and Safety Amendment Regulations 2014.

- (2) An application for registration to perform construction work made but not determined by the Authority under regulation 6.2.15 of the former Regulations immediately before the commencement day is taken, on and from the commencement day, to be an application for a construction induction card under regulation 344 of these Regulations.
- (3) A person who was registered to perform construction work under regulation 5.1.21 of the former Regulations immediately before the commencement day is taken, on and from the commencement day, to comply with the requirements of Division 3 of Part 5.1 (Construction) of these Regulations.

559 Major hazard facilities—12 months transition period

- (1) A person who was registered or licensed to operate a major hazard facility immediately before the commencement day does not contravene these Regulations if, before 18 June 2018, the person complies with their obligations under Part 5.2 (Major hazard facilities) of the former Regulations.

- (2) An application for a major hazard facility licence or licence renewal made on or before 18 June 2018 is valid if it is made in accordance with Part 5.2 (Major hazard facilities) and Part 6.1 (Licences) of the former Regulations.
- (3) The Authority must grant an application for a major hazard facility licence or licence renewal referred to in subregulation (2) if it is satisfied of the matters it is required to be satisfied of under Part 5.2 (Major hazard facilities) and Part 6.1 (Licences) of the former Regulations.

560 Major hazard facilities—Other transition periods

- (1) For the period of 6 months after the commencement day, Schedule 14 does not operate and Schedule 9 to the former Regulations continues to operate.
- (2) Until 18 June 2018, clause 2.3 of Schedule 17 does not operate and clause 2.3 of Schedule 12 to the former Regulations continues to operate.

Chapter 9—Consequential amendments

Part 9.1—Amendments to the Dangerous Goods (Explosives) Regulations 2011

561 Application

In regulation 34(3) of the Dangerous Goods (Explosives) Regulations 2011³, for "2007" **substitute** "2017".

562 Safety management system

- (1) In regulation 37(4) and (5) of the Dangerous Goods (Explosives) Regulations 2011, for "2007" **substitute** "2017".
- (2) In regulation 37(5) of the Dangerous Goods (Explosives) Regulations 2011, for "MSDS" **substitute** "SDS".

563 Application

In regulation 59(2) of the Dangerous Goods (Explosives) Regulations 2011, for "2007" **substitute** "2017".

Part 9.2—Amendments to the Dangerous Goods (Storage and Handling) Regulations 2012

564 Definitions

In regulation 5 of the Dangerous Goods
(Storage and Handling) Regulations 2012⁴—

- (a) for the definition of **GHS substitute**—

"**GHS** has the same meaning as in the
Occupational Health and Safety
Regulations 2017;"

- (b) in the definition of **hazardous substance**,
for "2007" **substitute** "2017";

- (c) **insert** the following definitions—

"**current SDS** means the most recent SDS
that complies with regulation 19
or 20 and, if applicable, has been
reviewed and revised in accordance
with regulation 21;

SDS means a Safety Data Sheet;"

- (d) the definitions of **current MSDS** and **MSDS**
are **revoked**.

565 Incorporation of references

For regulation 7(4) of the Dangerous Goods
(Storage and Handling) Regulations 2012
substitute—

- "(4) In complying with the GHS, if more than
one revised edition is referred to in the
definition of **GHS** a person may use any of
those revised editions, but not a combination
of those editions."

566 Exemptions

In regulation 9(2)(a) of the Dangerous Goods (Storage and Handling) Regulations 2012, for "2007" **substitute** "2017".

567 Compliance with Occupational Health and Safety Regulations

In regulation 12(1) of the Dangerous Goods (Storage and Handling) Regulations 2012, for "Part 4.1 (Hazardous Substances) of the Occupational Health and Safety Regulations 2007" **substitute** "Part 4.1 (Hazardous substances) of the Occupational Health and Safety Regulations 2017".

568 Determination of dangerous goods

In regulation 13(4)(b) of the Dangerous Goods (Storage and Handling) Regulations 2012 **omit** "(with or without modifications)".

569 Marking and labelling—manufacturer and first supplier

In regulation 15(5)(b) of the Dangerous Goods (Storage and Handling) Regulations 2012 **omit** "(with or without modifications)".

570 Amendment to the heading to Division 2 of Part 3

In the heading to Division 2 of Part 3 of the Dangerous Goods (Storage and Handling) Regulations 2012 **omit** "Material".

571 Application to C1 combustible liquids

In the note to regulation 18 of the Dangerous Goods (Storage and Handling) Regulations 2012, for "2007" **substitute** "2017".

572 Amendments to regulation 19

- (1) In the heading to regulation 19 of the Dangerous Goods (Storage and Handling) Regulations 2012, for "**MSDS**" **substitute** "**SDS**".
- (2) In regulation 19(1), (2) and (4) of the Dangerous Goods (Storage and Handling) Regulations 2012, for "**MSDS**" **substitute** "**SDS**".

573 Amendments to regulation 20

- (1) In the heading to regulation 20 of the Dangerous Goods (Storage and Handling) Regulations 2012, for "**MSDS**" **substitute** "**SDS**".
- (2) For regulation 20(1) of the Dangerous Goods (Storage and Handling) Regulations 2012 **substitute—**
"(1) It is sufficient compliance with regulation 19 if a manufacturer or first supplier of dangerous goods has prepared an SDS for the dangerous goods in accordance with corresponding legislation."- (3) In regulation 20(2) of the Dangerous Goods (Storage and Handling) Regulations 2012, for "a MSDS or of a safety data sheet" **substitute** "an SDS".
- (4) Regulation 20(3) of the Dangerous Goods (Storage and Handling) Regulations 2012 is **revoked**.

574 Amendments to regulation 21

- (1) In the heading to regulation 21 of the Dangerous Goods (Storage and Handling) Regulations 2012, for "**MSDS**" **substitute** "**SDS**".
- (2) In regulation 21 of the Dangerous Goods (Storage and Handling) Regulations 2012, for "**MSDS**" (wherever occurring) **substitute** "**SDS**".

575 Amendments to regulation 22

- (1) In the heading to regulation 22 of the Dangerous Goods (Storage and Handling) Regulations 2012, for "MSDS" **substitute** "SDS".
- (2) In regulation 22(1) and (1)(b) of the Dangerous Goods (Storage and Handling) Regulations 2012, for "MSDS" **substitute** "SDS".

576 Information to registered medical practitioner

In regulation 23(1)(a) of the Dangerous Goods (Storage and Handling) Regulations 2012, for "MSDS" **substitute** "SDS".

577 Identification of hazards

In regulation 26(2)(a) of the Dangerous Goods (Storage and Handling) Regulations 2012, for "MSDS" **substitute** "SDS".

578 Clearing of decommissioned receptacles

In regulation 39(2)(b)(i) of the Dangerous Goods (Storage and Handling) Regulations 2012, for "Hazardous Substances Information System (HSIS)" **substitute** "Workplace Exposure Standards for Airborne Contaminants,".

579 Amendment to the heading to Division 6 of Part 4

In the heading to Division 6 of Part 4 of the Dangerous Goods (Storage and Handling) Regulations 2012 **omit** "Material".

580 Currency and accessibility

In regulation 56(1), (3) and (4) of the Dangerous Goods (Storage and Handling) Regulations 2012, for "MSDS" (wherever occurring) **substitute** "SDS".

581 Transfer

For regulation 58(1)(a) of the Dangerous Goods
(Storage and Handling) Regulations 2012

substitute—

- "(a) the container into which the dangerous goods
are transferred is clearly labelled—
- (i) with the Class label, Subsidiary
Risk label and product name of
the dangerous goods; or
 - (ii) with the product identifier and a
hazard pictogram and hazard statement
consistent with the correct classification
of the dangerous goods; or".

582 Register of dangerous goods

- (1) In regulation 60(1)(b) of the Dangerous Goods
(Storage and Handling) Regulations 2012, for
"MSDS" **substitute** "SDS".
- (2) In regulation 60(4) of the Dangerous Goods
(Storage and Handling) Regulations 2012, for
"regulation 4.1.23(1) and (2) of the Occupational
Health and Safety Regulations 2007" **substitute**
"regulation 162(1) and (2) of the Occupational
Health and Safety Regulations 2017".

583 Notification to Authority

In regulation 66(4) of the Dangerous Goods
(Storage and Handling) Regulations 2012,
for "2007" **substitute** "2017".

Occupational Health and Safety Regulations 2017
S.R. No. 22/2017
Schedule 1—Revocation of Regulations

Schedule 1—Revocation of Regulations

Regulation 4

<i>S.R. No.</i>	<i>Title</i>
54/2007	Occupational Health and Safety Regulations 2007;
140/2007	Occupational Health and Safety Amendment (Chrysotile Exemption) Amendment Regulations 2007;
18/2010	Occupational Health and Safety Amendment (Hazardous Substances Classification) Regulations 2010;
93/2010	Occupational Health and Safety Amendment (Miscellaneous) Regulations 2010;
57/2012	Occupational Health and Safety Amendment Regulations 2012;
54/2014	Occupational Health and Safety Amendment Regulations 2014.

Schedule 2—Plant requiring registration of design

Regulations 106, 125 and 126

- 1.1 Pressure equipment, other than the following—
 - (a) pressure piping;
 - (b) miniature boilers designed in accordance with the AMBSC Code;
 - (c) gas cylinders or fired heaters with a hazard level equivalent to hazard level E as set out in AS 4343 Pressure equipment—Hazard levels.
- 1.2 Tower cranes, other than the foundations or supporting structure and the crane ties of the tower crane.
- 1.3 Self-erecting tower cranes.
- 1.4 Lifts, other than the following—
 - (a) platforms for raising or lowering stage performers and associated equipment;
 - (b) plant designed only to store vehicles in a designated parking facility;
 - (c) lifts designed to transport goods only, which do not have any operational controls within the lift car, including dumb waiters.
- 1.5 Building maintenance units.
- 1.6 Hoists with a platform movement of more than 2.4 metres, designed to lift persons.
- 1.7 Work boxes suspended from cranes.
- 1.8 Amusement structures to which AS 3533.1—Amusement rides and devices—Part 1: Design and construction applies, other than the following—

- (a) amusement structures determined by AS 3533.1 to be class 1;
- (b) amusement structures that are, or are intended to be, permanently installed and operated in playgrounds;
- (c) water slides on which water facilitates users sliding easily, predominantly under gravity, along a static structure;
- (d) water wave generators that prevent users from coming into contact with the machinery used to generate the waves;
- (e) inflatable devices, unless they have a platform height (the height of the highest part of the device designed to support users) of 3 metres or more and rely on a supply of continuously blown air to maintain their shape;
- (f) amusement structures that are specifically designed for a sporting, professional stunt, theatrical or acrobatic purpose or activity, including canoes operating on artificial currents;
- (g) rides or devices that are primarily designed as a form of transport or motor sport, including hovercrafts, quad bikes and snow mobiles;
- (h) jet packs and hover boards;
- (i) go-karts;
- (j) parasailing equipment;
- (k) coin or token operated devices that are intended to be ridden, at the same time, by not more than 4 children who must be below the age of 10 years.

- 1.9 Prefabricated scaffolding, being an integrated system of prefabricated components manufactured in such a way that the possible geometry of assembled scaffolds is pre-determined by the designer.
- 1.10 Boom-type elevating work platforms.
- 1.11 Gantry cranes with a rated capacity greater than 5 tonnes or bridge cranes with a rated capacity greater than 10 tonnes, and a gantry crane or a bridge crane that is designed to handle molten metal or dangerous goods.
- 1.12 Vehicle hoists.
- 1.13 Mast climbing work platforms.
- 1.14 Mobile cranes with a rated capacity greater than 10 tonnes, other than reach stackers.
- 1.15 Chairlifts.
- 1.16 Concrete-placing booms.

Schedule 3—High risk work licence classes

Regulations 5 and 130

Part 1—Licence classes for scaffolding and rigging

1 Basic scaffolding licence

- (1) The scope of work for this licence is scaffolding work involving any of the following—
 - (a) prefabricated scaffolds;
 - (b) cantilevered hoists with a maximum working load limit of 500 kilograms (materials only);
 - (c) ropes;
 - (d) gin wheels;
 - (e) safety nets and static lines;
 - (f) bracket scaffolds (tank and formwork).
- (2) The scope of work for this licence does not include the scaffolding work listed in clauses 2(1)(b) and 3(b).

2 Intermediate scaffolding licence

- (1) The scope of work for this licence is—
 - (a) scaffolding work included in the scope of work for the basic scaffolding licence; and
 - (b) scaffolding work involving any of the following—
 - (i) cantilevered crane loading platforms;
 - (ii) cantilevered scaffolds;
 - (iii) spur scaffolds;

- (iv) barrow ramps and sloping platforms;
 - (v) scaffolding associated with perimeter safety screens and shutters;
 - (vi) mast climbing work platforms;
 - (vii) tube and coupler scaffolds (including tube and coupler covered ways and gantries).
- (2) The scope of work for this licence does not include the scaffolding work listed in clause 3(b).

3 Advanced scaffolding licence

The scope of work for this licence is—

- (a) scaffolding work included in the scope of work for the intermediate scaffolding licence; and
- (b) scaffolding work involving any of the following—
 - (i) cantilevered hoists;
 - (ii) hung scaffolds, including scaffolds hanging from tubes, wire ropes and chains;
 - (iii) suspended scaffolds.

4 Dogging licence

The scope of work for this licence is dogging work.

5 Basic rigging licence

- (1) The scope of work for this licence is—
- (a) dogging work; and
 - (b) rigging work involving any of the following—
 - (i) movement of plant and equipment;

- (ii) steel erection;
 - (iii) hoists (other than hoists with jibs and self-climbing hoists);
 - (iv) placement of pre-cast concrete;
 - (v) safety nets and static lines;
 - (vi) mast climbing work platforms;
 - (vii) perimeter safety screens and shutters;
 - (viii) cantilevered crane loading platforms.
- (2) The scope of work for this licence does not include the rigging work listed in clauses 6(1)(b) and 7(b).

6 Intermediate rigging licence

- (1) The scope of work for this licence is—
- (a) the scope of work included in the basic rigging licence; and
 - (b) rigging work involving any of the following—
 - (i) use of load equalising gear;
 - (ii) cranes, conveyors, dredges and excavators;
 - (ii) tilt slabs;
 - (iv) hoists with jibs and self-climbing hoists;
 - (v) demolition;
 - (vi) dual lifts.
- (2) The scope of work for this licence does not include the rigging work listed in clause 7(b).

7 Advanced rigging licence

The scope of work for this licence is—

- (a) the scope of work included in the intermediate rigging licence; and
- (b) rigging work involving any of the following—
 - (i) rigging of gin poles and shear legs;
 - (ii) flying foxes and cable ways;
 - (iii) guyed derricks and structures;
 - (iv) suspended scaffolds and fabricated hung scaffolds.

Part 2—Licence classes for crane, hoist and forklift truck operation

8 Tower crane operation licence

The scope of work for this licence covers the operation of tower cranes.

Note

The scope of work for this licence does not include the operation of a self-erecting tower crane.

9 Self-erecting tower crane operation licence

The scope of work for this licence covers the operation of self-erecting tower cranes.

Note

The scope of work for this licence does not include the operation of a tower crane.

10 Derrick crane operation licence

The scope of work for this licence covers the operation of derrick cranes.

11 Portal boom crane operation licence

The scope of work for this licence covers the operation of portal boom cranes.

12 Bridge and gantry crane operation licence

The scope of work for this licence covers the following—

- (a) the operation of bridge cranes and gantry cranes that are—
 - (i) controlled from a permanent cabin or control station on the crane; or
 - (ii) remotely controlled and have more than 3 powered operations;
- (b) the application of load estimation and slinging techniques to move a load using a bridge crane or gantry crane.

13 Vehicle loading crane operation licence

The scope of work for this licence covers the operation of vehicle loading cranes that have a capacity of 10 metre tonnes or more and includes the application of load estimation and slinging techniques to move a load using a vehicle loading crane.

14 Non-slewing mobile crane operation licence

The scope of work for this licence covers the operation of—

- (a) non-slewing mobile cranes; and
- (b) reach stackers.

Sch. 3 cl. 13
amended by
S.R. No.
71/2018
reg. 14(a).

**15 Slewing mobile crane operation licence
(up to 20 tonnes)**

The scope of work for this licence covers the operation of—

- (a) slewing mobile cranes with a capacity of 20 tonnes or less; and
- (b) non-slewing mobile cranes; and
- (c) reach stackers; and
- (d) vehicle loading cranes that have a capacity of 10 metre tonnes or more (but does not include the application of load estimation and slinging techniques to move a load using a vehicle loading crane).

Sch. 3 cl. 15(d)
amended by
S.R. No.
71/2018
reg. 14(b).

**16 Slewing mobile crane operation licence
(up to 60 tonnes)**

The scope of work for this licence covers the operation of—

- (a) slewing mobile cranes with a capacity of 60 tonnes or less; and
- (b) non-slewing mobile cranes; and
- (c) reach stackers; and
- (d) vehicle loading cranes that have a capacity of 10 metre tonnes or more (but does not include the application of load estimation and slinging techniques to move a load using a vehicle loading crane).

Sch. 3 cl. 16(d)
amended by
S.R. No.
71/2018
reg. 14(c).

**17 Slewing mobile crane operation licence
(up to 100 tonnes)**

The scope of work for this licence covers the operation of—

- (a) slewing mobile cranes with a capacity of 100 tonnes or less; and

Sch. 3 cl. 17(d)
amended by
S.R. No.
71/2018
reg. 14(d).

- (b) non-slewing mobile cranes; and
- (c) reach stackers; and
- (d) vehicle loading cranes that have a capacity of 10 metre tonnes or more (but does not include the application of load estimation and slinging techniques to move a load using a vehicle loading crane).

**18 Slewing mobile crane operation licence
(open/over 100 tonnes)**

The scope of work for this licence covers the operation of—

Sch. 3 cl. 18(d)
amended by
S.R. No.
71/2018
reg. 14(e).

- (a) slewing mobile cranes with any capacity; and
- (b) non-slewing mobile cranes; and
- (c) reach stackers; and
- (d) vehicle loading cranes that have a capacity of 10 metre tonnes or more (but does not include the application of load estimation and slinging techniques to move a load using a vehicle loading crane).

19 Reach stacker operation licence

The scope of work for this licence covers the operation of reach stackers with a capacity of more than 3 tonnes.

20 Boom-type elevating work platform operation licence

The scope of work for this licence covers the operation of boom-type elevating work platforms that have a boom length of 11 metres or more.

21 Materials hoist (cantilever platform) operation licence

The scope of work for this licence covers the operation of materials platform hoists.

22 Hoist (personnel and materials) operation licence

The scope of work for this licence covers the operation of—

- (a) personnel and materials hoists; and
- (b) materials platform hoists.

23 Concrete-placing boom operation licence

The scope of work for this licence covers the operation of concrete-placing booms.

24 Forklift truck operation licence

The scope of work for this licence covers the operation of forklift trucks.

Note

The scope of work for this licence does not include the operation of an order-picking forklift truck.

25 Order-picking forklift truck operation licence

The scope of work for this licence covers the operation of order-picking forklift trucks with fork arms or other loadholding attachments that can be raised 900mm or more above the ground.

Notes

- 1 The scope of work for this licence does not include the operation of a forklift truck.
- 2 No high risk work licence is required to operate an order-picking forklift truck with fork arms or other loadholding attachments that cannot be raised 900mm or more above the ground.

Part 3—Licence classes for pressure equipment operation

26 Standard boiler operation licence

The scope of work for this licence covers the operation of a boiler with a single fuel source that does not have a pre-heater, re-heater, superheater or economiser attached (a standard boiler).

27 Advanced boiler operation licence

The scope of the work for this licence is—

- (a) the scope of work included in the standard boiler operation licence; and
- (b) the operation of boilers, which may have one or more of the following—
 - (i) multiple fuel sources;
 - (ii) pre-heater;
 - (iii) re-heater;
 - (iv) superheater;
 - (v) economiser.

28 Turbine operation licence

The scope of work for this licence covers the operation of turbines with any or all of the following features—

- (a) attached condensers;
- (b) multi-wheeled;
- (c) a multi-stage heat extraction process;
- (d) a speed of greater than 3600 revolutions per minute.

29 Reciprocating steam engine operation licence

The scope of work for this licence covers the operation of reciprocating steam engines.

Schedule 4—Pressure equipment for which high risk work licence is not required

Regulation 130

- 1 Boilers having less than 5 square metres of heating surface.
- 2 Boilers that are hot drink dispensers having an internal volume not larger than 0.014 cubic metres and having a heat input of not more than 5 kilowatts and a maximum working pressure of not more than 210 kilopascals.
- 3 Steam locomotive boilers used for public rail transport.
- 4 Boilers that are liquid heating units where the liquid is intended to be heated under a pressure above atmospheric and to a temperature not greater than 1 degree below the normal atmospheric boiling point of the liquid.
- 5 Boilers that satisfy the requirements specified in AS 2593 as having—
 - (a) an attendance category of unattended operation; or
 - (b) an attendance category of limited attendance except to the extent that AS 2593 specifies that certain checks must be undertaken by a licensed operator.
- 6 Boilers known as small low hazard boilers as specified in AS 2593.
- 7 Boilers that comply with the AMBSC Code provided that—
 - (a) during the construction of the locomotive containing the boiler, the boiler has been inspected in the manner described in the AMBSC Code (appropriate to the material of construction) by a person registered with

the Australian Miniature Boiler Safety
Committee; and

- (b) the locomotive containing the boiler is not
in the charge of a person under the age of
18 years when that locomotive is being
operated in a public place.

- 8 Boilers manufactured before 1952 provided
they are used solely for a historical purpose
or activity, including an activity that is ancillary
to a historical activity.

Examples

- 1 A historical activity may include a historical display,
parade, demonstration or re-enactment.
- 2 An activity ancillary to a historical activity may include
restoring, maintaining, modifying, servicing, repairing
or housing a boiler used, or to be used, for a historical
activity.

Schedule 5—High risk work— competency requirements

Regulation 5

<i>Item</i>	<i>Licence class</i>	<i>VET course</i>
1	Basic scaffolding	Licence to erect, alter and dismantle scaffolding basic level
2	Intermediate scaffolding	Licence to erect, alter and dismantle scaffolding basic level; and Licence to erect, alter and dismantle scaffolding intermediate level
3	Advanced scaffolding	Licence to erect, alter and dismantle scaffolding basic level; and Licence to erect, alter and dismantle scaffolding intermediate level; and Licence to erect, alter and dismantle scaffolding advanced level
4	Dogging	Licence to perform dogging
5	Basic rigging	Licence to perform dogging; and Licence to perform rigging basic level
6	Intermediate rigging	Licence to perform dogging; and Licence to perform rigging basic level; and Licence to perform rigging intermediate level
7	Advanced rigging	Licence to perform dogging; and Licence to perform rigging basic level; and Licence to perform rigging intermediate level; and Licence to perform rigging advanced level
8	Tower crane operation	Licence to operate a tower crane
9	Self-erecting tower crane operation	Licence to operate a self-erecting tower crane
10	Derrick crane operation	Licence to operate a derrick crane

Occupational Health and Safety Regulations 2017
S.R. No. 22/2017
Schedule 5—High risk work—competency requirements

<i>Item</i>	<i>Licence class</i>	<i>VET course</i>
11	Portal boom crane operation	Licence to operate a portal boom crane
12	Bridge and gantry crane operation	Licence to operate a bridge and gantry crane
13	Vehicle loading crane operation	Licence to operate a vehicle loading crane (capacity 10 metre tonnes and above)
14	Non-slewing mobile crane operation	Licence to operate a non-slewing mobile crane (greater than 3 tonnes capacity)
15	Slewing mobile crane operation (up to 20 tonnes)	Licence to operate a slewing mobile crane (up to 20 tonnes)
16	Slewing mobile crane operation (up to 60 tonnes)	Licence to operate a slewing mobile crane (up to 60 tonnes)
17	Slewing mobile crane operation (up to 100 tonnes)	Licence to operate a slewing mobile crane (up to 100 tonnes)
18	Slewing mobile crane operation (open/over 100 tonnes)	Licence to operate a slewing mobile crane (over 100 tonnes)
19	Reach stacker operation	Licence to operate a reach stacker (greater than 3 tonnes capacity)
20	Boom-type elevating work platform operation	Licence to operate a boom-type elevating work platform (boom length 11 metres or more)
21	Materials hoist (cantilever platform) operation	Licence to operate a materials hoist
22	Hoist (personnel and materials) operation	Licence to operate a personnel and materials hoist
23	Concrete-placing boom operation	Licence to operate a concrete-placing boom
24	Forklift truck operation	Licence to operate a forklift truck
25	Order-picking forklift truck operation	Licence to operate an order-picking forklift truck

Occupational Health and Safety Regulations 2017
S.R. No. 22/2017
Schedule 5—High risk work—competency requirements

<i>Item</i>	<i>Licence class</i>	<i>VET course</i>
26	Standard boiler operation	Licence to operate a standard boiler
27	Advanced boiler operation	Licence to operate an advanced boiler
28	Turbine operation	Licence to operate a steam turbine
29	Reciprocating steam engine operation	Licence to operate a reciprocating steam engine

**Schedule 6—Hazardous substances
prohibited for specified uses**

Regulation 153

Use of materials containing more than 1% crystalline silica for
abrasive blasting.

Schedule 7—Classification of mixtures

Regulations 5 and 143

1 Purpose of this Schedule

The tables in this Schedule replace some of the tables in the GHS.

2 Classification of mixtures containing respiratory sensitisers or skin sensitisers

The GHS applies as if the following table were substituted for Table 3.4.5 in Chapter 3.4 of the GHS—

Table 1—Classification of mixtures containing respiratory sensitisers or skin sensitisers

Cut-off values/concentration limits of ingredients of a mixture classified as either a respiratory sensitiser or a skin sensitiser that would trigger classification of the mixture.

Item	Ingredient classification	Mixture classification		
		Skin sensitiser Category 1	Respiratory sensitiser Category 1	
		All physical states	Solid/liquid	Gas
1	Skin sensitiser Category 1	$\geq 1.0\%$		
2	Skin sensitiser Sub-category 1A	$\geq 0.1\%$		
3	Skin sensitiser Sub-category 1B	$\geq 1.0\%$		
4	Respiratory sensitiser Category 1		$\geq 1.0\%$	$\geq 0.2\%$
5	Respiratory sensitiser sub-category 1A		$\geq 0.1\%$	$\geq 0.1\%$

Occupational Health and Safety Regulations 2017
S.R. No. 22/2017
Schedule 7—Classification of mixtures

<i>Item</i>	<i>Ingredient classification</i>	<i>Mixture classification</i>
6	Respiratory sensitiser sub-category 1B	$\geq 1.0\%$ $\geq 0.2\%$

3 Classification of mixtures containing carcinogens

The GHS applies as if the following table were substituted for Figure 3.6.1 in Chapter 3.6 of the GHS—

Table 2—Classification of mixtures containing carcinogens

Cut-off values/concentration limits of ingredients of a mixture classified as a carcinogen that would trigger classification of the mixture.

<i>Item</i>	<i>Ingredient classification</i>	<i>Mixture classification</i>	
		Category 1 carcinogen	Category 2 carcinogen
1	Category 1 carcinogen	$\geq 0.1\%$	
2	Category 2 carcinogen		$\geq 1.0\%$

Notes

- 1 The concentration limits in Table 2 apply to solids and liquids (w/w units) and gases (v/v units).
- 2 Category 1 carcinogen means Category 1A carcinogen or Category 1B carcinogen in the GHS Fourth revised edition or Fifth revised edition.

4 Classification of mixtures containing reproductive toxicants

The GHS applies as if the following table were substituted for Figure 3.7.1 in Chapter 3.7 of the GHS—

Table 3—Classification of mixtures containing reproductive toxicants

Cut-off values/concentration limits of ingredients of a mixture classified as a reproductive toxicant or for effects on or via lactation that would trigger classification of the mixture.

<i>Item</i>	<i>Ingredient classification</i>	<i>Mixture classification</i>		
		Category 1 Reproductive toxicant	Category 2 Reproductive toxicant	Additional category for effects on or via lactation
1	Category 1 reproductive toxicant	≥0.3%		
2	Category 2 reproductive toxicant		≥3.0%	
3	Additional category for effects on or via lactation			≥0.3%

Notes

- 1 The concentration limits in Table 3 apply to solids and liquids (w/w units) and gases (v/v units).
- 2 Category 1 reproductive toxicant means Category 1A reproductive toxicant or Category 1B reproductive toxicant in the GHS Fourth revised edition or Fifth revised edition.

5 Classification of mixtures containing specific target organ toxicants (single exposure)

The GHS applies as if the following table were substituted for Figure 3.8.1 in Chapter 3.8 of the GHS—

Table 4—Classification of mixtures containing specific target organ toxicants (single exposure)

Cut-off values/concentration limits of ingredients of a mixture classified as a specific target organ toxicant that would trigger classification of the mixture.

<i>Item</i>	<i>Ingredient classification</i>	<i>Mixture classification</i>	
		Category 1	Category 2
1	Category 1 specific target organ toxicant	Concentration $\geq 10\%$	$1.0\% \leq$ concentration $< 10\%$
2	Category 2 specific target organ toxicant		Concentration $\geq 10\%$

Note

The concentration limits in Table 4 apply to solids and liquids (w/w units) and gases (v/v units).

6 Classification of mixtures containing reproductive toxicants (repeated exposures)

The GHS applies as if the following table were substituted for Table 3.9.3 in Chapter 3.9 of the GHS—

Table 5—Classification of mixtures containing specific target organ toxicants (repeated exposure)

Cut-off values/concentration limits of ingredients of a mixture classified as a specific target organ toxicant that would trigger classification of the mixture.

<i>Item</i>	<i>Ingredient classification</i>	<i>Mixture classification</i>	
		Category 1	Category 2
1	Category 1 specific target organ toxicant	Concentration $\geq 10\%$	$1.0\% \leq$ concentration $< 10\%$
2	Category 2 specific target organ toxicant		Concentration $\geq 10\%$

Note

The concentration limits in Table 5 apply to solids and liquids (w/w units) and gases (v/v units).

Schedule 8—Disclosure of ingredients in safety data sheets

Regulations 145 and 149

1 Purpose of this Schedule

This Schedule sets out the way in which the ingredients of a hazardous substance must be disclosed in a safety data sheet prepared under these Regulations.

2 Identity of ingredients to be disclosed

- (1) This clause applies if an ingredient in a hazardous substance causes the correct classification of the substance to include a hazard class and hazard category referred to in Table 1.
- (2) The identity of the ingredient must be disclosed on the label and safety data sheet of the hazardous substance in accordance with clauses 3 and 4.

Table 1

<i>Column 1 Item</i>	<i>Column 2 GHS hazard class</i>	<i>Column 3 GHS hazard category</i>
1	Acute toxicity—oral	Category 1 Category 2 Category 3 Category 4
2	Acute toxicity—dermal	Category 1 Category 2 Category 3 Category 4
3	Acute toxicity—inhalation	Category 1 Category 2 Category 3 Category 4

Occupational Health and Safety Regulations 2017
S.R. No. 22/2017
Schedule 8—Disclosure of ingredients in safety data sheets

<i>Column 1 Item</i>	<i>Column 2 GHS hazard class</i>	<i>Column 3 GHS hazard category</i>
4	Respiratory sensitiser	Category 1
5	Skin sensitiser	Category 1
6	Mutagenicity	Category 1A Category 1B Category 2
7	Carcinogenicity	Category 1A Category 1B Category 2
8	Toxic to reproduction	Category 1A Category 1B Category 2 Additional category for effects on or via lactation
9	Target organ toxicity—single exposure	Category 1 Category 2 Category 3
10	Target organ toxicity—repeat exposure	Category 1 Category 2
11	Aspiration hazards	Category 1
12	Skin corrosion or irritation	Category 1A Category 1B Category 1C Category 2
13	Serious eye damage or eye irritation	Category 1 Category 2A

3 Generic names used to disclose identity of ingredients

- (1) This clause applies if an ingredient of a hazardous substance must be disclosed under clause 2.
- (2) The ingredient—
 - (a) may be disclosed by its generic name if—
 - (i) the ingredient causes the correct classification of the hazardous substance to include a hazard class and hazard category referred to in Table 2; and
 - (ii) the ingredient does not cause the correct classification of the hazardous substance to include any other hazard class and hazard category in Table 1; and
 - (iii) the identity of the ingredient is commercially confidential; and
 - (iv) an exposure standard for the ingredient has not been established; or
 - (b) in any other case—must be disclosed by its chemical identity.

Table 2

<i>Column 1</i> <i>Item</i>	<i>Column 2</i> <i>GHS hazard class</i>
1	Acute toxicity (category 4)
2	Aspiration hazard (category 1)
3	Serious eye damage or eye irritation (category 2A)
4	Skin corrosion or irritation (category 2)
5	Specific target organ toxicity (single exposure) (category 3)

4 Disclosing proportions of ingredients

- (1) This clause applies if an ingredient of a hazardous substance must be disclosed under clause 2.
- (2) The proportion of the ingredient to the hazardous substance must be disclosed—
 - (a) if the exact proportion of the ingredient is not commercially confidential—as the exact proportion of the hazardous substance, expressed as a percentage by weight or volume; or
 - (b) if the exact proportion of the ingredient is commercially confidential—as one of the following ranges within which the exact proportion fits, expressed as a percentage by weight or volume—
 - (i) <10%;
 - (ii) 10%–30%;
 - (iii) 30%–60%;
 - (iv) >60%;
 - (v) a range that is narrower than the range set out in subparagraph (i), (ii), (iii) or (iv).

Schedule 9—Hazardous substances— requirements for health monitoring

Regulation 169

**Table 1—Hazardous substances (other than lead)
requiring health monitoring**

<i>Column 1</i> <i>Item</i>	<i>Column 2</i> <i>Hazardous substance</i>
1	Acrylonitrile
2	Arsenic (inorganic)
3	Benzene
4	Cadmium
5	Chromium (inorganic)
6	Creosote
7	Crystalline silica
8	Isocyanates
9	Mercury (inorganic)
10	4,4'-Methylene bis (2-chloroaniline) (MOCA)
11	Organophosphate pesticides
12	Pentachlorophenol (PCP)
13	Polycyclic aromatic hydrocarbons (PAH)
14	Thallium
15	Vinyl chloride

Table 2—Lead requiring health monitoring

<i>Column 1</i> <i>Item</i>	<i>Column 2</i> <i>Hazardous substance</i>
1	Lead

Occupational Health and Safety Regulations 2017
S.R. No. 22/2017
Schedule 10—Prohibited carcinogenic substances

**Schedule 10—Prohibited carcinogenic
substances**

Regulations 5 and 174

<i>Item</i>	<i>CAS number (given for information only)</i>	<i>Prohibited carcinogenic substance</i>
1	[53-96-3]	2-Acetylaminofluorene
2		Aflatoxins
3	[92-67-1]	4-Aminodiphenyl
4	[92-87-5] including [531-85-1]	Benzidine (including benzidine dihydrochloride)
5	[542-88-1]	bis(Chloromethyl) ether
6	[107-30-2]	Chloromethyl methyl ether (technical grade which contains bis(chloromethyl) ether)
7	[60-11-7]	4-Dimethylaminoazobenzene (Dimethyl Yellow)
8	[91-59-8]	2-Naphthylamine
9	[92-93-3]	4-Nitrodiphenyl

Occupational Health and Safety Regulations 2017
S.R. No. 22/2017
Schedule 11—Restricted carcinogenic substances

Schedule 11—Restricted carcinogenic substances

Regulations 5 and 174

<i>Item</i>	<i>CAS number (given for information only)</i>	<i>Restricted carcinogenic substance</i>
1	[107-13-1]	Acrylonitrile
2	[71-43-2]	Benzene when used as a feedstock containing more than 50% of benzene by volume
3	[91-94-1] [612-83-9]	3,3'-Dichlorobenzidine and its salts (including 3,3'-Dichlorobenzidine dihydrochloride)
4	[64-67-5]	Diethyl sulfate
5	[77-78-1]	Dimethyl sulphate
6	[106-93-4]	Ethylene dibromide when used as a fumigant
7	[101-14-4]	4,4'-Methylene bis(2-chloroaniline)
8	[57-57-8]	3-Propiolactone (Beta-propiolactone)
9	[95-53-4] and [636-21-5]	o-Toluidine and o-Toluidine hydrochloride
10	[75-01-4]	Vinyl chloride monomer

Schedule 12—Information required to be included in an asbestos control plan

Regulation 272

- 1 A record to indicate that the notice requirements have been met and that required documentation is kept at the workplace where the asbestos removal work is performed.
- 2 In relation to asbestos—
 - (a) its location; and
 - (b) the quantity of asbestos proposed to be removed; and
 - (c) in relation to asbestos-containing material—
 - (i) whether the asbestos-containing material is friable or non-friable; and
 - (ii) the type of asbestos-containing material; and
 - (iii) the condition of the asbestos-containing material.
- 3 The type of personal protective clothing and personal protective equipment to be used, including respiratory protective equipment.
- 4 Proposed risk control measures to be used to prevent release of airborne asbestos fibres from the area where the asbestos removal work is being performed.
- 5 If the area where the asbestos removal work is being performed in a negative air enclosure, details regarding—
 - (a) smoke testing; and
 - (b) negative air units.

6 Details of decontamination procedures for—

- (a) persons performing the asbestos removal work; and
- (b) tools and equipment used for the asbestos removal work; and
- (c) non-disposable personal protective clothing and personal protective equipment.

7 Method of disposal of—

- (a) asbestos waste; and
- (b) disposable personal protective clothing and personal protective equipment; and
- (c) the structure used to enclose the area where the asbestos removal work is being performed.

8 Administrative controls to be implemented, including—

- (a) security; and
- (b) work practices.

9 Methods of cleaning following asbestos removal work.

10 Names of persons engaged by the licence holder or person who commissioned the asbestos removal work (as applicable) to conduct asbestos paraoccupational air monitoring (if any) and to conduct the clearance inspection.

11 Names of any independent contractors engaged by the asbestos removal licence holder to perform asbestos removal work.

Schedule 13—Information required to be included in a notice of asbestos removal work

Regulations 298 and 299

- 1 The name, registered business name, Australian Business Number, licence number and contact details of the licence holder.
- 2 The name of the supervisor who will oversee the asbestos removal work and the supervisor's contact details.
- 3 The name and contact details of the person who commissioned the asbestos removal work.
- 4 The name, including registered business or corporate name, and address of the workplace and type of workplace where the asbestos removal work will be performed including the specific location if it is a large workplace.
- 5 The date of notice.
- 6 The commencement date and estimated duration of the asbestos removal work.
- 7 Whether the asbestos is friable asbestos-containing material, non-friable asbestos-containing material or asbestos-contaminated dust.
- 8 If the work is Class A asbestos removal work, details of the way that the area where the asbestos removal work is to be performed will be enclosed.
- 9 The type of asbestos-containing material.
- 10 The estimated quantity of asbestos to be removed.
- 11 The number of persons who will perform the asbestos removal work.

- 12 Details of training and experience of those individual persons, if different to the information notified previously.
- 13 If an independent person has determined that airborne asbestos fibre levels are likely to be less than one half of the asbestos exposure standard, the name of that independent person.

Schedule 14—Materials and their threshold quantities

Sch. 14
(Heading)
amended by
S.R. No.
176/2018
reg. 8(1).

Regulation 5

1 Relevant materials

The materials that characterise a workplace as a facility for the purposes of these Regulations are—

- (a) the materials specifically referred to in Table 1; and
- (a) the materials that belong to the types and categories described in Table 2.

2 Threshold quantity of one material

- 2.1 In relation to each material referred to in clause 1, the *threshold quantity* column of each Table provides a quantity (in tonnes) that is described as the threshold quantity of that material.
- 2.2 If a material is referred to in Table 1, the threshold quantity of the material is that described in Table 1, whether or not the material can also be characterised as being a material described in Table 2.
- 2.3 If a material is not referred to in Table 1 but the material can be characterised as a material described in Table 2, the threshold quantity of that material is that set out in Table 2 in the same row as the relevant material.
- 2.4 If a material is not referred to in Table 1 but the material can be characterised as more than one material described in Table 2, the threshold quantity of that material is that of the relevant material which has the lower or lowest threshold quantity.

Sch. 14 cl. 3.1
amended by
S.R. No.
176/2018
reg. 8(2).

3 Threshold quantity of more than one material

3.1 If there is more than one material, a threshold quantity of materials exists where, if a number of materials are present, the result of the following aggregation formula exceeds 1—

$$qx/Qx + qy/Qy + + qn/Qn$$

Where—

x, y, and n are the materials present or likely to be present;

qx, qy, and qn is the quantity of materials x, y, and n present or likely to be present, other than—

- (i) material that is present or likely to be present in an isolated quantity less than 2% of its individual threshold quantity;
- (ii) materials that are solely the subject of intermediate temporary storage, while in transit by road or rail;

Qx, Qy, and Qn is the individual threshold quantity for each material x, y, and n;

Material is present or likely to be present in an isolated quantity if its location at the facility or the prescribed mine is such that it cannot, on its own, act as an initiator of a major incident.

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Note

If the result of the above aggregation formula is greater than 0.1, the operator of a facility or a prescribed mine has a duty to notify the Authority in accordance with regulations 360 and 423A.

**Note to
Sch. 14 cl. 3.1
amended by
S.R. No.
176/2018
reg. 8(3).**

Table 1

The CAS number or UN number listed against the named or described material is given for information only and is not to be taken to affect the name or description of the material to which the number refers or the operation of these Regulations.

The named or described material also includes materials that fall outside the CAS number or UN number, for example, because they are mixtures of several materials. However, any materials that are covered by the listed CAS numbers or UN numbers must be included in the quantity of the material named or described.

Special provision has the same meaning as in the ADG Code (see regulation 5).

<i>Item</i>	<i>Material</i>	<i>CAS number or UN number</i>	<i>Threshold quantity (tonnes)</i>
1	ACETONE CYANOHYDRIN (also known as PROPANENITRILE, 2-HYDROXY-2- METHYL)	CAS No. 75-86-5	20
2	ACETYLENE (also known as ETHYNE)	CAS No. 74-86-2	50
3	ACROLEIN (also known as 2-PROPENAL; ACRYLALDEHYDE)	CAS No. 107-02-8	200
4	ACRYLONITRILE (also known as 2-PROPENENITRILE; CYANOETHENE)	CAS No. 107-13-1	200

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<i>Item</i>	<i>Material</i>	<i>CAS number or UN number</i>	<i>Threshold quantity (tonnes)</i>
5	ALLYL ALCOHOL (also known as 2-PROPEN-1-OL)	CAS No. 107-18-6	200
6	ALLYLAMINE (also known as 2-PROPEN-1-AMINE)	CAS No. 107-11-9	200
7	AMMONIA (anhydrous, liquefied)	CAS No. 7664-41-7	200
8	AMMONIUM NITRATE BASED FERTILISERS CAPABLE OF SELF-SUSTAINING DECOMPOSITION that meet special provisions 186 and 193	UN No. 2071	10 000
9	AMMONIUM NITRATE BASED FERTILISERS that meet special provisions 186, 306 and 307	UN No. 2067	5000
10	AMMONIUM NITRATE: TECHNICAL GRADE (including ammonium nitrate and preparations of ammonium nitrate) that meet special provision 252, 306 or 309	UN No. 1942	2500
11	AMMONIUM NITRATE off-specification. That is, materials and fertilisers with a detonation hazard that are too dangerous to transport and are not approved for transport under any classification (including ammonium nitrate and preparations of ammonium nitrate and ammonium nitrate-based	--	20

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<i>Item</i>	<i>Material</i>	<i>CAS number or UN number</i>	<i>Threshold quantity (tonnes)</i>
	fertilisers that no longer meet the manufacturer's specifications, due to processing, degradation or contamination)		
12	ANTIMONY PENTACHLORIDE, liquid and solution (also known as ANTIMONY CHLORIDE) [SbCl ₅]	CAS No. 7647-18-9	500
13	ARSENIC PENTOXIDE, Arsenic (V) Acid or salts (also known as ARSENIC OXIDE [As ₂ O ₅]; ARSENIC ACID ANHYDRIDE; DIARSENIC PENTOXIDE)	CAS No. 1303-28-2	10
14	ARSENIC TRIOXIDE, Arsenious (III) Acid and/or salts (also known as ARSENIC OXIDE [As ₂ O ₃])	CAS No. 1327-53-3	0.1
15	ARSINE (also known as ARSENIC HYDRIDE; HYDROGEN ARSENIDE)	CAS No. 7784-42-1	1
16	BROMINE or BROMINE SOLUTIONS	CAS No. 7726-95-6	100
17	CARBON DISULFIDE (also known as CARBON BISULFIDE)	CAS No. 75-15-0	200
18	CHLORINE	CAS No. 7782-50-5	25

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<i>Item</i>	<i>Material</i>	<i>CAS number or UN number</i>	<i>Threshold quantity (tonnes)</i>
19	ETHYLENE DIBROMIDE (also known as ETHANE, 1,2- DIBROMO; 1,2- DIBROMOETHANE)	CAS No. 106-93-4	200
20	ETHYLENEIMINE (also known as AZIRIDINE)	CAS No. 151-56-4	20
21	ETHYL NITRATE (also known as NITRIC ACID, ETHYL ESTER)	CAS No. 625-58-1	50
22	ETHYLENE OXIDE (also known as OXIRANE)	CAS No. 75-21-8	50
23	FLUORINE	CAS No. 7782-41-4	20
24	FLUOROSULFURIC ACID (also known as FLUOROSULPHONIC ACID)	CAS No. 7789-21-1	500
25	FORMALDEHYDE equal to or greater than 90% concentration (Note: Formaldehyde below 90% concentration is captured in either or both of Table 2 Flammable materials and Table 2 Acutely toxic materials. See also clause 2)	CAS No. 50-00-0	50
26	HYDROFLUORIC ACID SOLUTION (also known as HYDROGEN FLUORIDE SOLUTION) greater than 20% concentration	CAS No. 7664-39-3	20
27	HYDROGEN	CAS No. 1333-74-0	50

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<i>Item</i>	<i>Material</i>	<i>CAS number or UN number</i>	<i>Threshold quantity (tonnes)</i>
28	HYDROGEN CHLORIDE (anhydrous or liquefied gas)	CAS No. 7647-01-0	200
29	HYDROGEN CYANIDE (also known as HYDROCYANIC ACID)	CAS No. 74-90-8	20
30	HYDROGEN FLUORIDE (anhydrous)	CAS No. 7664-39-3	20
31	HYDROGEN SULFIDE	CAS No. 7783-06-4	20
32	IODINE MONOCHLORIDE (solid) (also known as IODINE CHLORIDE)	UN No. 1792	500
33	LP GASES	UN No. 1011	200
		UN No. 1012	200
		UN No. 1075	200
		UN No. 1077	200
		UN No. 1978	200
34	METHYL BROMIDE (also known as METHANE, BROMO; METHYLBROMIDE)	CAS No. 74-83-9	200
35	METHANE or NATURAL GAS, including biogas upgraded to the equivalent quality of natural gas	CAS No. 74-82-8	200

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<i>Item</i>	<i>Material</i>	<i>CAS number or UN number</i>	<i>Threshold quantity (tonnes)</i>
36	METHANOL (also known as METHYL ALCOHOL) maintained at ambient temperature and pressure	CAS No. 67-56-1	5000
37	METHANOL (also known as METHYL ALCOHOL) maintained above boiling point or equivalent processing conditions including high pressure or high temperature	CAS No. 67-56-1	200
38	METHYLISOCYANATE (also known as METHANE, ISOCYANATO-)	CAS No. 624-83-9	0.15
39	OXYGEN (compressed or refrigerated liquid)	CAS No. 7782-44-7	2000
40	PETROLEUM AND RELATED VAPOUR CLOUD FORMING SUBSTANCES— Gasoline, Naphtha, Benzene, Crude Oils (not of hazard category 1), Reformate (light), Natural Gas condensates (that meet the criteria for hazard category 2), Motor Spirits, Toluene, Acetone, Methyl Ethyl Ketone, Methyl Tert-Butyl Ether and n-Pentane) maintained at ambient temperature and pressure	-	25 000

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<i>Item</i>	<i>Material</i>	<i>CAS number or UN number</i>	<i>Threshold quantity (tonnes)</i>
41	PETROLEUM AND RELATED VAPOUR CLOUD FORMING SUBSTANCES— Gasoline, Naphtha, Benzene, Crude Oils (not of hazard category 1), Reformate (light), Natural Gas condensates (that meet the criteria for hazard category 2), Motor Spirits, Toluene, Acetone, Methyl Ethyl Ketone, Methyl Tert-Butyl Ether and n-Pentane) maintained above boiling point or equivalent processing conditions including high pressure or high temperature	-	200
42	PHENOL	CAS No. 108-95-2	200
43	PHENOL, 2,4- DICHLORO (also known as 2,4- DICHLOROPHENOL)	CAS No. 120-83-2	200
44	PHOSGENE (also known as CARBONIC DICHLORIDE)	CAS No. 75-44-5	0.75
45	PHOSPHINE	CAS No. 7803-51-2	1

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<i>Item</i>	<i>Material</i>	<i>CAS number or UN number</i>	<i>Threshold quantity (tonnes)</i>
46	POLYCHLORO-DIBENZOFURANS AND POLYCHLORODIBENZ O-DIOXINS (including 2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD)). Calculated in TCDD equivalents and where concentrations are greater than 0.1% by volume	-	0.1
47	POTASSIUM NITRATE BASED FERTILISERS (prilled/granular) with the same properties as potassium nitrate	-	10 000
48	POTASSIUM NITRATE BASED FERTILISERS (in crystalline form) with the same properties as potassium nitrate	-	5000
49	PROPYLENEIMINE (also known as AZIRIDINE, 2-METHYL)	CAS No. 75-55-8	20
50	PROPYLENE OXIDE (also known as OXIRANE, METHYL)	CAS No. 75-56-9	50
51	PYROSULPHURYL CHLORIDE (also known as SULPHURYL CHLORIDE)	<u>UN No. 1817</u>	500
52	SODIUM CHLORATE (also known as CHLORIC ACID, SODIUM SALT) (solid)	CAS No. 7775-09-9	200

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<i>Item</i>	<i>Material</i>	<i>CAS number or UN number</i>	<i>Threshold quantity (tonnes)</i>
53	STANNIC CHLORIDE (also known as STANNANE, TETRACHLORO-) (anhydrous)	CAS No. 7646-78-8	500
54	SULFUR DICHLORIDE (also known as SULFUR CHLORIDE)	CAS No. 10545-99-0	1
55	SULFUR DIOXIDE (liquefied or gas)	CAS No. 7446-09-5	200
56	SULFUR TRIOXIDE (also known as SULFURIC ANHYDRIDE)	CAS No. 7446-11-9	75
57	SULFURIC ACID (fuming)	UN No. 1831	500
58	TITANIUM TETRACHLORIDE (also known as TITANIUM CHLORIDE [TiCl ₄])	CAS No. 7550-45-0	500
59	TOLUENE – 2,4 DIISOCYANATE (also known as BENZENE, 2,4- DIISOCYANATO-1- METHYL)	CAS No. 584-84-9	200
60	TOLUENE - 2,6 – DIISOCYANATE (also known as BENZENE, 1,3- DIISOCYANATO-2- METHYL)	CAS No. 91-08-7	200
61	VANADIUM OXYTRICHLORIDE (also known as VANADIUM, TRICHLOROXY-)	UN No. 2443	500

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Table 2

If explosives of different Divisions are present in the same area or storage, then all of the explosives must be classified in accordance with the following table, except if Unstable explosives (that is, explosives determined under 2.1.3.3 of the ADG Code to be not acceptable for Class 1 and explosives of Classification Code 1.1A) are involved.

If Unstable explosives are present in the same area or storage as other explosives, then all of the explosives must be classified as Unstable explosives.

<i>Division</i>	<i>1.1</i>	<i>1.2</i>	<i>1.3</i>	<i>1.4</i>	<i>1.5</i>	<i>1.6</i>
1.1	1.1	1.1	1.1	1.1	1.1	1.1
1.2	1.1	1.2	1.1	1.2	1.1	1.2
1.3	1.1	1.1	1.3	1.3	1.1	1.3
1.4	1.1	1.2	1.3	1.4	1.5	1.6
1.5	1.1	1.1	1.1	1.5	1.5	1.5
1.6	1.1	1.2	1.3	1.6	1.5	1.6

<i>Item</i>	<i>Type of material</i>	<i>Material description</i>	<i>Threshold quantity (tonnes)</i>
	Explosive materials (see note 1)		
1		Unstable explosives determined under 2.1.3.3 of the ADG Code to be not acceptable for Class 1 and explosives of Classification Code 1.1A	1
2		All other Explosives of Division 1.1 (other than if prepared or mixed immediately before use in a borehole)	5
3		Explosives of Division 1.2 (other than explosives of Classification Code 1.2G)	10

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<i>Item</i>	<i>Type of material</i>	<i>Material description</i>	<i>Threshold quantity (tonnes)</i>
4		Explosives of Classification Code 1.2G	50
5		Explosives of Division 1.3	200
6		Explosives nominally of Divisions 1.2 to 1.6 but which, due to factors including confinement or compromised packaging, have an increased likelihood of a mass explosion hazard that affects all or most of an entire load virtually instantaneously	5
	Compressed and liquefied gases (see note 2)		
7		Flammable gases, hazard category 1 or 2	200
8		Flammable aerosols hazard category 1 or 2, containing flammable gases hazard category 1 or 2 or flammable liquids hazard category 1	500
9		Flammable aerosols hazard category 1 or 2, not containing flammable gases hazard category 1 or 2 nor flammable liquids hazard category 1	50 000
10		Oxidising gases, hazard category 1	200

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<i>Item</i>	<i>Type of material</i>	<i>Material description</i>	<i>Threshold quantity (tonnes)</i>
	Flammable materials (see note 2)		
11		Flammable liquids, hazard category 1	200
12		Flammable liquids hazard category 2 or 3 maintained above boiling point or if processing conditions (including high pressure or high temperature) may create a vapour cloud explosion hazard	200
13		Flammable liquids, hazard categories 2 or 3 that, once ignited, sustain combustion	50 000
14		Pyrophoric solids and liquids, and self-heating substances and mixtures of hazard category 1	200
15		Substances and mixtures which, in contact with water, emit flammable gases, hazard category 1 or 2	200
16		Flammable liquids, hazard category 2 or 3 that react violently with water	500
17		Liquids with flashpoints <60°C kept above their boiling points at ambient conditions	200
	Oxidising materials (see note 2)		
18		Oxidising gases, hazard category 1, or oxidising liquids or solids hazard category 1 or 2	200

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<i>Item</i>	<i>Type of material</i>	<i>Material description</i>	<i>Threshold quantity (tonnes)</i>
	Self-reactive substances and mixtures and organic peroxides (see note 2)		
19		Self-reactive substances and mixtures, Type A or B or organic peroxides, Type A or B	50
20		Self-reactive substances and mixtures, Type C, D, E or F or organic peroxides, Type C, D, E or F	200
	Acutely toxic materials (see note 2)		
21		H1—Acute toxic substances and mixtures, hazard category 1, of any exposure route	20
22		H2—Acute toxic substances and mixtures, hazard category 2, of any exposure route and hazard category 3, inhalation only except, in the case of a mine, sodium cyanide solutions <0.1% by volume	200
	Other materials (see note 2)		
23		O3—Substances or mixtures that, when in contact with water or damp air, liberate toxic gas (where the toxic gas is classified as an Acute toxic gas of categories 1, 2 or 3) in potentially dangerous amounts	200
24		Substances or mixtures that are skin corrosives of subcategories 1A & 1B that react violently with water	500

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Notes

- 1 The threshold quantities specified in Table 2 for explosive materials relate to the weight of explosive exclusive of packing, casings and non-explosive components. This weight of explosive is then multiplied by the relevant factor so that the final threshold quantity (in tonnes) has the equivalent effect of the weight of TNT. The descriptions of explosive materials are as set out in the ADG Code.
- 2 These descriptions are as set out in the GHS.

Schedule 15—Additional matters to be included in major hazard facility safety management system

Regulation 372

1 Safety policy and safety objectives

- 1.1 The operator's safety policy, including—
 - (a) the operator's broad aims in relation to the safe operation of the major hazard facility; and
 - (b) an express commitment to ongoing improvement of all aspects of the safety management system.
- 1.2 The operator's specific safety objectives, including a description of the systems and procedures by which those objectives are to be achieved.
- 1.3 A description of the means by which the operator's safety policy and specific safety objectives are to be communicated to all persons who are to participate in the implementation of the safety management system.

2 Organisation and personnel

- 2.1 The identification (according to position description and location) of the persons who are to participate in the implementation of the safety management system, and a description of the command structure in which these persons work and of the specific tasks and responsibilities allocated to them.
- 2.2 The means of ensuring that these persons have the knowledge and skills necessary to enable them to undertake their allocated tasks and discharge their allocated responsibilities, and that they keep such knowledge and skills.

3 Operational controls

- 3.1 The procedures and instructions for—
 - (a) the safe operation of plant (including as to inspection and maintenance); and
 - (b) the mechanical integrity of plant; and
 - (c) plant processes; and
 - (d) the control of abnormal operations and emergency shut down or decommissioning.
- 3.2 Provision of adequate means of achieving isolation of the major hazard facility or any part of the major hazard facility in the event of an emergency.
- 3.3 Provision of adequate means of gaining access for servicing and maintenance of the major hazard facility or any part of the major hazard facility.
- 3.4 A description of the roles of persons and of the interfaces between persons and plant.
- 3.5 Provision for alarm systems.

4 Duties of operators

- 4.1 In relation to each part of the documented safety management system that describes the means of compliance with Division 6 of Part 5.2 (Major hazard facilities), an annotation or cross-reference identifying the specific provision of that Division being complied with.
- 4.2 A description of the means by which the operator proposes to comply with Divisions 6 and 9 of Part 5.2 (Major hazard facilities).

5 Management of change

The procedures for planning modifications to major hazard facilities.

6 Principles and standards

- 6.1 The principles, especially the design principles and engineering standards, being used to ensure the safe operation of the major hazard facility.
- 6.2 A description of any technical standards, whether published or proprietary, being relied on in relation to those principles and standards.

7 Performance monitoring

- 7.1 Performance standards for measuring the effectiveness of the safety management system, which—
 - (a) relate to all aspects of the safety management system; and
 - (b) are sufficiently detailed to ensure that the ability of the operator to ensure the effectiveness of all aspects of the safety management system is apparent from the documentation; and
 - (c) include steps to be taken to continually improve all aspects of the safety management system.
- 7.2 A description of the way in which these performance standards are to be met.
- 7.3 Performance indicators for the effectiveness of risk control measures adopted, including the following—
 - (a) tests of the effectiveness of the risk control measures;
 - (b) indicators of the failure of any risk control measure;

- (c) actions to be taken in reporting any such failure;
- (d) other corrective actions to be taken in the event of any such failure.

8 Audit

Provision for the auditing of performance against the performance standards, including the methods, frequency and results of the audit process.

Schedule 16—Matters to be included in major hazard facility emergency plan

Regulation 375

1 Site and hazard detail

1.1 The name, location, postal address and nature of the operations of the major hazard facility.

1.2 A detailed map of—

- (a) the site of the major hazard facility; and
- (b) the area surrounding the site showing details of residents, the built and natural environment, closely located major hazard facilities and all other neighbours whose health or safety could be adversely affected by a major incident.

The map must also identify all potentially hazardous inventories in the area that are known to the operator and the location of all staging points for emergency services.

1.3 Inventory of Schedule 14 materials present or likely to be present at the major hazard facility.

1.4 Minimum and maximum number of employees expected to be on-site at any one time and their likely or normal location within the major hazard facility.

1.5 Infrastructure likely to be affected by a major incident, including any utilities, road, rail, airport or shipping infrastructure.

1.6 Emergency planning assumptions for each identified major incident, including—

- (a) planned emergency measures; and
- (b) the area likely to be affected; and
- (c) the likely duration of events; and

- (d) protection of the local community; and
- (e) protection of nearby facilities; and
- (f) protection of the built and natural environment; and
- (g) protection of any emergency services personnel that may attend the major incident.

1.7 For each major incident hazard and major incident, a description of the measures taken and to be taken to control or limit the consequences of a major incident, including a description of all protective resources available and all emergency response procedures.

2 Command structure and site personnel

- 2.1 The operator's command philosophy and structure to be activated in case of an emergency, including relevant positions within the organisational structure, the duties attached to them and the names of the persons assigned to them.
- 2.2 The name, title and telephone number and email address (if any) of the contact person with whom details of the content of the plan can be clarified.
- 2.3 The position, location and means of contacting the persons at the facility who are responsible for liaising with emergency services and who have knowledge of the major incident hazards, their likely consequences and the content of the emergency plan and, in the case of nominated persons who are not on-site, a list of 24 hour emergency contact names and telephone numbers.
- 2.4 The allocation of personnel and the responsibilities of those personnel for implementing the plan including establishing communication with emergency services and co-ordinating the operator's employees and resources with those of the emergency services.

- 2.5 Arrangements for providing assistance to emergency services with off-site mitigatory action, and nearby facilities which might require mutual aid in the event of a major incident.

3 Notices

- 3.1 Procedures in place for providing early warning of a major incident to emergency services, the type of information to be initially provided, and for providing more detailed information as it becomes available.
- 3.2 On-site and off-site warning systems.
- 3.3 Contact details for emergency services and other support services that can assist in procuring resources, implementing evacuation plans and securing the major hazard facility in the event of a major incident.
- 3.4 Communication systems on-site.

4 Resources

- 4.1 Emergency resources on-site, for example, personnel, emergency equipment, gas detectors and wind velocity detectors.
- 4.2 Arrangements for obtaining additional external resources to assist the control and mitigation of major incident hazards and major incidents.

5 Procedures

- 5.1 Procedures for the safe evacuation of, and accounting for, all persons on site.
- 5.2 Control points and procedures for utilities, including gas, water and electricity.

- 5.3 Containment procedures for any incident, whether or not a major incident, involving Schedule 14 materials.
- 5.4 Resources and procedures necessary for decontamination following a major incident.

Schedule 17—Additional matters to be included in major hazard facility safety case

Regulation 385

A Facility description

1 The facility

- 1.1 A description of the main activities and products of the major hazard facility, particularly those activities associated with Schedule 14 materials.
- 1.2 A description of the Schedule 14 materials and any dangerous goods present or likely to be present at the facility, including the following—
 - (a) identification of materials or goods by name and by any other means necessary for a clear identification;
 - (b) the quantity or range of quantities of materials or goods present or likely to be present at the major hazard facility;
 - (c) the physical, chemical and toxicological characteristics, and any other hazardous characteristics, both immediate and delayed, of the materials or goods;
 - (d) the physical and chemical behaviour under normal conditions of use or under foreseeable abnormal conditions of the materials or goods.
- 1.3 A description of the chemical and physical processes associated with any Schedule 14 materials, including—
 - (a) the main units of process equipment used in those processes; and
 - (b) a process flow drawing, or set of flow drawings, describing the processes.

1.4 A drawing of the major hazard facility's general layout, containing the location of the following—

- (a) the main process units;
- (b) the main storage areas;
- (c) major incident hazards and major incident initiators.

1.5 In relation to proposed changes at the major hazard facility, for which no new risk control measures are adopted—

- (a) a description of any proposed changes to the major hazard facility that would—
 - (i) alter the production capacity or profile of the major hazard facility; or
 - (ii) involve the deletion, addition or modification of any processes; and
- (b) a statement as to how existing risk control measures and safety management systems are capable of maintaining the safe operation of the major hazard facility.

2 The surrounding area

2.1 A plan to scale of the facility and its surrounding area showing the following—

- (a) the location of the facility within the surrounding area;
- (b) topographical information;
- (c) surrounding land uses;
- (d) the location of any identified external threats (including other major hazard facilities or other facilities that could affect the safety of the major hazard facility).

2.2 Demographic information for the local community, including surrounding land uses permitted by the local planning authority.

2.3 Meteorological and seismic data relevant to the estimation of the effects of any major incident.

B Safety information

3 Major incidents and major incident hazards

A summary of the documentation prepared under regulation 368 including a complete list of major incidents and major incident hazards that could occur at the major hazard facility.

4 Safety assessment

A summary of the documentation prepared under regulation 369.

5 Risk control measures to limit the consequences of major incidents

5.1 A detailed description of the following—

- (a) the instrumentation and other equipment installed in the facility and the procedures in place that constitute the risk control measures for preventing or limiting the consequences of major incidents;
- (b) the critical operating parameters for those risk control measures;
- (c) key personnel and resources (internal and external) available to intervene in the event of any failure of a control measure, whether or not that failure results in a major incident;
- (d) the emergency plan, including specific information about how these plans can be expected to limit the consequences of a major incident;

- (e) the means of ensuring that there is at all times in place a command structure for the major hazard facility that applies in the event of an emergency, and that this command structure has been communicated throughout the major hazard facility.

5.2 In clause 5.1—

critical operating parameters means the upper or lower performance limits of any equipment, process or procedure, compliance with which is necessary to avoid a major incident;

failure of a control measure means—

- (a) if the risk control measure is a positive action or event, the non-occurrence or the defective occurrence of that action or event; or
- (b) if the risk control measure consists of a limitation on an operational activity, process or procedure, the breach of that limitation.

6 Performance monitoring

A detailed description of the performance standards and performance indicators required by clause 7 of Schedule 15 to be included in the documented safety management system.

7 Safety management system

- 7.1 A summary of the content of the safety management system.
- 7.2 At all points in the safety case where the matter addressed is covered by the safety management system, a clear reference to the relevant part of the documented safety management system.

- 7.3 A description of those parts of the documented safety management system that address the maintenance of the safety management system (that is, its ongoing effective implementation and its ongoing improvement).

8 Unauthorised persons and control of access

A detailed description of how the operator ensures security of the facility specifically relating to the precautions taken to control unauthorised entry of persons and the means of controlling authorised entry of persons to the facility.

9 Safety and reliability of plant

A description of the steps taken to ensure that safety and reliability are incorporated into the design and construction of all aspects of the major hazard facility itself, whether the operator is directly engaged in the design and construction or has engaged another person to carry out the design and construction.

10 Major incident history

A summary of—

- (a) the major incidents that have occurred at the major hazard facility over the previous 5 years; and
- (b) the incidents (other than those under paragraph (a)) the operator has been required to notify the Authority of under Part 5 of the Act over the previous 5 years.

Sch. 18
(Heading)
amended by
S.R. No.
176/2018
reg. 9(1).

Sch. 18
amended by
S.R. No.
176/2018
reg. 9(2)–(4).

Schedule 18—Information to be included in a notice under regulations 360 and 423A or an application for registration under regulation 514

Regulations 360, 423A and 514

- 1 In relation to the facility (or the proposed facility) or prescribed mine the following must be included—
 - (a) if the operator is a body corporate, the full corporate name, trading name, Australian Company Number, nature of business, registered address, principal place of business and any contact details required by the Authority;
 - (b) if the operator is a natural person, the person's full name, the nature of the person's business, residential address, business address and contact details;
 - (c) the location (or proposed location) of the facility or prescribed mine;
 - (d) a brief description of the nature of the facility (or proposed facility) or prescribed mine, including general site activities and production and auxiliary processes involving Schedule 14 materials;
 - (e) the number of employees present or expected to be present at the facility or prescribed mine;
 - (f) a description of land use and activities of occupancy in the area surrounding the facility (or proposed facility) or prescribed mine.

- 2 In relation to the Schedule 14 materials and other materials at, or likely to be at, the facility or prescribed mine the following must be included—
- (a) the quantity of each Schedule 14 material present, or likely to be present, at the facility or prescribed mine;
 - (b) in relation to each material, the name of the Schedule 14 material and any other information as is necessary to clearly identify it;
 - (c) details of the information and method used by the person giving the notice to determine the percentage of the threshold quantity of the materials present, or likely to be present, at the facility or prescribed mine;
 - (d) the names and quantities of any dangerous goods, which are not Schedule 14 materials but which are present, or likely to be present, at the facility or prescribed mine in quantities that could increase the likelihood of a major incident occurring or the severity of the consequences to health and safety in the event of a major incident occurring.

Schedule 19—Entry permit statement

Regulation 536

While this entry permit is in force, Part 8 of the **Occupational Health and Safety Act 2004** entitles the person named in the permit to enter a workplace during working hours to enquire into a suspected contravention of that Act or any regulations made under it. On entry, the person named in this permit may exercise all of the powers given to an authorised representative by Part 8 of the **Occupational Health and Safety Act 2004**, including powers to inspect any thing at the workplace, to observe work and to consult with certain employees and the employer.

The entry permit remains in force for 3 years from the date of this entry permit unless, before the end of that period, it is revoked, or the person named in the entry permit ceases to be a permanent employee or officer of the registered employee organisation named in the entry permit, or the organisation ceases to be a registered employee organisation, whichever occurs first.

An entry permit which expires or is revoked must be returned to a registrar or deputy registrar of the Magistrates' Court within 14 days.

Offences relating to authorised representatives

Under the **Occupational Health and Safety Act 2004**, it is an offence for the person named on this permit to—

- (a) intentionally and unreasonably hinder or obstruct any employer or employee; or
- (b) intentionally intimidate or threaten any employer or employee; or

- (c) intentionally use or disclose, for a purpose not reasonably connected with the exercise of a power under Part 8 of the **Occupational Health and Safety Act 2004**, information that was acquired from any employer or employee; or
- (d) intentionally exercise or purport to exercise a power under Part 8 of the **Occupational Health and Safety Act 2004** other than for the purpose of enquiring into a suspected contravention of that Act or the regulations.

It is also an offence to refuse the person named on this permit entry to a workplace, or to intentionally hinder, obstruct, intimidate or threaten that person in the exercise of the person's powers under Part 8 of the **Occupational Health and Safety Act 2004**, or to induce or attempt to induce any other person to do so.

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

The Occupational Health and Safety Regulations 2017, S.R. No. 22/2017 were made on 26 April 2017 by the Governor in Council under section 158 of the **Occupational Health and Safety Act 2004**, No. 107/2004 and section 52 of the **Dangerous Goods Act 1985**, No. 10189/1985 and come into operation as follows:

Regulations 1–376(b), 377–583, Schedules 1, 2, 3 (clauses 1–18, 20–29), 4–15, 16 (clauses 1–1.6(f), 1.7–5.4), 17 (clauses 1–10(a)), 18, 19 on 18 June 2017: regulation 3(1); regulation 376(c), clause 19 of Schedule 3, clause 1.6(g) of Schedule 16 and clause 10(b) of Schedule 17 on 18 June 2018: regulation 3(2).

The Occupational Health and Safety Regulations 2017 will sunset 10 years after the day of making on 26 April 2027 (see section 5 of the **Subordinate Legislation Act 1994**).

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided regulation, rule or clause of a Schedule is amended by the insertion of one or more subregulations, subrules or subclauses the original regulation, rule or clause becomes subregulation, subrule or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original regulation, rule or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any heading inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. This includes headings to Parts, Divisions or Subdivisions in a Schedule; Orders; Parts into which an Order is divided; clauses; regulations; rules;

items; tables; columns; examples; diagrams; notes or forms.
See section 36(1A)(2A)(2B).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any examples, diagrams or notes inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, form part of that Statutory Rule. See section 36(3A).

- **Punctuation**

All punctuation included in a Statutory Rule which is made on or after 1 January 2001 forms part of that Statutory Rule. Any punctuation inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. See section 36(3B).

- **Provision numbers**

All provision numbers included in a Statutory Rule form part of that Statutory Rule, whether inserted in the Statutory Rule before, on or after 1 January 2001. Provision numbers include regulation numbers, rule numbers, subregulation numbers, subrule numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of a Statutory Rule is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of a Statutory Rule. See section 36(3)(3D)(3E).

2 Table of Amendments

This publication incorporates amendments made to the Occupational Health and Safety Regulations 2017 by statutory rules, subordinate instruments and Acts.

Occupational Health and Safety Amendment Regulations 2018, S.R. No. 71/2018

Date of Making: 5.6.18

Date of Commencement: 5.6.18

Occupational Health and Safety Amendment (Mines) Regulations 2018,
S.R. No. 176/2018

Date of Making: 23.10.18

Date of Commencement: 23.10.18

Occupational Health and Safety Amendment (Crystalline Silica) Regulations 2019,
S.R. No. 71/2019

Date of Making: 20.8.19

Date of Commencement: 20.8.19

Occupational Health and Safety Amendment (Crystalline Silica) Interim
Regulations 2020, S.R. No. 84/2020

Date of Making: 18.8.20

Date of Commencement: 18.8.20

Occupational Health and Safety Amendment (Workplace Incidents Consultative
Committee) Regulations 2020, S.R. No. 106/2020

Date of Making: 29.9.20

Date of Commencement: 29.9.20

3 Amendments Not in Operation

This version does not contain amendments that are not yet in operation.

4 Explanatory details

¹ Reg. 41: S.R. No. 68/2006. Reprint No. 4 as at 3 October 2016. Reprinted to S.R. No. 114/2016. Extended in operation by S.R. No. 4/2016.

² Reg. 215(1)(a)(iii)(B): S.R. No. 77/2007 as amended by S.R. Nos 152/2009 and 25/2015.

³ Reg. 561: S.R. No. 37/2011. Reprint No. 1 as at 12 May 2016. Reprinted to S.R. No. 91/2015. Subsequently amended by S.R. No. 90/2016.

⁴ Reg. 564: S.R. No. 132/2012 as amended by S.R. Nos. 56/2014 and 91/2015.

Fee Units

These Regulations provide for fees by reference to fee units within the meaning of the **Monetary Units Act 2004**.

The amount of the fee is to be calculated, in accordance with section 7 of that Act, by multiplying the number of fee units applicable by the value of a fee unit.

The value of a fee unit for the financial year commencing 1 July 2020 is \$14.81. The amount of the calculated fee may be rounded to the nearest 10 cents.

The value of a fee unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a fee unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.

Penalty Units

These Regulations provide for penalties by reference to penalty units within the meaning of section 110 of the **Sentencing Act 1991**. The amount of the penalty is to be calculated, in accordance with section 7 of the **Monetary Units Act 2004**, by multiplying the number of penalty units applicable by the value of a penalty unit.

The value of a penalty unit for the financial year commencing 1 July 2020 is \$165.22.

The amount of the calculated penalty may be rounded to the nearest dollar.

The value of a penalty unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a penalty unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.

Occupational Health and Safety Regulations 2017
S.R. No. 22/2017
Endnotes

Table of Applied, Adopted or Incorporated Matter

Note that the following table of applied, adopted or incorporated matter was included in S.R. No. 22/2017 in accordance with the requirements of regulation 5 of the Subordinate Legislation Regulations 2014.

Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 5, definitions of <i>ADG Code, Class, Classification Code, Division, special provision</i> and <i>UN Number</i> and Schedule 14	The Australian Code for the Transport of Dangerous Goods by Road and Rail, edition 7.5, published by the National Transport Commission in November 2016	The whole
Regulation 5, definition of <i>AMBSC Code</i> , clause 1.1(b) of Schedule 2, and clause 7 of Schedule 4.	AMBSC Code Part 1, Issue 8—2012, Copper boilers, published by the Australian Miniature Boiler Safety Committee in 2012 AMBSC Code Part 2, Issue 5—2012, Steel boilers, published by the Australian Miniature Boiler Safety Committee in 2012	
	AMBSC Code Part 3, Issue 1—2006, Sub-Miniature boilers, published by the Australian Miniature Boiler Safety Committee in 2006 AMBSC Code Part 4, Issue 1—2010, Duplex steel boilers, published by the Australian Miniature Boiler Safety Committee in 2010	

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Endnotes

Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 5, definitions of <i>AS 2030—Gas Cylinders</i> and <i>gas cylinder</i> and regulation 106(f)(i)	AS 2030.1-2009, Gas cylinders, Part 1: General requirements, published by Standards Australia in 2009 AS 2030.2-1996, The verification, filling, inspection, testing and maintenance of cylinders for the storage and transport of compressed gases, Part 2: Cylinders for dissolved acetylene, published by Standards Australia in 1996, reissued in 2000 incorporating Amendment Nos 1 and 2 AS 2030.4-1985, The verification, filling, inspection, testing and maintenance of cylinders for the storage and transport of compressed gases, Part 4: Welded cylinders—Insulated, published by Standards Australia in 1985, reissued in May 1999 incorporating Amendment No. 1 AS 2030.5-2009, Gas cylinders, Part 5: Filling, inspection and testing of refillable cylinders, published by Standards Australia in 2009, incorporating Amendment No. 1 of 2015	The whole

Occupational Health and Safety Regulations 2017
S.R. No. 22/2017
Endnotes

Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 5, definition of AS 2593 and clauses 5 and 6 of Schedule 4	AS 2593-2004—Boilers—Safety management and supervision systems, published by Standards Australia in 2014	Sections 1, 2 and 3
Regulation 5, definitions of boiler , pressure piping and pressure vessel	AS/NZS 1200, Pressure equipment, as published by Standards Australia and Standards New Zealand on 3 December 2015	The whole
Regulation 5, definitions of boiler , pressure piping and pressure vessel , regulation 106(c) and (f) and clause 1.1(c) of Schedule 2	AS 4343-2014, Pressure equipment—Hazard levels, published by Standards Australia in 2014	Section 2
Regulation 5, definition of Construction Industry Basic Induction training course	Foundations for Safety Construction Industry Induction Training Agreement, with a commencement date of 1 February 2001	The whole
Regulation 5, definition of exposure standard	Workplace Exposure Standards for Airborne Contaminants, published by SafeWork Australia on its Internet site	The whole

Occupational Health and Safety Regulations 2017
S.R. No. 22/2017
Endnotes

Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 5, definitions of <i>GHS, hazard category, hazard class, hazard pictogram, hazard statement, hazardous substance and precautionary statement</i> , regulations 13(1), 17, 143(1), 145(1)(e) and Schedules 7, 8 and 14	Globally Harmonized System of Classification and Labelling of Chemicals, third, fourth and fifth revised editions, published by the United Nations in 2009, 2011 and 2013 respectively	The whole
Regulation 5, definition of <i>Membrane Filter Method</i>	Guidance Note on the Membrane Filter Method for Estimating Airborne Asbestos Fibres, 2nd Edition, prepared by the National Occupational Health and Safety Commission and published in April 2005	The whole
Regulation 5, definition of <i>occupational health and safety auditor</i>	Procedure No. 02, Part 1, Issue 3: Requirements for Bodies Providing Audit and Certification of Occupational Health and Safety Management Systems, dated 18 August 2011, published by the Joint Accreditation System of Australia and New Zealand	The whole

Occupational Health and Safety Regulations 2017
S.R. No. 22/2017
Endnotes

Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 41(2)(b)(i)	AS 1657-2013—Fixed platforms, walkways, stairways and ladders—Design, construction and installation, published by Standards Australia in 2013, incorporating Amendment No. 1	The whole
Regulation 106(b) and clause 1.8 of Schedule 2	AS 3533.1-2009—Amusement rides and devices—Part 1: Design and construction, published by Standards Australia in 2009, reissued in 2011 incorporating Amendment No. 1	The whole
Regulation 106(f)(ii)	AS/NZS 3509:2009—LP Gas fuel vessels for automotive use, published by Standards Australia and Standards New Zealand in 2009	The whole
Regulation 106(f)(iii)	AS 2971-2007—Serially produced pressure vessels, published by Standards Australia in 2007	The whole

Occupational Health and Safety Regulations 2017
S.R. No. 22/2017
Endnotes

Table of Applied, Adopted or Incorporated Matter

The following table of applied, adopted or incorporated matter was included in S.R. No. 71/2019 in accordance with the requirements of regulation 5 of the Subordinate Legislation Regulations 2014.

Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 4 (inserts new regulation 319B, definition of <i>Dust Class H Vacuum</i>)	AS/NZS 60335.2.69:2017 Household and similar electrical appliances—Safety—Part 2.69: Particular requirements for wet and dry vacuum cleaners, including power brush, for commercial use, published by Standards Australia on 30 June 2017	The whole
Regulation 4 (inserts new regulation 319B, definition of <i>respiratory protective equipment</i>)	AS/NZS 1716:2012—Respiratory protective devices, published by Standards Australia on 13 February 2012	The whole