



Queensland

Workplace Health and Safety Act 1995

Workplace Health and Safety Regulation 2008

Reprinted as in force on 27 August 2010

Reprint No. 2E

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Workplace Health and Safety Regulation 2008

[as amended by all amendments that commenced on or before 27 August 2010]

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Workplace Health and Safety Regulation 2008*.

2 Commencement

This regulation commences on 1 September 2008.

3 Definitions—the dictionary

The dictionary in schedule 18 defines particular words used in this regulation.

4 References to standards

Unless otherwise stated, a reference in this regulation to an Australian Standard or to a standard published jointly by Standards Australia and Standards New Zealand is a reference to the standard as in force at 1 September 2008.

5 Reference to the doing of work by relevant person who is an employer

A reference in this regulation to the doing or performing of work by a relevant person who is an employer is taken to include the doing or performance of the work by a worker of the relevant person.

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Part 2 **Registrable plant and registrable plant design**

Division 1 **Registration of registrable plant**

6 **Registrable plant not to be used before registration**

An owner of registrable plant must not use registrable plant, or allow it to be used, unless the plant is registered.

Maximum penalty—20 penalty units.

7 **Registration of registrable plant**

(1) The owner of registrable plant may apply to the chief executive under part 8, division 2, to register registrable plant.

(2) Registration is valid—

(a) for the initial registration—from the date stated in the certificate until 31 January in the following year; and

(b) for the renewal of the certificate—from 1 February until 31 January in the following year.

8 **Notification of change of ownership of registered plant**

A holder of a certificate of registration of registered plant must give the chief executive notice of a change of ownership of the plant in the approved form within 28 days of the change.

Maximum penalty—20 penalty units.

9 **Cessation of registration of registered plant**

The registration of registered plant is taken to end on the day ownership of the plant changes if the holder of the certificate of registration does not notify the chief executive under section 8.

10 Refund of fees because of change of ownership of registrable plant

- (1) This section applies if the chief executive receives a notice under section 8.
- (2) The chief executive must cancel the registration and refund to the former holder of the certificate of registration the unexpired part of the registration fee.
- (3) The refund is to be worked out on a proportional basis according to the number of whole months from the end of the month when the change happened to 31 January in the following year.

Division 2 Registration of registrable plant design

11 Application of div 2

This division does not apply to manually powered plant.

12 Plant not to be installed or used unless certificate of registration is in force

- (1) A relevant person must not install or use plant mentioned in schedule 4 unless a certificate of registration of registrable plant design granted under part 8, division 2 for the design of the plant is in force.

Maximum penalty—20 penalty units.

- (2) A relevant person who is an employer must not allow a worker of the relevant person to install or use plant mentioned in schedule 4 unless a certificate of registration of registrable plant design granted under part 8, division 2 for the design of the plant is in force.

Maximum penalty—20 penalty units.

- (3) The owner of any of the following specified high risk plant must not install or use, or allow anyone else to install or use,

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the plant unless a certificate of registration of registrable plant design granted under part 8, division 2 for the design of the plant is in force—

- (a) an escalator;
- (b) an LP gas cylinder;
- (c) a lift;
- (d) a specified amusement device.

Maximum penalty—20 penalty units.

- (4) A person does not commit an offence against subsection (1) or (2) in relation to plant mentioned in schedule 4 or against subsection (3) in relation to specified high risk plant mentioned in that subsection if—
 - (a) the person holds a certificate of registration, approval or notification of the design of the relevant plant in force under a corresponding law; and
 - (b) the design has not been changed in a way that requires new measures to control risk.

Editor's note—

See the examples in section 13.

- (5) The chief executive may give a person who relies under subsection (4) on a certificate in force under a corresponding law written notice—
 - (a) requiring the person to give the chief executive a copy of the certificate within 10 days after the day of the notice; and
 - (b) stating that it is an offence for the person to fail, without reasonable excuse, to comply with the requirement.
- (6) The person must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

13 When certificate of registration is in force

- (1) A certificate of registration of registrable plant design for the design of plant continues in force until it stops having effect under this section.
- (2) A certificate of registration of registrable plant design for the design of plant stops having effect if the design is changed in a way that requires new measures to control risk.

Example of a change in design causing certificate to stop having effect—

A certificate of registrable plant design is in force for the design of a mobile crane. The crane's reach is increased by fitting a longer boom, which increases the risk of the crane overturning. The certificate stops being in force because of the change.

Example of a change in design not causing certificate to stop having effect—

A certificate of registrable plant design is in force for the design of a fire tube boiler. The boiler's output is raised by increasing its firing rate, but the operating pressure and temperature of the boiler are unchanged. The certificate does not stop being in force because of the change.

Note—

A fresh certificate will be needed if the plant is to be installed or used after the change.

- (3) In this section—
certificate of registration of registrable plant design includes a certificate, approval or notification in force under a corresponding law.

14 Certificate number to be given

- (1) The holder of a certificate of registration of registrable plant design for the design of plant must give the certificate number to—
 - (a) each manufacturer of plant, manufactured according to the design, known to the holder; and
 - (b) each supplier of plant, manufactured according to the design, known to the holder.

Maximum penalty—20 penalty units.

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- (2) The manufacturer or supplier must give the number to each person to whom the manufacturer or supplier supplies plant manufactured according to the design.

Maximum penalty—20 penalty units.

15 Certificate number to be marked on plant

- (1) A supplier of plant mentioned in schedule 4 must ensure that the number of the certificate of registration of registrable plant design for the design of the plant is permanently marked on the plant so as to be clearly visible.

Maximum penalty—20 penalty units.

- (2) A relevant person who installs or uses, or a relevant person who is an employer who allows a worker to install or use, plant mentioned in schedule 4 must ensure that the number of the certificate of registration of registrable plant design for the design of the plant is permanently marked on the plant so as to be clearly visible.

Maximum penalty—20 penalty units.

- (3) Subsection (2) does not apply to the following specified high risk plant—

- (a) an escalator;
- (b) an LP gas cylinder;
- (c) a lift;
- (d) a specified amusement device.

- (4) The owner of specified high risk plant mentioned in subsection (3) must ensure that the number of the certificate of registration of registrable plant design for the design of the plant is permanently marked on the plant so as to be clearly visible.

Maximum penalty—20 penalty units.

- (5) In this section—

certificate of registration of registrable plant design includes a certificate, approval or notification in force under a corresponding law.

Part 3 High risk work and operation of earthmoving equipment and particular crane

Division 1 Definitions

16 Meaning of *assessment instrument*

- (1) *Assessment instrument*, for a unit of competency for a class of high risk work, means—
 - (a) before 1 July 2011—
 - (i) the instrument for the unit of competency, issued by the chief executive, that relates to what is to be assessed for the unit of competency, how the assessment must be conducted and recording of the assessment results; or
 - (ii) the nationally approved assessment instrument under the national standard; or
 - (b) on or after 1 July 2011—
 - (i) the nationally approved assessment instrument under the national standard; or
 - (ii) if there is no nationally approved assessment instrument under the national standard—the instrument for the unit of competency mentioned in paragraph (a)(i).
- (2) *Assessment instrument*, for a unit of competency for an earthmoving or particular crane occupation, means an instrument for the unit of competency, issued by the chief

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executive, that relates to what is to be assessed for the unit of competency, how the assessment must be conducted and recording of the assessment results.

17 Meaning of *unit of competency*

- (1) *Unit of competency*, for a class of high risk work, means—
 - (a) before 1 July 2011—
 - (i) the unit of competency stated in schedule 5 for the class of high risk work; or
 - (ii) the unit of competency, under the national standard, that is stated in schedule 5A for the class of high risk work; or
 - (b) on or after 1 July 2011—
 - (i) the unit of competency, under the national standard, that is stated in schedule 5A for the class of high risk work; or
 - (ii) if no unit of competency is stated in schedule 5A for the class of high risk work, the unit of competency stated in schedule 5 for the class of high risk work.
- (2) *Unit of competency*, for an earthmoving or particular crane occupation, means the unit of competency stated in schedule 6 for the occupation.

Division 2 Performing high risk work

18 Authority to perform high risk work

- (1) A relevant person who is an employer must not employ or otherwise allow a worker to perform high risk work unless the worker has appropriate authority to perform the high risk work.

Maximum penalty—40 penalty units.

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- (2) A person must not perform high risk work unless the person has appropriate authority to perform the high risk work.

Maximum penalty—40 penalty units.

- (3) A person has appropriate authority to perform high risk work for the class of high risk work that includes the high risk work if—

(a) the person holds a licence to perform the class of high risk work; or

(b) the person holds a licence, issued by a recognised official, authorising the performance of a class of work that is the same or substantially the same as the class of high risk work; or

(c) the person is a trainee in the high risk work; or

(d) each of the following apply—

(i) the person is a worker who is undergoing an assessment, conducted by the worker's employer, to decide the worker's suitability to perform the high risk work;

(ii) the assessment has lasted for not more than 1 month;

(iii) the person is being directly supervised during the assessment by someone who holds a licence to perform the class of high risk work that includes the high risk work;

(iv) the date on which the assessment started and the date on which the assessment is expected to end is documented by the employer; or

(e) the person holds an assessment summary under subsection (5) for the unit of competency for the class of high risk work, that was issued within 14 days before the day on which the work is to be performed; or

(f) the person holds a statement of attainment for the unit of competency for the class of high risk work, that was

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- issued within 60 days before the day on which the work is to be performed; or
- (g) the person has applied under section 20 for a licence, or a variation of a licence, to perform the class of high risk work, and has not received from the chief executive—
 - (i) the licence or the grant of the variation; or
 - (ii) notice of refusal for the application.
- (4) However, high risk work may be performed only by a person who is at least 18 years, unless—
- (a) the person is a trainee; or
 - (b) the person is a worker mentioned in subsection (3)(d)(i).
- (5) An assessment summary for a person named in the summary must—
- (a) be issued by a registered training organisation; and
 - (b) state the person who performed the assessment and be signed by that person; and
 - (c) state, for the unit of competency to which the assessment summary relates, that the person named in the summary—
 - (i) has a competent assessment result in the following assessments—
 - (A) written assessment;
 - (B) practical assessment;
 - (C) if an assignment is required to be assessed under the assessment instrument for the unit of competency, and was assessed—assignment assessment; and
 - (ii) demonstrated the appropriate underpinning knowledge; and
 - (d) be issued only if—
 - (i) the person who performed the assessment is nominated by the registered training organisation

-
- to provide training and assessment services for the registered training organisation; and
- (ii) the registered training organisation's scope of registration under the *Vocational Education, Training and Employment Act 2000* covers the assessment and training to which the assessment relates; and
 - (iii) for an assessment summary issued on or after 1 January 2009—the individual who performed the assessment—
 - (A) holds a training and assessment approval in relation to the unit of competency; or
 - (B) has complied with any criteria that must be complied with, under a corresponding law, to enable the individual to provide training and assessment for the unit of competency for a purpose that is the same as or similar to a purpose of this part.
- (6) Subsection (1) does not apply to a worker, and subsection (2) does not apply to a person, if the worker or person holds an exemption under section 22 in relation to performing the high risk work.
- (7) Subsection (1) does not apply to a worker, and subsection (2) does not apply to a person, in relation to high risk work that is the operation of a bridge and gantry crane by the worker or person, to the extent that the worker or person has authority to perform the work under an earthmoving or particular crane work certificate.
- (8) Subsection (1) does not apply to a worker, and subsection (2) does not apply to a person, in relation to high risk work that is the work of a dogger if—
- (a) the worker or person holds the licence class operator of a vehicle loading crane and—
 - (i) the load being lifted is lifted from the ground onto the vehicle on which the crane is mounted, or from the vehicle onto the ground; and

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- (ii) the load being lifted is lifted within the view of the worker or person; or
- (b) the worker or person holds an earthmoving or particular crane work certificate for the occupation operator of a bridge and gantry crane in the circumstances mentioned in schedule 6, section 1(1)(a) and (b), and the load being lifted is lifted within the view of the worker or person.

19 Work incidental to high risk work

(1) This section applies to—

(a) a person—

(i) whose work is primarily—

(A) the maintenance, servicing or repair of plant;
or

Example—

a person who repairs the boom of a crane if the person does not lift a load with the crane

(B) the demonstration of plant for sale; and

(ii) who performs work not involving use of the plant for the purpose for which it was designed; and

(b) a person—

(i) whose work is primarily the maintenance, servicing or repair of plant; and

Example—

a person who, when repairing a pump, needs to lift the pump if it weighs no more than 1t

(ii) who performs rigging work not involving lifting a load of more than 1t.

(2) The person is taken not to be performing high risk work.

20 Application for licence to perform a class of high risk work or for variation of licence

A person may apply to the chief executive, under part 8, division 2, for—

- (a) a licence to perform a class of high risk work; or
- (b) a variation of a licence to perform a class of high risk work.

21 Application for exemption from holding licence

- (1) A relevant person who is an employer may apply to the chief executive for an exemption from holding a licence to perform a class of high risk work for a worker of the relevant person.
- (2) A self-employed person may apply to the chief executive for an exemption from holding a licence to perform a class of high risk work.
- (3) An application under subsection (1) or (2) must be made in the approved form and state—
 - (a) the reasons for making the application; and
 - (b) the alternative measures to be used to ensure the high risk work for which the exemption is sought is performed safely.
- (4) The chief executive may grant the exemption if the chief executive is satisfied—
 - (a) the applicant proposes to use particular alternative measures to ensure the work is performed safely; and
 - (b) the alternative measures will ensure the work is performed safely.
- (5) The chief executive may require an applicant under subsection (1) or (2) to give the chief executive any further information the chief executive reasonably requires to decide the application.

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- (6) A requirement under subsection (5) may state a reasonable period, of at least 28 days, by which the stated further information must be given to the chief executive.
- (7) If an exemption is granted, the chief executive may place restrictions on the performance of high risk work in the class of high risk work.

22 Decision on application for exemption

- (1) If the chief executive decides to grant an exemption under section 21, the chief executive must issue the exemption to the applicant.
- (2) If the chief executive decides to refuse an application under section 21, the chief executive must give written notice to the applicant about the decision within 10 days after making the decision.
- (3) The notice must state—
 - (a) the reasons for the refusal; and
 - (b) that the person may appeal against the decision under part 11 of the Act.

23 Licence holder to notify change of address

The holder of a licence to perform a class of high risk work must notify the chief executive of a change of the licence holder's residential or postal address within 14 days after the change.

Maximum penalty—10 penalty units.

24 Holder to make licence issued by recognised official available for inspection

- (1) This section applies to a licence issued by a recognised official that has been or is to be relied on to authorise the performance of high risk work.

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- (2) To enforce compliance with the Act, the chief executive may require the holder of the licence to make the licence available for inspection by the chief executive, or produce it to the chief executive for inspection, at a reasonable time and place stated by the chief executive.
 - (3) To enforce compliance with the Act, an inspector may require the holder to make the licence available for inspection by an inspector, or produce it to an inspector for inspection, at a reasonable time and place stated by the inspector.
 - (4) The holder must comply with a requirement under subsection (2) or (3), unless the holder has a reasonable excuse for not complying.
Maximum penalty—10 penalty units.
 - (5) If the holder is an individual, it is a reasonable excuse for the holder not to comply with the requirement under subsection (2) or (3) if complying with the requirement might tend to incriminate the holder.

Division 3 Performing work in an earthmoving or particular crane occupation

25 Authority to perform work in an earthmoving or particular crane occupation

- (1) A relevant person who is an employer must not employ or otherwise allow a worker to perform work in an earthmoving or particular crane occupation unless the worker has appropriate authority to perform work in the earthmoving or particular crane occupation.
Maximum penalty—40 penalty units.
- (2) A person must not perform work in an earthmoving or particular crane occupation unless the person has appropriate authority to perform work in the earthmoving or particular crane occupation.
Maximum penalty—40 penalty units.

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- (3) A person has appropriate authority to perform work in an earthmoving or particular crane occupation if—
- (a) the person holds an earthmoving or particular crane work certificate for the occupation; or
 - (b) the person is a trainee in the occupation; or
 - (c) each of the following apply—
 - (i) the person is a worker who is undergoing an assessment, conducted by the worker's employer, to decide the workers's suitability to perform the work;
 - (ii) the assessment has lasted for not more than 2 weeks;
 - (iii) the person is being directly supervised during the assessment by someone who holds a certificate to work in the occupation;
 - (iv) the date on which the assessment started and the date on which the assessment is expected to end is documented by the employer; or
 - (d) the person holds an assessment summary under subsection (4) for the unit of competency for the occupation, that was issued within 14 days before the day on which the work is to be performed; or
 - (e) the person holds a statement of attainment for the unit of competency, that was issued within 60 days before the work is to be performed; or
 - (f) the person has applied under section 27 for an earthmoving or particular crane work certificate for the occupation, and has not received from the chief executive—
 - (i) the certificate; or
 - (ii) notice of refusal for the application; or
 - (g) the person holds a certificate, issued by a recognised official, authorising work in an occupation that is the same or substantially the same as the occupation; or

-
- (h) the person holds evidence of competency that—
 - (i) is attained in another State; and
 - (ii) complies with former NOHSC document entitled ‘National Guidelines for Occupational Health and Safety Competency Standards for the Operation of Loadshifting Equipment and Other Types of Specified Equipment [NOHSC:7019 (1992)]’.
 - (4) An assessment summary for a person named in the summary must—
 - (a) be issued by a registered training organisation; and
 - (b) state the person who performed the assessment and be signed by that person; and
 - (c) state, for the unit of competency to which the assessment summary relates, that the person named in the summary—
 - (i) has a competent assessment result in the following assessments—
 - (A) written assessment;
 - (B) practical assessment;
 - (C) if an assignment is required to be assessed under the assessment instrument for the unit of competency, and was assessed—assignment assessment; and
 - (ii) demonstrated the appropriate underpinning knowledge; and
 - (d) be issued only if—
 - (i) the person who performed the assessment is nominated by the registered training organisation to provide training and assessment services for the registered training organisation; and
 - (ii) the registered training organisation’s scope of registration under the *Vocational Education, Training and Employment Act 2000* covers the

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assessment and training to which the assessment relates; and

- (iii) for an assessment summary issued on or after 1 January 2009—the individual who performed the assessment—
 - (A) holds a training and assessment approval in relation to the unit of competency; or
 - (B) has complied with any criteria that must be complied with, under a corresponding law, to enable the individual to provide training and assessment for the unit of competency for a purpose that is the same as or similar to a purpose of this part.
- (5) Subsection (1) does not apply to a worker, and subsection (2) does not apply to a person, if the worker or person holds an exemption under section 29 in relation to performing work in the earthmoving or particular crane occupation.
- (6) Subsection (1) does not apply to a worker, and subsection (2) does not apply to a person, in relation to work that is the operation of a bridge and gantry crane in the circumstances mentioned in schedule 6, section 1(1)(a) and (b), if the worker or person has authority to perform the work under a licence to perform a class of high risk work.

26 Work incidental to earthmoving or particular crane operation

- (1) This section applies to a person—
 - (a) whose work is primarily—
 - (i) the maintenance, servicing or repair of plant; or
 - (ii) the demonstration of plant for sale; and
 - (b) who performs work not involving use of the plant for the purpose for which it was designed.
- (2) The person is taken not to be performing work in an earthmoving or particular crane occupation.

27 Application for earthmoving or particular crane work certificate

A person may apply to the chief executive, under part 8, division 2, for an earthmoving or particular crane work certificate.

28 Application for exemption from holding certificate

- (1) A relevant person who is an employer may apply to the chief executive for an exemption from holding an earthmoving or particular crane work certificate for a worker of the relevant person.
- (2) A self-employed person may apply to the chief executive for an exemption from holding an earthmoving or particular crane work certificate.
- (3) An application under subsection (1) or (2) must be made in the approved form and state—
 - (a) the reasons for making the application; and
 - (b) the alternative measures to be used to ensure work in the earthmoving or particular crane occupation for which the exemption is sought is performed safely.
- (4) The chief executive may grant the exemption if the chief executive is satisfied—
 - (a) the applicant proposes to use particular alternative measures to ensure the work is performed safely; and
 - (b) the alternative measures will ensure the work is performed safely.
- (5) The chief executive may require an applicant under subsection (1) or (2) to give the chief executive any further information the chief executive reasonably requires to decide the application.
- (6) A requirement under subsection (5) may state a reasonable period, of at least 28 days, by which the stated further information must be given to the chief executive.

[s 29]

- (7) If an exemption is granted, the chief executive may place restrictions on the performance of the work in the earthmoving or particular crane occupation.

29 Decision on application for exemption

- (1) If the chief executive decides to grant an exemption under section 28, the chief executive must issue the exemption to the applicant.
- (2) If the chief executive decides to refuse an application under section 28, the chief executive must give written notice to the applicant about the decision within 10 days after making the decision.
- (3) The notice must state—
 - (a) the reasons for the refusal; and
 - (b) that the person may appeal against the decision under part 11 of the Act.

30 Holder to make certificate issued by recognised official available for inspection

- (1) This section applies to a certificate issued by a recognised official that has been or is to be relied on to authorise the performance of work in an earthmoving or particular crane occupation.
- (2) To enforce compliance with the Act, the chief executive may require the holder of the certificate to make the certificate available for inspection by the chief executive, or produce it to the chief executive for inspection, at a reasonable time and place stated by the chief executive.
- (3) To enforce compliance with the Act, an inspector may require the holder to make the certificate available for inspection by an inspector, or produce it to an inspector for inspection, at a reasonable time and place stated by the inspector.

- (4) The holder must comply with a requirement under subsection (2) or (3), unless the holder has a reasonable excuse for not complying.

Maximum penalty—10 penalty units.

- (5) If the holder is an individual, it is a reasonable excuse for the holder not to comply with the requirement under subsection (2) or (3) if complying with the requirement might tend to incriminate the holder.

Division 4 Training in work in an earthmoving or particular crane occupation or high risk work

31 Meaning of *trainee*

A person is a *trainee* if—

- (a) the person is receiving formal training and informal learning in an earthmoving or particular crane occupation, or in high risk work, under a training plan under section 33; and
- (b) the person is being supervised during the formal training or informal learning by someone who—
- (i) if the training is in an earthmoving or particular crane occupation—holds a certificate to work in the occupation; or
- (ii) if the training is in high risk work—holds a licence to perform the class of high risk work that includes the high risk work; and
- (c) the person's employer keeps an up-to-date record of the formal training or informal learning.

32 Duties of relevant person who is an employer for training

- (1) A relevant person who is the employer of a trainee must ensure the trainee—

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- (a) is being trained to achieve the standard set for the unit of competency for the earthmoving or particular crane occupation, or class of high risk work, in which the trainee is being trained; and
- (b) is being supervised by a person who supervises the trainee as required under section 34 when the trainee performs work in the occupation or performs high risk work; and
- (c) keeps the training record mentioned in section 35.

Maximum penalty—20 penalty units.

- (2) The relevant person must keep a written record of the following in relation to the trainee's training given by the relevant person—
 - (a) the formal training given to the trainee and the date on which it was given;
 - (b) the informal learning given to the trainee, including—
 - (i) the scope of work performed by the trainee that is work in an earthmoving or particular crane occupation or high risk work; and
 - (ii) the date on which the work was performed; and
 - (iii) the type of plant used or operated for the performance of the work, and the serial number of the plant; and
 - (iv) the name of the trainee's supervisor during the informal learning, and the number of the earthmoving or particular crane work certificate, or the licence to perform a class of high risk work, under which work to supervise the trainee was performed;
 - (c) the licensee's progress in the formal training and informal learning, that is kept up to date;
 - (d) the extent of the informal learning that the relevant person has decided is necessary for the trainee to receive, and the reasons for that decision;

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- (e) the name of the person who decided the level of formal training and informal learning, and the level of supervision of the trainee required during the training and learning, and the experience of the person that is relevant to making the decisions.

Maximum penalty—20 penalty units.

- (3) For workplace experience in the use or operation of plant to be treated as informal learning for a trainee, the trainee must have already received formal training in the use or operation of that plant.

33 What training plan must state

For section 31(a), a training plan for the formal training of, and informal learning by, a trainee (both of which are *the training*) must state the following—

- (a) the trainee's name and address;
- (b) the employer's name and address;
- (c) the unit of competency for the earthmoving or particular crane occupation, or the class of high risk work that includes the high risk work, in which the trainee is to be trained;
- (d) the scope of the training, including the topics to be covered;
- (e) the nominal hours for the training;
- (f) the day the training is to start;
- (g) the day the training is to end;
- (h) the primary training locations;
- (i) the plant to be used or operated by the trainee for the training;
- (j) the certificate or licence that must be held by the supervisor as mentioned in section 31(b);
- (k) the name of the person who is the employer's contact in relation to the plan;

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- (l) the arrangements for monitoring the training;
- (m) the arrangements for assessing the training;

Example for paragraph (m)—

A training plan may provide that a registered training organisation is to be engaged to—

- (a) evaluate the evidence of the training undertaken by the trainee; and
 - (b) assess the trainee's competence in the relevant competency.
- (n) the way the training must be recorded, including, for example, by keeping a training record as required under section 32(2) or 35.

34 Supervisor's duty for training

The trainee's supervisor must directly supervise the trainee when the trainee performs high risk work or work in an earthmoving or particular crane occupation unless—

- (a) the nature or circumstances of a particular task make direct supervision impracticable or unnecessary; and
- (b) supervision is reduced only to a reasonable level having regard to the trainee's competence in performing the task; and
- (c) the reduced level of supervision will not place the health or safety of the trainee or someone else at risk.

Maximum penalty—20 penalty units.

35 Trainee's duty for training

The trainee must keep a written training record that identifies the trainee and includes the following—

- (a) the scope of work performed by the trainee that is high risk work or work in an earthmoving or particular crane occupation;
- (b) the date on which the work was performed;

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- (c) the type of plant used or operated for the performance of the work;
 - (d) the date the training was completed;
 - (e) the name of the supervisor who supervised the training;
 - (f) the number of the licence or certificate held by the supervisor—
 - (i) to perform work in the class of high risk work that includes the high risk work; or
 - (ii) to work in the earthmoving or particular crane occupation.

Maximum penalty—20 penalty units.

36 Supervisor to sign entry in training record

The trainee's supervisor must sign an entry in the trainee's training record if—

- (a) the supervisor supervised the training to which the entry relates; and
- (b) the supervisor is satisfied the entry is correct.

Maximum penalty—20 penalty units.

Division 5 Obligation of relevant person who is an employer if worker is undergoing assessment for suitability to perform work

37 Supervision of worker and record keeping

- (1) This section applies if a relevant person employs a worker who is undergoing an assessment, conducted by the relevant person, to decide the worker's suitability to perform work in an earthmoving or particular crane occupation, or high risk work.

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- (2) The relevant person must ensure the worker is being directly supervised during the assessment by someone who holds—
- (a) if the work is in an earthmoving or particular crane occupation—an earthmoving or particular crane work certificate for the occupation; or
 - (b) if the work is high risk work—a licence to perform the class of high risk work that includes the high risk work.

Maximum penalty—20 penalty units.

- (3) The relevant person must make a written record that states the following—
- (a) the worker's name and address;
 - (b) the employer's name and address;
 - (c) the unit of competency for the earthmoving or particular crane occupation, or the class of high risk work that includes the high risk work;
 - (d) the day the assessment is to start;
 - (e) the day the assessment is to end;
 - (f) the plant to be used or operated by the worker for the assessment;
 - (g) the earthmoving or particular crane work certificate, or licence to perform a class of high risk work, under which work to directly supervise the worker was performed;
 - (h) the worker's progress in the work to which the assessment relates, that is kept up to date.

Maximum penalty—20 penalty units.

- (4) The relevant person must keep the record for at least 5 years after the day the assessment ends.

Maximum penalty—20 penalty units.

Division 6 Other obligations

38 Relevant person who is an employer must reasonably believe worker is competent

- (1) This section applies to a relevant person who is an employer of a worker who holds—
 - (a) an earthmoving or particular crane work certificate; or
 - (b) a licence to perform a class of high risk work.
- (2) The relevant person must not allow the worker to perform work under the certificate or licence that involves the use or operation of plant unless the relevant person reasonably believes the worker is competent to use or operate the plant.

Maximum penalty—40 penalty units.

39 Holder of certificate or licence must reasonably believe he or she is competent

- (1) This section applies to the holder of—
 - (a) an earthmoving or particular crane work certificate; or
 - (b) a licence to perform a class of high risk work.
- (2) The holder must not perform work under the certificate or licence, that involves the use or operation of plant unless the holder reasonably believes that he or she is competent to use or operate the plant.

Maximum penalty—40 penalty units.

40 Holder of certificate or licence must take reasonable precautions and exercise proper diligence

- (1) This section applies to the holder of—
 - (a) an earthmoving or particular crane work certificate; or
 - (b) a licence to perform a class of high risk work.

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- (2) The holder must take reasonable precautions and exercise proper diligence in performing the work in relation to which the certificate or licence was granted.

Maximum penalty—40 penalty units.

Division 7 Revival of authority formerly conferred by certificate of competency for work in an occupation

41 Revival of authority

- (1) This section applies if a person held any of the following certificates and the certificate ended at midnight on 30 June 2008 under section 29(2) of the repealed regulation as in force on 1 July 2007—
- (a) a certificate of competency to work in, or in part of, an occupation prescribed under the repealed *Workplace Health and Safety Act 1989* and granted under that Act before 1 March 1992;
 - (b) a certificate of competency for an occupation issued under the repealed *Construction Safety Act 1971*, including a certificate of competency that was formerly a licence for an occupation issued under the repealed *Inspection of Scaffolding Act 1915*;
 - (c) a certificate of competency authorising a person to take charge of particular machinery issued under the repealed *Inspection of Machinery Act 1951*.

Editor's note—

Section 29 (Pre-March 1992 certificate of competency for work in an occupation will end on 30 June 2008 unless holder gives notice)

- (2) The person may give notice, in a way mentioned in subsection (3), to the chief executive by midnight on 30 June 2009 of the following—

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- (a) that the person wants to revive the authority that was conferred by the certificate;
 - (b) the certificate number;
 - (c) the person's residential and postal address and date of birth.
 - (3) The notice may be given by post, telephone, fax, internet or at an office of the department.
 - (4) If a person gives notice under subsection (2) and the certificate that was held—
 - (a) related to work that corresponds or substantially corresponds to the work to which an earthmoving or particular crane occupation relates—the person is taken to hold an earthmoving or particular crane work certificate for the occupation; or
 - (b) related to work that corresponds less than substantially to the work to which an earthmoving or particular crane occupation relates—the person is taken to hold an earthmoving or particular crane work certificate that is limited in scope to the scope of the certificate that was held.

Example of work that corresponds less than substantially to the work to which an earthmoving or particular crane occupation relates—

The operation of a backhoe only in a particular mode corresponds less than substantially with the earthmoving or particular crane occupation operator of a front-end loader or backhoe having an engine capacity of more than 2L.
 - (5) The person is taken to hold an earthmoving or particular crane work certificate under subsection (4) on and after the day the chief executive receives the notice.
 - (6) If a person gives notice under subsection (2) but is not taken to hold a certificate under subsection (4), the person may make an application under section 43 relating to the certificate mentioned in subsection (1).
 - (7) For making an application under section 43, the certificate is taken to be a current licence to perform a class of high risk

[s 42]

work, issued before 1 July 2008, that is nearest in scope to the scope of the work to which the certificate relates.

- (8) Subsection (7) does not have the effect of licensing the person for any other purpose and does not have effect retrospectively.
- (9) In this section—
issue includes grant.

Division 8 Expiry of licences to perform class of high risk work issued before July 2008 unless holder converts licence to a renewable licence

42 Pre-July 2008 licence to perform a class of high risk work will end unless converted to a renewable licence

- (1) A licence to perform a class of high risk work issued before 1 July 2008 ends as follows—
 - (a) if the licence was issued before 1996—
 - (i) if the birthday of the holder of the licence first happens after 30 June 2008 and before 31 August 2008—at midnight on the day that is 56 days after that birthday; or
 - (ii) otherwise—at midnight on the birthday of the holder that first happens after 30 June 2008;
 - (b) if the licence was issued in 1996, 1997 or 1998—at midnight on the birthday of the holder that first happens after 30 June 2009;
 - (c) if the licence was issued in 1999, 2000 or 2001—at midnight on the birthday of the holder that first happens after 30 June 2010;
 - (d) if the licence was issued in 2002, 2003 or 2004—at midnight on the birthday of the holder that first happens after 30 June 2011;

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- (e) if the licence was issued in 2005, 2006, 2007 or in 2008 but before 1 July 2008—at midnight on the birthday of the holder that first happens after 30 June 2012.
 - (2) Subsection (1) does not apply if—
 - (a) the chief executive did not give notice under section 45 about the licence ending; or
 - (b) the licence is converted under section 43 to a renewable licence.
 - (3) If the chief executive does not give notice under section 45 to the holder—
 - (a) the licence does not end under subsection (1); but
 - (b) the chief executive may give to the holder written notice that the licence ends 6 months after the date of the notice.
 - (4) If the chief executive gives notice under subsection (3)(b), the licence ends 6 months after the date of the notice.
 - (5) Subsection (4) does not apply if the licence is converted to a renewable licence under section 43.
 - (6) In this section—
issue includes grant.

43 How to convert a pre-July 2008 licence to perform a class of high risk work to a renewable licence

- (1) A licence to perform a class of high risk work issued before 1 July 2008 may be converted to a renewable licence with a term of 5 years.

Note—

See sections 41(7) and 373.

- (2) The holder of the licence may apply to the chief executive to convert the licence to a renewable licence.
- (3) The application must—
 - (a) be in the approved form; and

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- (b) state that the holder is competent to perform the class of high risk work to which the renewable licence relates; and
- (c) be accompanied by—
 - (i) evidence, satisfactory to the chief executive, of the applicant's identity; and
 - (ii) the fee under schedule 1 for the application.
- (4) A single application must be made by a person for licences under subsection (1) held by the person.
- (5) If a person may apply under subsection (2) because of section 41(6)—
 - (a) the application may only be made before 1 October 2009; and
 - (b) a renewable licence granted in relation to the application does not have the effect of retrospectively licensing the holder.
- (6) In this section—
issue includes grant.

44 Decision on application to convert to a renewable licence

- (1) If the chief executive decides to grant an application to convert a licence or licences to a single renewable licence, the chief executive must grant the renewable licence in the approved form as soon as practicable after making the decision.
- (2) The renewable licence is subject to the conditions, if any, to which the licence was subject.
- (3) If the chief executive decides to refuse an application to convert a licence to a renewable licence, the chief executive must give written notice to the applicant about the decision within 10 days after making the decision.
- (4) The notice must state—
 - (a) the reasons for the refusal; and

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- (b) that the person may appeal against the decision under part 11 of the Act.

45 Notice about ending of pre-July 2008 licence to perform a class of high risk work to be given to holder

- (1) The chief executive must give a notice under subsection (3) to each holder of a licence to perform a class of high risk work issued before 1 July 2008.
- (2) The notice must be given at least 6 weeks before the licence ends under section 42(1).
- (3) The notice must state—
 - (a) that the holder’s certificate of competency for work or work in an occupation is now a licence to perform a stated class of high risk work; and
 - (b) that the holder’s licence to perform a class of high risk work will end at a stated time unless the licence is converted to a renewable licence by that time; and

Example of a stated time for paragraph (b)—

at midnight on the birthday of the holder that first happens after 30 June 2008

- (c) an application to convert the licence to a renewable licence—
 - (i) must be made to the chief executive; and
 - (ii) must be made under section 43; and
- (d) how the application may be made.
- (4) The stated time under subsection (3)(b) must be the time at which the licence to perform a class of high risk work will end under section 42(1).
- (5) Subsection (3) does not prevent the notice stating other matters about workplace health or safety.
- (6) In this section—
issue includes grant.

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Part 4 Prescribed activities

Division 1 Certificate to perform prescribed activity

46 Certificate to perform prescribed activity

A relevant person must not perform a prescribed activity unless—

- (a) if the prescribed activity is demolition work, and there is a principal contractor—the principal contractor or the relevant person holds a certificate to perform the activity issued by the chief executive; or
- (b) if the prescribed activity is work to remove friable asbestos containing material—the relevant person holds a certificate to perform the activity issued by the chief executive.

Maximum penalty—40 penalty units.

47 Application for certificate to perform prescribed activity

- (1) A person may apply to the chief executive, under part 8, division 2, for a certificate to perform a prescribed activity.
- (2) The chief executive may grant the application only if the chief executive is satisfied that, within 60 days before the application was made, an authorised accredited provider or a registered training organisation has assessed the applicant, under the approved criteria, as competent to perform the prescribed activity.
- (3) A certificate is valid for 2 years from the day it is granted unless suspended or cancelled.
- (4) In this section—

approved criteria means—

- (a) for demolition work—the criteria stated in Information Paper D1 (Approved criteria for a certificate to perform the prescribed activity of demolition work) issued by the chief executive; or
- (b) for work to remove friable asbestos containing material—the criteria stated in Information Paper AR1 (Approved criteria for a certificate to perform work to remove friable asbestos containing material) issued by the chief executive.

Editor's note—

The information papers may be obtained at no cost from any office of the department dealing with workplace health and safety, or at the department's website at <www.deir.qld.gov.au>.

48 Conditions

In addition to any other condition imposed by the chief executive under section 93, a certificate held by a person to perform a prescribed activity is subject to the following conditions—

- (a) the person must take all reasonable steps to ensure that the person continues to satisfy the approved criteria as defined in section 47(4);
- (b) if the prescribed activity to be performed under the certificate is demolition work—the performance of the prescribed activity must be restricted to the particular structures, or particular types of structures, stated in the certificate.

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Division 2 Training and supervision in prescribed activities

49 Duty of relevant person who is an employer for training in prescribed activity

A relevant person who employs, or otherwise allows, a worker to perform a prescribed activity must ensure the person has received appropriate training in safe working methods for the performance of the prescribed activity.

Maximum penalty—30 penalty units.

50 Supervision of performance of prescribed activity by competent person

- (1) The holder of a certificate to perform a prescribed activity must ensure the performance of the prescribed activity is directly supervised by a competent person.

Maximum penalty—30 penalty units.

- (2) The holder of a certificate to perform a prescribed activity must give the chief executive written notice of a change in the competent person for a prescribed activity within 14 days after the change.

Maximum penalty—10 penalty units.

- (3) In this section—

competent person means—

- (a) for demolition work—a person who is competent under Information Paper D2 (Requirements to supervise demolition work) issued by the chief executive; or
- (b) for work to remove friable asbestos containing material—a person who is competent under Information Paper AR2 (Requirements for a competent person to supervise work to remove friable asbestos containing material) issued by the chief executive.

Editor's note—

The information papers may be obtained at no cost from any office of the department dealing with workplace health and safety, or at the department's website at <www.deir.qld.gov.au>.

Part 5 Bonded asbestos removal certificate

51 Application of pt 5

This part applies to work to remove 10m² or more of bonded asbestos containing material.

52 Authority to perform work to remove bonded asbestos containing material

- (1) A relevant person who is an employer must not employ or otherwise allow a worker to perform work to remove 10m² or more of bonded asbestos containing material unless the worker has appropriate authority to perform the work.

Maximum penalty—40 penalty units.

- (2) A person must not perform work to remove 10m² or more of bonded asbestos containing material unless the person has appropriate authority to perform the work.

Maximum penalty—40 penalty units.

- (3) A person has appropriate authority to perform work to remove 10m² or more of bonded asbestos containing material if—

- (a) the person holds a bonded asbestos removal certificate;
or
- (b) the person performs the work under a certificate that—
- (i) is held by a relevant person to perform work to remove friable asbestos containing material; and

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- (ii) allows the firstmentioned person to perform the work; or
 - (c) the person holds an assessment summary under subsection (4) about the person's competence to perform work to remove bonded asbestos containing material, that was issued within 60 days before the day on which the work is to be performed; or
 - (d) the person has applied under section 53 for a bonded asbestos removal certificate, and has not received from the chief executive—
 - (i) the certificate; or
 - (ii) notice of refusal for the application.
- (4) An assessment summary for a person named in the summary must—
- (a) be issued by an authorised accredited provider or a registered training organisation; and
 - (b) state that—
 - (i) the person is competent to perform work to remove bonded asbestos containing material; and
 - (ii) the person demonstrated the appropriate underpinning knowledge for the competency assessed; and
 - (c) if—
 - (i) the assessment summary is issued by an authorised accredited provider, state the authorised accredited provider and be signed by the authorised accredited provider; or
 - (ii) the assessment summary is issued by a registered training organisation, state the person who performed the assessment and be signed by the person.
- (5) In this section—

authorised accredited provider means an accredited provider whose functions under section 178(2) of the Act include assessing a person's competence to perform work to remove bonded asbestos containing material.

53 Application for bonded asbestos removal certificate

- (1) A person may apply to the chief executive, under part 8, division 2, for a bonded asbestos removal certificate.
- (2) The chief executive may grant the application only if the chief executive is satisfied that, within 60 days before the application was made, an authorised accredited provider or a registered training organisation has assessed the applicant, under the approved criteria, as competent to perform work to remove bonded asbestos containing material.
- (3) In this section—

approved criteria means the criteria stated in Information Paper AR3 (Approved criteria for a certificate to perform work to remove bonded asbestos containing material) issued by the chief executive.

54 Term of certificate

A bonded asbestos removal certificate is for a term of 5 years.

55 Certificate holder to notify change of address

The holder of a bonded asbestos removal certificate must notify the chief executive of a change of the certificate holder's residential or postal address within 14 days after the change.

Maximum penalty—10 penalty units.

[s 56]

Part 6 **Workplace health and safety officers**

56 **Workplaces requiring a workplace health and safety officer—Act, s 93**

For section 93 of the Act, workplaces in the following industries are prescribed workplaces—

- (a) building and construction industry;
- (b) community services industry;
- (c) electricity, gas and water industry;
- (d) financial, property and business services industry;
- (e) manufacturing industry;
- (f) public administration industry;
- (g) recreational services, personal services and other services industry;
- (h) retail and wholesale trade industry;
- (i) transport and storage industry.

57 **Application for certificate of authority of appointment**

- (1) A person may apply to the chief executive, under part 8, division 2, for a certificate of authority of appointment of a workplace health and safety officer.
- (2) The chief executive may grant the application only if the chief executive is satisfied that—
 - (a) within 3 months before the application is made—
 - (i) for an application for a certificate—a registered training organisation has assessed the applicant as competent to perform the functions of a workplace health and safety officer under the Act; or
 - (ii) for an application for renewal of a certificate—a registered training organisation has assessed the

applicant as competent to continue to perform the functions of a workplace health and safety officer under the Act; or

- (b) the applicant has other qualifications or experience that would enable the applicant to satisfactorily perform the functions of a workplace health and safety officer.
- (3) The applicant may satisfy the chief executive for subsection (2) by giving the chief executive satisfactory evidence that the applicant has completed—
 - (a) for subsection (2)(a)(i)—an approved workplace health and safety officer course; or
 - (b) for subsection (2)(a)(ii)—an approved workplace health and safety officer recertification course.
- (4) A certificate is valid for the term, of a maximum of 5 years, stated in the certificate.
- (5) In this section—

approved workplace health and safety officer course means a course approved by the chief executive under section 58(1)(a).

approved workplace health and safety officer recertification course means a course approved by the chief executive under section 58(1)(b).

58 Approval of workplace health and safety officer course

- (1) The chief executive may approve—
 - (a) a workplace health and safety officer course; and
 - (b) a workplace health and safety officer recertification course.
- (2) The chief executive must not approve a workplace health and safety officer course or recertification course unless the chief executive is satisfied the course gives adequate instruction about the functions of a workplace health and safety officer under the Act.

Part 7 **Accredited providers, registered training organisations, approvals and related matters**

Division 1 **Accredited providers**

59 **Application for appointment as an accredited provider**

- (1) A person may apply to the chief executive under part 8, division 2, for a certificate of appointment as an accredited provider.
- (2) An appointment is valid for the term, of a maximum of 5 years, stated in the certificate.

Note—

See part 14, division 1 of the Act for further provisions about accredited providers.

60 **Authorised accredited provider to make record of assessment and give a copy to applicant**

- (1) This section applies if an authorised accredited provider has assessed an applicant's competency for part 4 or 5.
- (2) After assessing the applicant's competency, the authorised accredited provider must—
 - (a) make a record of the assessment; and
 - (b) give a copy of it to the applicant.

Maximum penalty—20 penalty units.

- (3) In this section—

authorised accredited provider—

- (a) if the assessment was made under part 4—see schedule 18; or

-
- (b) if the assessment was made under part 5—see section 52.

61 Record of assessment by authorised accredited provider before 1 July 2007

- (1) This section applies if—
 - (a) an authorised accredited provider has assessed an applicant’s competency for part 3 or 6 as in force at any time before 1 July 2007; and
 - (b) the authorised accredited provider holds a record of the assessment.
- (2) The authorised accredited provider must—
 - (a) if required in writing by the chief executive—give the record of assessment to the chief executive in the way stated in writing by the chief executive; or
 - (b) otherwise—keep the record of assessment for at least 5 years after the assessment is made.

Maximum penalty—40 penalty units.

- (3) In this section—

authorised accredited provider means—

- (a) if the assessment was made under part 3 as in force at any time before 1 July 2007—an accredited provider whose functions under section 178(2) of the Act include assessing a person’s competency to perform work in the prescribed occupation involved; or
- (b) if the assessment was made under part 6 as in force at any time before 1 July 2007—an accredited provider whose functions under section 178(2) of the Act include the conduct of the course in relation to which the assessment is made.

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Division 2 Duties, and monitoring, of registered training organisations

62 Registered training organisation's duty for assessing competency

- (1) A registered training organisation must ensure that each person who trains or assesses the competency of an applicant for part 3, 4, 5 or 6 complies with the requirements of—
- (a) the *Vocational Education, Training and Employment Act 2000* in relation to the training or assessment; and
 - (b) any agreement entered into by the registered training organisation for the training or the assessment in the accredited courses that are listed in schedule 2.

Maximum penalty—40 penalty units.

- (2) A registered training organisation must ensure each person who trains or assesses the competency of a person in the general induction training course complies with the requirements of—
- (a) the *Vocational Education, Training and Employment Act 2000* in relation to the training or assessment; and
 - (b) any agreement entered into by the registered training organisation for the training or assessment.

Maximum penalty—40 penalty units.

63 When registered training organisation must not make practical assessment

A registered training organisation must not make a practical assessment of an applicant's competency, in a unit of competency, for part 3, 4, 5 or 6 unless—

- (a) either—
 - (i) the applicant has finished the formal training and informal learning for the unit of competency; or

-
- (ii) the registered training organisation is satisfied, on reasonable grounds, that the applicant has acquired adequate skill and knowledge relevant to the unit of competency in a way other than by training; and
 - (b) the applicant had a competent assessment result in—
 - (i) the written assessment in the unit of competency; and
 - (ii) if an assignment is required to be assessed under the assessment instrument for the unit of competency, and was assessed—assignment assessment in the unit of competency.

Maximum penalty—20 penalty units.

64 Registered training organisation's duties before issuing statement of attainment

- (1) This section applies if a registered training organisation provides training in a unit of competency for part 3, 4, 5 or 6.
- (2) The registered training organisation must perform an assessment in the unit of competency in accordance with the assessment instrument for the unit of competency, before issuing a statement of attainment for the unit of competency.

Maximum penalty—20 penalty units.

- (3) Subsection (2) does not apply if, under a table of equivalent competencies issued by the chief executive, the registered training organisation has decided the person is eligible to receive recognition of competency as equivalent to competency in the unit of competency.
- (4) If subsection (3) does not apply, the registered training organisation must not issue a statement of attainment unless the person to whom the statement relates has a competent assessment result in the following assessments in the unit of competency—
 - (a) written assessment;
 - (b) practical assessment;

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- (c) if an assignment is required to be assessed under the assessment instrument for the unit of competency, and was assessed—assignment assessment.

Maximum penalty—20 penalty units.

65 Record of assessment by registered training organisation

After a registered training organisation has assessed an applicant's competency for part 3, 4, 5 or 6, the organisation must do each of the following—

- (a) make an assessment summary for the unit of competency to which the assessment relates;
- (b) if the registered training organisation decides that the applicant is competent in the unit of competency—issue a statement of attainment for the unit of competency;
- (c) give a copy of the assessment summary and statement of attainment to the applicant.

Maximum penalty—20 penalty units.

66 Other duties of registered training organisation

A registered training organisation that provides training in a unit of competency for part 3, 4, 5 or 6 must—

- (a) provide the training in accordance with the unit of competency; and
- (b) for a unit of competency for part 3—allow an individual to assess an applicant's competency for the unit of competency, only if the individual, on or after 1 January 2009—
 - (i) holds a training and assessment approval in relation to the unit of competency; or
 - (ii) has complied with any criteria that must be complied with, under a corresponding law, to enable the individual to provide training and

assessment relating to the unit of competency for a purpose that is the same as or similar to a purpose of part 3; and

- (c) give a test for an assessment of an applicant's competency for part 3, 4, 5 or 6, only in accordance with any tests and assessment instructions issued by the chief executive; and
- (d) not give the test to a trainee before the trainee does the test; and
- (e) keep, in a secure way, any model answers for the test until after the test is given to the trainee; and
- (f) not give any model answers for the test to a trainee until after the test is given to the trainee; and
- (g) keep the test papers and answers, and a copy of the assessment summary, for the assessment for at least 5 years from the day of the assessment; and
- (h) for part 3, recognise competency as equivalent to competency in a unit of competency, only in accordance with a table of equivalent competencies, issued by the chief executive.

Maximum penalty—20 penalty units.

67 Monitoring of registered training organisation's compliance

- (1) The chief executive may monitor a registered training organisation's compliance with this division.
- (2) The chief executive must report the results of the monitoring to the chief executive of the department within which the *Vocational Education, Training and Employment Act 2000* is administered.

Division 3 False documents

68 Person must not sign false assessment summary

A person must not sign an assessment summary that is relied on, or is likely to be relied on, under this regulation if the person knows the assessment summary is false.

Maximum penalty—40 penalty units.

69 Making available document purporting to be statement of attainment

A person must not make available to another person a document that—

- (a) purports to be a statement of attainment; and
- (b) is relied on, or likely to be relied on, under this regulation;

if the person knows the document is not a statement of attainment.

Maximum penalty—40 penalty units.

Division 4 Approval of individual to provide training and assessment

70 Approval of individual to provide training and assessment

- (1) An individual may apply to the chief executive for approval to provide training and assessment, for part 3 for either or both of the following, for a registered training organisation whose scope of registration under the *Vocational Education, Training and Employment Act 2000* covers the assessment and training—

- (a) a unit of competency for a class of high risk work;

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- (b) a unit of competency for an earthmoving or particular crane occupation.
- (2) The chief executive may grant the application only if the chief executive is satisfied the individual has the qualifications, training and experience to provide the training and assessment to the standard appropriate for part 3.
 - (3) The application must—
 - (a) be made in writing; and
 - (b) be accompanied by advice by the registered training organisation to the chief executive that the registered training organisation supports the application; and
 - (c) be supported by enough information to enable the chief executive to decide the application.
 - (4) The chief executive may require the applicant to give the chief executive any further information the chief executive reasonably requires to decide the application.
 - (5) A requirement under subsection (4) may state a reasonable period, of at least 28 days, by which the stated further information must be given to the chief executive.

71 Chief executive to decide application for training and assessment approval within 28 days

- (1) The chief executive must decide the application for training and assessment approval within 28 days after the application is made.
- (2) However, if the chief executive requires the applicant to give the chief executive further information under section 70(4), the chief executive must decide the application within a reasonable period, but within 28 days, after receiving the information.

72 Grant of approval

If the chief executive decides to grant the application for training and assessment approval, the chief executive must

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grant the training and assessment approval, in the approved form, to the applicant within 10 days after making the decision.

73 Notice of refusal of application

- (1) If the chief executive decides to refuse the application for training and assessment approval, the chief executive must give written notice to the applicant of the decision within 10 days after making the decision.
- (2) The notice must state—
 - (a) the reasons for the refusal; and
 - (b) that the person may appeal against the decision under part 11 of the Act.

Division 5 Suspension and cancellation of training and assessment approval

74 Grounds for suspension or cancellation of approval

- (1) The chief executive may, on any of the grounds mentioned in subsection (2), suspend or cancel a training and assessment approval.
- (2) The grounds are as follows—
 - (a) the holder of the training and assessment approval has contravened the Act or this regulation, whether or not the holder has been charged with, or convicted of, an offence;
 - (b) the training and assessment approval was—
 - (i) issued in error; or
 - (ii) issued because of a false or misleading document or representation; or
 - (iii) obtained in another improper way.

75 Procedure for suspension or cancellation

- (1) Before taking action under section 74(1), the chief executive must give the holder of the training and assessment approval a written notice that—
 - (a) states the action proposed to be taken under section 74(1); and
 - (b) states the grounds for the proposed action; and
 - (c) outlines the facts and circumstances forming the basis for the grounds; and
 - (d) if the proposed action is suspension of the training and assessment approval—states the proposed period of the suspension; and
 - (e) invites the holder to show, within a stated period of at least 28 days, why the proposed action should not be taken.
- (2) If, after considering all representations made within the stated period, the chief executive still considers grounds to take the proposed action exist, the chief executive may—
 - (a) if the notice stated a proposal to suspend the training and assessment approval—suspend the training and assessment approval for a period no longer than the stated period; or
 - (b) if the notice stated a proposal to cancel the training and assessment approval—cancel or suspend the training and assessment approval.
- (3) The chief executive must, by written notice, inform the holder about the decision.
- (4) A notice under subsection (3) must be given within 5 days after the chief executive makes the decision.
- (5) The chief executive must give a copy of the notice under subsection (3) to the registered training organisation for which the holder provides training and assessment.

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- (6) If the chief executive decides to suspend or cancel the training and assessment approval, the notice under subsection (3) must state—
 - (a) the reasons for the decision; and
 - (b) that the holder may appeal against the decision under part 11 of the Act.
- (7) The decision takes effect on the later of the following—
 - (a) the day the notice under subsection (3) is given to the holder;
 - (b) the day stated in that notice.

76 Immediate suspension of approval

- (1) This section applies if the chief executive reasonably believes—
 - (a) a training and assessment approval was—
 - (i) issued in error or because of a false or misleading document or representation; or
 - (ii) obtained in another improper way; and
 - (b) a person may be exposed to substantial risks to his or her health or safety if urgent action to suspend the training and assessment approval is not taken.
- (2) The chief executive may, by notice under subsection (3), (*immediate suspension notice*) immediately suspend the training and assessment approval.
- (3) The immediate suspension notice must state the following—
 - (a) that the training and assessment approval is suspended;
 - (b) the grounds for the suspension;
 - (c) an outline of the facts and circumstances forming the basis of the grounds;
 - (d) the immediate suspension has effect until the later of the following—

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- (i) 14 days after the date of the immediate suspension notice;
 - (ii) if, within that period of 14 days, a notice is given under section 75(1) to the holder—when a decision of the chief executive relating to the proposed action to suspend or cancel the training and assessment approval takes effect under section 75(7);
 - (e) that the holder may appeal against the decision to immediately suspend the training and assessment approval under part 11 of the Act.
- (4) The chief executive must give a copy of the immediate suspension notice to the registered training organisation for which the holder provides training and assessment.

77 When immediate suspension has effect until

- (1) This section applies if an immediate suspension notice is given to the holder of a training and assessment approval.
- (2) The suspension has effect until the later of the following—
 - (a) 14 days after the immediate suspension notice is given;
 - (b) if, within that period of 14 days, a notice under section 75(1) is given to the holder—when a decision of the chief executive relating to the proposed action to suspend or cancel the approval takes effect under section 75(7).

Part 8 Certificates and licences

Division 1 Definitions

78 Definitions for pt 8

(1) In this part, other than division 3—

certificate means any of the following—

- (a) a certificate of registration of registrable plant;
- (b) a certificate of registration of registrable plant design;
- (c) an earthmoving or particular crane work certificate;
- (d) a certificate of authority of appointment of a workplace health and safety officer;
- (e) a certificate of appointment as an accredited provider;
- (f) a bonded asbestos removal certificate;
- (g) a certificate to perform a prescribed activity.

(2) In this part—

licence means a licence to perform a class of high risk work.

variation of a licence means a variation of a licence—

- (a) to endorse another class of high risk work on the licence; or
- (b) to remove a class of high risk work from the licence.

**Division 2 Applications for certificates,
licences and variations of licences**

**Subdivision 1 Certificates, licences and variations
of licences generally**

**79 How to apply for a certificate, other than an earthmoving
or particular crane work certificate**

- (1) An application for a certificate, other than an earthmoving or particular crane work certificate, must—
 - (a) be made to the chief executive in the approved form; and
 - (b) be supported by enough information to enable the chief executive to decide the application; and
 - (c) be accompanied by—
 - (i) the fee under schedule 1 for the application; and
 - (ii) evidence, satisfactory to the chief executive, of the applicant's identity, including date of birth; and
 - (iii) an assessment summary complying with section 25(4)(a) to (c) for the applicant for the unit of competency that relates to the application; and
 - (iv) a statement of attainment for the applicant for the unit of competency, issued by a registered training organisation within 60 days before the application is made.
- (2) Subsection (3) applies if an assessment summary is required to be included in an application for a bonded asbestos removal certificate.
- (3) The chief executive may, for the application, exempt the person from the requirement if the chief executive is satisfied the applicant—
 - (a) is a competent person under section 50(2); and

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- (b) has performed work to remove friable asbestos containing material, or work to remove 10m² or more of bonded asbestos containing material, in the last 5 years; and
 - (c) is competent to perform work to remove bonded asbestos containing material.
- (4) Subsection (5) applies if an assessment summary is required to be included in an application for a certificate of authority of appointment of a workplace health and safety officer.
- (5) The chief executive may, for the application, exempt the person from the requirement if the chief executive is satisfied the applicant has at least the level of competence required for the unit of competency to which the assessment summary relates.

80 How to apply for an earthmoving or particular crane work certificate

- (1) This section applies to an application for an earthmoving or particular crane work certificate for an earthmoving or particular crane occupation.

Note—

An earthmoving or particular crane work certificate is for a single earthmoving or particular crane occupation.

- (2) The applicant must not already hold an earthmoving or particular crane work certificate, or a corresponding authority to an earthmoving or particular crane work certificate, for the occupation, whether or not the certificate or corresponding authority has been suspended.
- (3) The application must—
- (a) be made to the chief executive in the approved form; and
 - (b) be supported by enough information to enable the chief executive to decide the application; and
 - (c) be accompanied by—
 - (i) the fee under schedule 1 for the application; and

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- (ii) evidence, satisfactory to the chief executive, of the applicant's identity, including date of birth; and
 - (iii) an assessment summary under section 25(4) for the applicant, in the unit of competency for the earthmoving or particular crane occupation to which the application relates; and
 - (iv) a statement of attainment for the unit of competency for the earthmoving or particular crane occupation issued by a registered training organisation within 60 days before the application is made.
- (4) If the chief executive is satisfied the applicant has at least the level of competence required for the unit of competency, the chief executive may, for the application, exempt the person from the requirements under subsection (3)(c)(iii) and (iv).
 - (5) The chief executive may require the applicant to give the chief executive any further information the chief executive reasonably requires to decide the application.
 - (6) A requirement under subsection (5) may state a reasonable period, of at least 28 days, by which the stated further information must be given to the chief executive.

81 Eligibility to obtain particular licence classes

- (1) To be eligible to obtain the licence class basic rigger, a person must hold—
 - (a) the licence class dogger or a corresponding authority to the licence class; or
 - (b) a summary, and statement of attainment, for the unit of competency for the class of high risk work dogger.
- (2) To be eligible to obtain the licence class intermediate rigger, a person must hold—
 - (a) the licence class basic rigger or a corresponding authority to the licence class; or

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- (b) a summary, and statement of attainment, for the unit of competency for the class of high risk work basic rigger.
- (3) To be eligible to obtain the licence class advanced rigger, a person must hold—
 - (a) the licence class intermediate rigger or a corresponding authority to the licence class; or
 - (b) a summary, and statement of attainment, for the unit of competency for the class of high risk work intermediate rigger.
- (4) To be eligible to obtain the licence class intermediate scaffolder, a person must hold—
 - (a) the licence class basic scaffolder or a corresponding authority to the licence class; or
 - (b) a summary, and statement of attainment, for the unit of competency for the class of high risk work basic scaffolder.
- (5) To be eligible to obtain the licence class advanced scaffolder, a person must hold—
 - (a) the licence class intermediate scaffolder or a corresponding authority to the licence class; or
 - (b) a summary, and statement of attainment, for the unit of competency for the class of high risk work intermediate scaffolder.
- (6) To be eligible to obtain the licence class intermediate boiler operator, a person must hold—
 - (a) the licence class basic boiler operator or a corresponding authority to the licence class; or
 - (b) a summary for the unit of competency for the class of high risk work basic boiler operator.
- (7) To be eligible to obtain the licence class advanced boiler operator, a person must hold—
 - (a) the licence class intermediate boiler operator or a corresponding authority to the licence class; or

(b) a summary for the unit of competency for the class of high risk work intermediate boiler operator.

(8) In this section—

summary means an assessment summary complying with section 18(5).

82 How to apply for a licence or variation of a licence to endorse another class of high risk work

(1) This section applies to an application for—

- (a) a licence; or
- (b) a variation of a licence to endorse another class of high risk work on the licence.

(2) The applicant must not already hold the licence or licence class to which the application relates or, subject to section 83, a corresponding authority to the licence or licence class, whether or not the licence, licence class or corresponding authority has been suspended.

(3) The application must—

- (a) be made to the chief executive in the approved form; and
- (b) be made by the applicant in person; and
- (c) be supported by enough information to enable the chief executive to decide the application; and
- (d) be accompanied by—
 - (i) the fee under schedule 1 for the application; and
 - (ii) evidence, satisfactory to the chief executive, of the applicant's identity, including date of birth; and
 - (iii) an assessment summary complying with section 18(5) for the applicant, in the unit of competency for the class of high risk work to which the application relates; and
 - (iv) a statement of attainment for the unit of competency for the class of high risk work issued

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by a registered training organisation within 60 days before the application is made.

- (4) If the chief executive is satisfied the applicant has at least the level of competence required for the unit of competency, the chief executive may, for the application, exempt the person from the requirements under subsection (3)(d)(iii) and (iv).
- (5) The chief executive may require the applicant to give the chief executive any further information the chief executive reasonably requires to decide the application.
- (6) A requirement under subsection (5) may state a reasonable period, of at least 28 days, by which the stated further information must be given to the chief executive.

83 If applicant for licence or variation of a licence holds a corresponding authority to licence or licence class

- (1) This section applies if an applicant for a licence or for a variation of a licence to endorse another class of high risk work on the licence holds a corresponding authority to the licence or to the licence class to which the application relates.
- (2) The chief executive must not issue the licence or licence class unless the recognised authority has advised the chief executive that the corresponding authority is validly held.
- (3) Without limiting the things that must accompany the application, the application must be accompanied by written authority given by the applicant to the recognised official who issued the corresponding authority to cancel or otherwise end the corresponding authority.

84 How to apply for a variation of a licence to remove a class of high risk work

An application for a variation of a licence to remove a class of high risk work from a licence must—

- (a) be made to the chief executive in the approved form; and

- (b) be supported by enough information to enable the chief executive to decide the application.

85 Refusal to grant licence or variation for applicant's misconduct

- (1) This section applies to an application for—
 - (a) a licence; or
 - (b) a variation of a licence to endorse another class of high risk work on the licence.
- (2) The chief executive may refuse to grant the application if, within the 2 years immediately before the application is made, the applicant had a licence or licence class to which the application relates, or a corresponding authority to the licence or licence class, suspended or cancelled because the licence, licence class or corresponding authority was—
 - (a) issued because of a document or representation made by or for the applicant that was false or misleading; or
 - (b) obtained in another improper way by conduct of the applicant.

86 Refusal to grant certificate, licence or variation—false assessment summary

- (1) This section applies to an application for—
 - (a) a certificate; or
 - (b) a licence; or
 - (c) a variation of a licence to endorse another class of high risk work on the licence.
- (2) The chief executive may refuse to grant the certificate, licence or variation if a person who performed an assessment summary that is relied on for the application has, within 5 years immediately before the application is made, been charged with or convicted of an offence against section 68.

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- (3) Subsection (2) does not apply if the charge is withdrawn or dismissed.
- (4) Despite subsection (2), the chief executive may grant the certificate, licence or variation if the chief executive reasonably believes the assessment summary is satisfactory in the particular case.

87 Refusal to grant earthmoving or particular crane work certificate for applicant's misconduct

- (1) This section applies to an application for an earthmoving or particular crane work certificate.
- (2) The chief executive may refuse to grant the application if, within 2 years immediately before the application is made, the applicant had an earthmoving or particular crane work certificate, or a corresponding authority to an earthmoving or particular crane work certificate, suspended or cancelled because the certificate or corresponding authority was—
 - (a) issued because of a document or representation made by or for the applicant that was false or misleading; or
 - (b) obtained in another improper way by conduct of the applicant.

88 Refusal of application for lack of competence or for misconduct

- (1) This section applies to an application for—
 - (a) a certificate, other than a certificate of registration of registrable plant or a certificate of registration of registrable plant design; or
 - (b) a licence; or
 - (c) a variation of a licence to endorse another class of high risk work on the licence.
- (2) The chief executive may refuse the application if the chief executive reasonably believes that—

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- (a) the applicant is not competent to perform the work or function that may be performed under the certificate or licence if the application were granted; or
 - (b) an assessment summary or statement of attainment relied on for the application was—
 - (i) issued in error or because of a representation that was false or misleading; or
 - (ii) obtained in another improper way.

89 Refusal of applications for particular certificates

- (1) This section applies to an application for—
 - (a) a certificate of appointment as an accredited provider; or
 - (b) a certificate of authority of appointment of a workplace health and safety officer; or
 - (c) a certificate to perform a prescribed activity; or
 - (d) a bonded asbestos removal certificate.
- (2) The chief executive must refuse to grant the application if the applicant already holds a certificate of the same type.
- (3) The chief executive may refuse to grant the application if the chief executive has cancelled a certificate of the same type within 2 years immediately before the application is made because the certificate was—
 - (a) issued because of a document or representation made by or for the applicant that was false or misleading; or
 - (b) obtained in another improper way by conduct of the applicant.

90 Chief executive to decide application within 28 days

- (1) The chief executive must decide an application for a certificate, licence or variation of a licence within 28 days after the application is made.

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- (2) However, if the chief executive requires the applicant to give the chief executive further information under section 80(5) or 82(5), the chief executive must decide the application within a reasonable period, but within 28 days, after receiving the information.

91 Grant of certificate, licence or variation of a licence

If the chief executive decides to grant an application for a certificate, licence or variation of a licence, the chief executive must grant the certificate, licence or variation in the approved form to the applicant within 10 days after making the decision.

92 Notice of refusal of application

- (1) If the chief executive decides to refuse an application for a certificate, licence or variation of a licence, the chief executive must give written notice to the applicant (*notice of refusal*) of the decision within 10 days after making the decision.
- (2) The notice of refusal must state—
 - (a) the reasons for the refusal; and
 - (b) that the person may appeal against the decision under part 11 of the Act.

93 Grant of certificate, licence or variation of licence on conditions

- (1) The chief executive may grant a certificate, licence or variation of a licence on conditions the chief executive considers appropriate.
- (2) This section does not apply to a variation of a licence to remove a class of high risk work from the licence.

94 Term of licence

- (1) A licence to perform a class of high risk work is for a term of 5 years.
- (2) For subsection (1), it is irrelevant that the licence is endorsed with another class of high risk work after the licence was granted.

Example—

A licence is granted on 1 January 2010. A variation of the licence is made on 1 March 2010. The licence ends at midnight on 1 January 2015.

Subdivision 2 Renewal of licences

95 When licence may be renewed

- (1) An application for renewal of a licence may only be made within 6 months before the licence ends and not more than 1 year after the licence ends.
- (2) The renewal of a licence, on an application made under subsection (1) after the licence ends, does not have the effect of retrospectively licensing the holder of the licence.

96 How to apply for renewal of a licence

- (1) An application for renewal of a licence must—
 - (a) be made to the chief executive in the approved form; and
 - (b) be made by the applicant in person; and
 - (c) be accompanied by—
 - (i) evidence, satisfactory to the chief executive, of the applicant's identity; and
 - (ii) the fee under schedule 1 for the application.
- (2) The chief executive may require the applicant to give the chief executive any further information the chief executive reasonably requires to decide the application.

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- (3) A requirement under subsection (2) may state a reasonable period, of at least 28 days, by which the stated further information must be given to the chief executive.

97 Renewal of licences

If the chief executive is satisfied the applicant for renewal of a licence has complied with section 96, the chief executive must renew the licence unless the chief executive must refuse the application under section 98.

98 Refusal to renew licence for lack of competence

The chief executive must refuse an application for renewal of a licence if the chief executive considers the applicant is no longer competent to perform the class of high risk work to which the licence relates without exposing the applicant or someone else to risks to his or her health or safety.

99 Notice of refusal of application

- (1) If the chief executive decides to refuse an application for renewal of a licence, the chief executive must give written notice to the applicant about the decision within 10 days after making the decision.
- (2) The notice must state—
 - (a) the reasons for the refusal; and
 - (b) that the person may appeal against the decision under part 11 of the Act.

Subdivision 3 Provisions about certificates of registration of registrable plant design

100 Application of sdiv 3

This subdivision applies to certificates of registration of registrable plant design.

101 Definitions for sdiv 3

In this subdivision—

design verifier, for the design of plant, means a person who has acquired by qualifications or design experience the knowledge and skills to accurately state that the design, or the part of the design for which a design verification statement is to be made, complies with a particular technical standard or engineering principles.

engineering principles means principles, stated or outlined in an engineering, mathematical or scientific text, relevant to safe plant design, commonly used in professional engineering practice.

technical standard, for the design of plant, means a standard published by—

- (a) the chief executive; or
- (b) Standards Australia; or
- (c) another organisation that publishes standards about the design of plant.

Examples of paragraph (c)—

- American National Standards Institute
- American Society of Mechanical Engineers
- Canadian Standards Association
- International Standards Organisation
- Europäische Norm (European Standard)

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102 Application for certificate of registration of registrable plant design

An application for a certificate of registration of registrable plant design must be accompanied by—

- (a) a statement in the approved form by a design verifier for the design (a *design verification statement*) stating—
 - (i) either—
 - (A) if the technical standard, or engineering principles, if any, complied with to produce the design or the part of the design for which the statement is made have a title—the title; or
 - (B) otherwise—a way of identifying the technical standard or engineering principles; and
 - (ii) that the design, or the part of the design, complies with the technical standard or engineering principles; and
- (b) representational drawings—
 - (i) on paper not larger than A3; or
 - (ii) in electronic form that when printed will be not larger than A3; and
- (c) the fee under schedule 1, section 3.

103 Prohibitions relating to design verification statements

- (1) An applicant for a certificate of registration of registrable plant design must not allow another person to make a design verification statement for any part of the design that the other person was involved in designing.

Maximum penalty—20 penalty units.

- (2) A person must not make a design verification statement for any part of a design of plant that the person was involved in designing.

Maximum penalty—20 penalty units.

104 Chief executive may ask for additional information for registration

- (1) The chief executive may, in writing, require an applicant for a certificate of registration of registrable plant design to give the chief executive any of the following additional information about the plant—
- (a) detailed drawings;
 - (b) design calculations;
 - (c) operating instructions;
 - (d) control system diagrams;
 - (e) the sequence of operation of the controls;
 - (f) maintenance requirements;
 - (g) a statement of the limits on the use of the plant;
 - (h) if the design was produced using a technical standard other than a Standards Australia standard—a copy of the standard;
 - (i) if the design was produced using engineering principles—a copy of the engineering principles.
- (2) The applicant must give the chief executive the information about the design, in English, within—
- (a) 10 days after the requirement is made; or
 - (b) any further time the chief executive allows.
- (3) The chief executive may refuse the application if the applicant does not comply with the requirement.

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105 Chief executive may require information from certificate holder

- (1) The chief executive may, in writing, require the holder of a certificate of registration of registrable plant design to give the chief executive any of the information mentioned in section 104(1).
- (2) The holder must give the chief executive the information, in English, within 28 days after the requirement is made.
- (3) The holder must comply with the requirement unless the holder has a reasonable excuse.

Maximum penalty for subsection (3)—20 penalty units.

Subdivision 4 Provisions about certificates of registration of registrable plant that is mobile crane or tower crane

106 Application of sdiv 4

This subdivision applies to certificates of registration of registrable plant that is a mobile crane or tower crane specified in schedule 3.

107 Definitions for sdiv 4

In this subdivision—

certificate of registration of a mobile crane or tower crane means a certificate of registration of registrable plant that is a mobile crane or tower crane specified in schedule 3.

competent person—

- (a) for an inspection of a mobile crane or tower crane that is 10 years old or a multiple of 10 years—means an engineer; or
- (b) for any other inspection of a mobile crane or tower crane—means a person who—

- (i) has a sound knowledge of relevant Australian Standards, relevant codes of practice and other relevant legislation; and
- (ii) has a sound knowledge of, and competence in, the risk management process for the erection, operation, maintenance, repair, alteration and dismantling of cranes; and
- (iii) has acquired, through training, qualifications or experience, the necessary skills to design procedures for the inspection, maintenance and repair of the crane.

108 Application for certificate of registration of a mobile crane or tower crane

An application for a certificate of registration of a mobile crane or tower crane must—

- (a) state the age of the mobile crane or tower crane; and
- (b) contain a statement by the owner of the crane that—
 - (i) during the period of 1 year before the application was made, the crane has been maintained in accordance with the instructions of the designer and manufacturer, and with relevant Australian Standards, relevant codes of practice and other relevant legislation; and
 - (ii) within 1 year before the application was made, the crane has been inspected by a competent person who has certified that—
 - (A) the crane has been maintained in accordance with the instructions of the designer and manufacturer, and with relevant Australian Standards, relevant codes of practice and other relevant legislation; and
 - (B) the crane is safe to use; and

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- (c) state the name, address, contact details and qualifications of the competent person; and
- (d) state the date the competent person inspected the crane.

109 Application under s 108 if engineer can not inspect because of unforeseeable circumstances

- (1) This section applies, despite section 108(b)(ii), if—
 - (a) an application is made under that section for a certificate of registration of a mobile crane or tower crane; and
 - (b) the application should include a statement about a certification by an engineer in relation to an inspection of the crane but does not include the statement.
- (2) If the chief executive is satisfied the application can not contain the statement mentioned in subsection (1)(b) because the crane could not be inspected due to unforeseeable circumstances, the chief executive may, for the application, accept a statement under section 108(b)(ii) that a competent person, other than an engineer, has certified to the matters mentioned in the subparagraph.

Example of unforeseeable circumstances—

A crane is used at a high rise construction site and the period for which the crane is required at the site extends beyond the time by which the inspection is due because of prolonged unseasonal wet weather that prevents the use of the crane.

- (3) This section expires on 31 January 2011.

Division 3 Renewal of particular certificates

110 Definition for div 3

In this division—

certificate means—

- (a) a certificate of registration of registrable plant; or

- (b) a certificate of authority of appointment of a workplace health and safety officer; or
- (c) a bonded asbestos removal certificate.

111 Renewal of certificate

- (1) The holder of a certificate may apply to the chief executive for its renewal.
- (2) The application must be—
 - (a) made in the approved form; and
 - (b) supported by enough information to enable the chief executive to decide the application.

112 Application for renewal before registration ends

An application for renewal of a certificate, other than a certificate of authority of appointment of a workplace health and safety officer, must be made at least 14 days before the certificate ends.

113 Div 2 applies to application for renewal

- (1) Division 2 applies to an application for renewal of a certificate in the same way it applies to an application for a certificate.
- (2) However, the chief executive may refuse an application for renewal of a certificate if the certificate was—
 - (a) issued in error or because of a document or representation that is false, misleading or omits a material particular; or
 - (b) obtained or made in another improper way.

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Division 4 Replacement and surrender of certificates and licences

114 Replacement of certificate or licence

- (1) The holder of a lost, damaged, destroyed or stolen certificate or licence may apply to the chief executive, in the approved form, for a replacement certificate or licence.
- (2) If the application relates to an earthmoving or particular crane work certificate, the application must be accompanied by—
 - (a) evidence, satisfactory to the chief executive, of the applicant's identity; and
 - (b) a statutory declaration stating the circumstances in which the certificate was lost, damaged, destroyed or stolen; and
 - (c) the fee under schedule 1 for the application.
- (3) If the application relates to a licence, the application must—
 - (a) state the circumstances in which the licence was lost, damaged, destroyed or stolen; and
 - (b) be accompanied by—
 - (i) evidence, satisfactory to the chief executive, of the applicant's identity; and
 - (ii) the fee under schedule 1 for the application.
- (4) The chief executive may replace the certificate or licence if the chief executive is satisfied it has been lost, damaged, destroyed or stolen.

115 Surrender of certificate or licence

- (1) The holder of a certificate or licence may surrender it by notice, in the approved form, given to the chief executive.
- (2) The notice must be accompanied by the certificate or licence.
- (3) The surrender of the certificate or licence takes effect—

- (a) on the day on which the notice is given; or
- (b) if a later day is stated in the notice—on the later day.

Division 5 Suspension and cancellation of certificates and licences

116 Grounds for suspension or cancellation

- (1) The chief executive may, on any of the grounds mentioned in subsection (2)—
 - (a) suspend or cancel a certificate, licence or licence class; or
 - (b) for a corresponding authority to an earthmoving or particular crane work certificate, licence or licence class—recommend to the recognised official who issued the authority that the official suspend or cancel the authority.
- (2) The grounds are as follows—
 - (a) the holder of the certificate, licence, licence class or corresponding authority—
 - (i) has contravened the Act or this regulation, whether or not the holder has been charged with, or convicted of, an offence; or
 - (ii) has not complied with a condition of the certificate, licence or licence class; or
 - (iii) has not taken reasonable precautions or exercised proper diligence in performing the work, activity or function for which the certificate, licence, licence class or corresponding authority was granted;
 - (b) the certificate, licence, licence class or corresponding authority was—
 - (i) issued in error; or

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- (ii) issued because of a document or representation that was false or misleading; or
 - (iii) obtained in another improper way;
- (c) for a certificate to perform a prescribed activity—the person who is to supervise the prescribed activity is medically unfit to supervise the prescribed activity;
- (d) for a bonded asbestos removal certificate, earthmoving or particular crane work certificate, licence, licence class, or corresponding authority to an earthmoving or particular crane work certificate, licence or licence class—
 - (i) the holder is medically unfit to perform work to which the certificate, licence, licence class or corresponding authority relates; or
 - (ii) the holder no longer has the competence to perform the work to which the certificate, licence, licence class or corresponding authority relates without exposing the holder or another person to risks to his or her health or safety;
- (e) for an earthmoving or particular crane work certificate, licence or licence class, if a statement of attainment for a unit of competency issued by a registered training organisation was given to the chief executive under section 80 or 82 for the application for the certificate or licence—
 - (i) the State has cancelled an agreement entered into by the registered training organisation for the training or the assessment in the accredited course for which the unit of competency is undertaken; or
 - (ii) the registered training organisation has, under the *Vocational Education, Training and Employment Act 2000*, section 32—
 - (A) had its registration as a registered training organisation suspended or cancelled; or

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- (B) had a part of its scope of registration, that covers the statement of attainment, suspended; or
 - (C) had its scope of registration amended so that the scope no longer covers the statement of attainment.
- (3) However, subsection (2)(e)(ii) applies only if the suspension of registration, suspension of part of the scope of registration, or cancellation, was because of incorrect or misleading information.

117 Procedure for suspension or cancellation

- (1) Before taking action mentioned in section 116(1) (*proposed action*), the chief executive must give the holder of the certificate, licence or corresponding authority a written notice (*show cause notice*) that—
- (a) states the proposed action; and
 - (b) states the grounds for the proposed action; and
 - (c) outlines the facts and circumstances forming the basis for the grounds; and
 - (d) if the proposed action is—
 - (i) suspension of an earthmoving or particular crane work certificate, licence or licence class—states the proposed period of suspension and whether or not retraining relating to the certificate, licence or licence class is to be a condition of the suspension ending; or
 - (ii) suspension of any other certificate or a recommendation that a recognised official suspend the corresponding authority—states the proposed period of the suspension; and
 - (e) invites the holder to show, within a stated period of at least 28 days, why the proposed action should not be taken.

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- (2) If, after considering all representations made within the stated period, the chief executive still considers grounds to take the proposed action exist, the chief executive may—
 - (a) if the show cause notice stated a proposal to suspend the certificate, licence or licence class—
 - (i) for a stated period with a requirement that retraining is to be undertaken as a condition of the suspension ending—state the condition about retraining and suspend the certificate, licence or licence class for a period no longer than the stated period; or
 - (ii) for a stated period but did not state retraining is to be undertaken as a condition of the suspension ending—suspend the certificate, licence or licence class for a period no longer than the stated period; or
 - (b) if the show cause notice stated a proposal to cancel the certificate, licence or licence class—
 - (i) cancel the certificate, licence or licence class; or
 - (ii) suspend the certificate, licence or licence class, with or without a requirement that retraining is to be undertaken as a condition of the suspension ending; or
 - (c) if the show cause notice stated matters relating to a corresponding authority to an earthmoving or particular crane work certificate, licence or licence class—recommend to the official who issued the corresponding authority that the official suspend or cancel the authority in accordance with the chief executive’s recommendation.
- (3) The chief executive must inform the holder of the decision by written notice.
- (4) The notice must be given within—
 - (a) if a notice was given to the holder under section 118 for the same reason as the show cause notice was given

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- under subsection (1)—5 days after the chief executive makes the decision; or
- (b) otherwise—10 days after the chief executive makes the decision.
- (5) If the chief executive decides to suspend or cancel the certificate, licence or licence class, or to recommend that a recognised official suspend or cancel the corresponding authority, the notice must state—
- (a) the reasons for the decision; and
- (b) that the holder may appeal against the decision under part 11 of the Act.
- (6) The decision takes effect on the later of the following—
- (a) the day the notice is given to the holder;
- (b) the day stated in the notice.

118 Immediate suspension of earthmoving or particular crane work certificate, licence or licence class

- (1) This section applies if the chief executive reasonably believes—
- (a) an earthmoving or particular crane work certificate, licence or licence class was—
- (i) issued in error or because of a document or representation that was false or misleading; or
- (ii) obtained in another improper way; and
- (b) the holder of the certificate, licence or licence class or someone else may be exposed to substantial risks to his or her health or safety if urgent action to suspend the certificate, licence or licence class is not taken.
- (2) The chief executive may, by notice under subsection (3), immediately suspend the certificate, licence or licence class.
- (3) The notice must state the following—
- (a) that the certificate, licence or licence class is suspended;

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- (b) the grounds for the suspension;
- (c) an outline of the facts and circumstances forming the basis of the grounds;
- (d) the immediate suspension has effect until the later of the following—
 - (i) 14 days after the date of the notice;
 - (ii) if a show cause notice is given to the holder, within 10 days after the notice is given, for proposed action to suspend or cancel the certificate, licence or licence class—
 - (A) the chief executive decides not to take the proposed action and gives written notice to the holder that the immediate suspension ends; or
 - (B) a decision of the chief executive, on the proposed action, to suspend or cancel the certificate, licence or licence class takes effect;
- (e) that the holder may appeal against the decision to suspend the certificate, licence or licence class under part 11 of the Act.

119 Further provision about immediate suspension

- (1) This section applies if notice is given, under section 118, to the holder of a certificate, licence or licence class.
- (2) The suspension has effect until the later of the following—
 - (a) 14 days after the notice is given;
 - (b) if a show cause notice is given to the holder, within 10 days after the notice is given, to suspend or cancel the certificate, licence or licence class—
 - (i) the chief executive decides not to take the proposed action and gives written notice to the holder that the immediate suspension ends; or

- (ii) a decision of the chief executive, on the proposed action, to suspend or cancel the certificate, licence or licence class takes effect.

120 Suspension or cancellation of earthmoving or particular crane work certificate, licence or licence class on recommendation of recognised official

- (1) This section applies to an earthmoving or particular crane work certificate, licence or licence class if—
 - (a) a recognised official recommends in writing to the chief executive that the chief executive suspend or cancel the certificate, licence or licence class; and
 - (b) the recommendation is made only after the official—
 - (i) has given the holder of the certificate, licence or licence class a reasonable opportunity to show cause why the certificate, licence or licence class should not be suspended or cancelled; and
 - (ii) has considered all written or oral submissions made by or for the holder to the official about why the proposed action should not be taken.
- (2) The chief executive may suspend or cancel the certificate, licence or licence class without complying with sections 116 and 117.
- (3) If the chief executive decides to cancel or suspend the certificate, licence or licence class, the chief executive must give the holder written notice about the decision stating—
 - (a) the reasons for the decision; and
 - (b) that the holder may appeal against the decision under part 11 of the Act.
- (4) The suspension or cancellation of the certificate, licence or licence class takes effect on the day stated in the notice, but not earlier than 14 days after the day the notice is given.

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121 Ending of licence if application for corresponding authority

The chief executive may end a licence, or licence class, if the holder of the licence or licence class—

- (a) applied for a corresponding authority to the licence or licence class; and
- (b) authorised the chief executive, in writing, to end the licence or licence class.

122 Chief executive may advise recognised official of particular matters

- (1) Subsection (2) applies if—
 - (a) a person has applied for—
 - (i) a licence; or
 - (ii) a variation of a licence to endorse another class of high risk work on the licence; and
 - (b) the person holds a corresponding authority to the licence or to the licence class to which the application relates; and
 - (c) the application was accompanied by written authority given by the person to the recognised official to cancel or otherwise end the corresponding authority.
- (2) The chief executive may advise the recognised official of the matters mentioned in subsection (1).

123 Requirement for retraining

- (1) The section applies in relation to a suspension under section 116(1) of any of the following—
 - (a) an earthmoving or particular crane work certificate;
 - (b) a licence;
 - (c) a licence class.

- (2) If the suspension included a requirement for retraining in relation to the certificate, licence or licence class, the suspension does not end until the chief executive is satisfied the holder of the certificate, licence or licence class has undertaken the training as stated in the notice given to the holder under section 117(3).

124 Certificate or licence to be returned

- (1) A person whose certificate, licence or licence class is suspended or cancelled must return the certificate or licence to which the suspension or cancellation relates to the chief executive within 14 days after the suspension or cancellation takes effect, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

- (2) If a suspended certificate is returned to the chief executive, the chief executive must return the certificate to the holder of the certificate at the end of the period of the suspension.
- (3) If the licence to which a suspension of a licence or licence class relates is returned to the chief executive and the licence is only for 1 licence class, the chief executive must return the licence to the holder of the licence at the end of the period of the suspension.

125 Replacement licence to be issued for remaining licence class

If a licence for more than 1 licence class is not suspended or cancelled in relation to all licence classes, the chief executive must issue a replacement licence for the licence to which the suspension or cancellation relates, for the class or classes of high risk work that are not suspended or cancelled.

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Division 6 Obligation of relevant person

126 Way to prevent or minimise risk prescribed

- (1) This section prescribes ways of preventing or minimising exposure to risk from lack of precautions or diligence.
- (2) If work is performed in conducting the business or undertaking of a relevant person under any of the following—
 - (a) a certificate other than—
 - (i) a certificate of registration of registrable plant; or
 - (ii) a certificate of registration of registrable plant design; or
 - (iii) a certificate of authority of appointment of a workplace health and safety officer;
 - (b) a licence;
 - (c) a corresponding authority to an earthmoving or particular crane work certificate, licence or licence class;

the relevant person must not induce the holder of the certificate, licence or authority not to take reasonable precautions or exercise proper diligence in performing the work, activity or function under the certificate, licence, licence class or authority.

Division 7 Miscellaneous

127 Giving information for administering Act

- (1) This section applies if the chief executive reasonably believes—
 - (a) a relevant person is a worker's employer or prospective employer; and
 - (b) the relevant person asks for information mentioned in subsection (2) about the worker; and

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- (c) giving the information to the relevant person is consistent with the administration of the Act.
- (2) The chief executive may give the following information to the relevant person—
- (a) that the worker holds or does not hold a particular valid earthmoving or particular crane work certificate or licence to perform a class of high risk work;
 - (b) the next action that must be taken by the worker to ensure the worker continues to hold a valid earthmoving or particular crane work certificate or licence to perform a class of high risk work, including, for example, a renewal of the certificate or licence;
 - (c) the date by which the action must be taken.

128 Particular work encompassed in licence classes

- (1) For each licence class mentioned in schedule 7, part 1, column 1, column 2 of that part states the work, under another licence class, that is encompassed in the licence class.
- (2) For the licence class mentioned in schedule 7, part 2, column 1, column 2 of that part states the work, under an earthmoving or particular crane work certificate, that is encompassed in the licence class.

Part 9 Notifiable building and construction work

129 Notification of building and construction work

- (1) This section applies if—
 - (a) building and construction work is to be done; and
 - (b) the cost of the building and construction work is \$80000 or more.

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(2) A person who is liable to pay levy for building and construction work under the *Building and Construction Industry (Portable Long Service Leave) Act 1991*, section 74 must—

(a) file an approved form with the Authority or its agent;
and

(b) pay the appropriate fee, if any.

Maximum penalty—30 penalty units.

(3) The form must be filed and the fee paid when a levy would be payable under that Act, whether or not a levy is actually payable.

(4) The approved form may be combined in the same document as the form required under the *Building and Construction Industry (Portable Long Service Leave) Act 1991*, section 67.

(5) In this section—

approved form includes a written notice containing the information required by the approved form.

130 Exemption from payment of fees

(1) A person is not required to pay a fee for the notification of building and construction work—

(a) if the work is to be done under an owner-builder permit;
or

(b) for a voluntary component of the work to be done by, or for, a nonprofit organisation; or

(c) if the work, or part of the work, is to be done for a person who is not substantially engaged in the building and construction industry by the person or the person's workers—for the work or part of the work; or

(d) if the work, or part of the work, is to be done for a government by its workers—for the work or part of the work.

(2) The person must prove the entitlement to an exemption under subsection (1) to the Authority's satisfaction.

(3) In this section—

government means a local government, a government entity, or a non-Queensland government entity.

government entity see the *Building and Construction Industry (Portable Long Service Leave) Act 1991*, schedule.

nonprofit organisation see the *Building and Construction Industry (Portable Long Service Leave) Act 1991*, section 79.

non-Queensland government entity see the *Building and Construction Industry (Portable Long Service Leave) Act 1991*, schedule.

owner-builder permit see the *Queensland Building Services Authority Act 1991*, schedule 2.

substantially engaged in the building and construction industry see the *Building and Construction Industry (Portable Long Service Leave) Act 1991*, section 4.

voluntary component see the *Building and Construction Industry (Portable Long Service Leave) Act 1991*, section 79.

131 Recovering unpaid fees

(1) This section applies if the Authority reasonably suspects that someone is liable to pay a fee for building and construction work.

(2) The Authority may, by written notice, require the person to give the information and documents about the work asked for in the notice within a stated reasonable time.

(3) The person must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—30 penalty units.

(4) If the Authority, after considering the information and documents, considers the fee payable for the work is more than the fee that has been paid, the Authority may, by written

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notice, require the person to pay the unpaid fee within a stated reasonable time.

- (5) The person must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—30 penalty units.

- (6) The Authority must waive the unpaid fee if satisfied—
- (a) the cost of the work for which the fee has been paid was a reasonable estimate; and
 - (b) the correct fee for the cost of the work was paid; and
 - (c) the difference between the cost of the work for which the fee was paid and the actual cost of the work is \$20000 or less.

132 Refund of fees

- (1) A person who has paid the fee for building and construction work is entitled to a proportionate refund of the fee if the person satisfies the Authority that the work—
- (a) has not been done; and
 - (b) is not to be done.
- (2) A person who has paid the fee for building and construction work is entitled to a proportionate refund of the fee if the person satisfies the Authority that—
- (a) the building and construction work for which the fee was paid is wholly or partly completed; and
 - (b) the actual cost of the work is at least \$20000 less than the cost for which the fee was paid.
- (3) A person must apply to the Authority, in writing, for a refund within 1 year after the work is finished.
- (4) An application for a refund may be made on more than 1 occasion for the same work.

133 Start and finish of building and construction work

The Authority may decide, for this part, the day on which building and construction work starts and the day on which it finishes.

Part 10 Injuries, illnesses and dangerous events

134 Notifying of particular workplace incidents

- (1) This section applies if any of the following workplace incidents happen at a workplace—
 - (a) an incident resulting in a person suffering a work injury that is a serious bodily injury;
 - (b) an incident resulting in a person suffering a work caused illness;
 - (c) an incident resulting in a dangerous event.
- (2) The following persons must give the chief executive notice of the workplace incident—
 - (a) for a workplace where construction work is being performed and a principal contractor has been appointed for the work—the principal contractor;
 - (b) for any other workplace—
 - (i) if the workplace incident does not cause a death—the relevant person involved; or
 - (ii) if the workplace incident causes the death of—
 - (A) a relevant person—the person next in charge of the workplace; or
 - (B) any other person—the relevant person involved.

Maximum penalty—20 penalty units.

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- (3) The person must give the notice—
- (a) in the approved form within 24 hours after the person becomes aware of the workplace incident happening; or
 - (b) if the workplace incident causes a death—
 - (i) promptly after the person becomes aware of the death; and
 - (ii) in the approved form within 24 hours after the person becomes aware of the death.

Example of a prompt notification under paragraph (b)(i)—

a notification by phone or fax

- (4) If the workplace incident involves a relevant person, or a worker of a relevant person, at a workplace where construction work is being performed and a principal contractor has been appointed for the work, the relevant person must—
- (a) immediately notify the principal contractor that the workplace incident has happened; and
 - (b) give the principal contractor any help the principal contractor may reasonably require to complete an approved form under subsection (3) for the workplace incident.

Maximum penalty—20 penalty units.

- (5) A person required to notify the chief executive under this section does not commit an offence if—
- (a) the person did not know, and could not reasonably be expected to know, of the workplace incident; or
 - (b) the person—
 - (i) was incapacitated by the work caused illness or work injury; and
 - (ii) notifies the chief executive as soon as reasonably practicable after the person is no longer incapacitated.

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- (6) A relevant person required to notify the principal contractor and give the principal contractor help under subsection (4) does not commit an offence if—
- (a) the relevant person did not know, and could not reasonably be expected to know, of the workplace incident; or
 - (b) the relevant person—
 - (i) was incapacitated by the work caused illness or work injury; and
 - (ii) notifies the principal contractor as soon as reasonably practicable after the relevant person is no longer incapacitated.

135 Recording particular workplace incidents

- (1) This section applies if a workplace incident happens at a workplace.
- (2) If the workplace incident results in a person suffering a work injury or a work caused illness, the following persons must make a record of the workplace incident—
 - (a) if the workplace incident happens at a workplace where construction work is being performed and a principal contractor has been appointed for the work—the principal contractor;
 - (b) if the workplace incident happens at any other workplace—
 - (i) if the incident results in a worker suffering a work injury or a work caused illness—the relevant person who is the worker’s employer; or
 - (ii) if the incident results in a relevant person suffering a work injury or a work caused illness—the relevant person.

Maximum penalty—20 penalty units.

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- (3) If the workplace incident results in a dangerous event, the following persons must make a record of the workplace incident—
- (a) if the workplace incident happens at a workplace where construction work is being performed and a principal contractor has been appointed for the work—the principal contractor;
 - (b) if the workplace incident happens at any other workplace—the relevant person at the workplace.

Maximum penalty—20 penalty units.

- (4) A record under subsection (2) or (3) must be—
- (a) made in the approved form within 3 days after the person required to make the record becomes aware of the workplace incident happening; and
 - (b) kept by the person required to make the record for at least 1 year after it was made.
- (5) If the workplace incident involves a relevant person, or a worker of a relevant person, at a workplace where construction work is being performed and a principal contractor has been appointed for the work, the relevant person must give the principal contractor any help the principal contractor may reasonably require to complete a record under subsection (2) or (3) for the workplace incident.

Maximum penalty—20 penalty units.

- (6) A person required to make a record under this section does not commit an offence if—
- (a) the person did not know, and could not reasonably be expected to know, of the workplace incident; or
 - (b) the person—
 - (i) was incapacitated by the work caused illness or work injury; and
 - (ii) makes the record as soon as reasonably practicable after the person is no longer incapacitated.

136 Scene not to be interfered with

- (1) This section applies if—
 - (a) a person suffers serious bodily injury or a work caused illness at a workplace; or
 - (b) a dangerous event happens at a workplace.
- (2) A person must not move or otherwise interfere with any plant or other thing connected with the injury, illness or event without the permission of an inspector or, if an inspector is not available, a police officer.

Maximum penalty—20 penalty units.

- (3) A person does not commit an offence against subsection (2) if the movement or interference is necessary—
 - (a) to save life or relieve suffering; or
 - (b) to prevent injury to a person or property damage.

Part 11 Access—relevant person who is an employer doing work that is not construction work

137 Access

- (1) This section applies to a relevant person who is an employer doing work, that is not construction work, at a workplace.
- (2) The relevant person must ensure that—
 - (a) there is appropriate, safe and clear access to and from the workplace for each of the relevant person's workers working or about to work at the workplace; and
 - (b) all other means of access at the workplace are safe and clear.

Maximum penalty—20 penalty units.

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Part 12 Noise

138 What is *excessive noise*

(1) In this part—

excessive noise is a level of noise above—

(a) an 8 hour equivalent continuous A-weighted sound pressure level of 85dB(A), referenced to 20µPa; or

Editor's note—

The symbol for this sound pressure level is $L_{Aeq,8h}$ of 85dB(A).
'µPa' is the symbol for micropascals.

(b) a C-weighted peak sound pressure level of 140dB(C), referenced to 20µPa.

Editor's note—

The symbol for this sound pressure level is $L_{C,peak}$ 140dB.

(2) For subsection (1), the sound pressure level is the level determined at the worker's ear without regard to the protection available to a worker wearing hearing protectors, and measured—

(a) for an 8 hour equivalent continuous A-weighted sound pressure level of 85dB(A)—under AS/NZS 1269.1; or

(b) for a C-weighted peak sound pressure level of 140dB(C)—by a sound level meter with a peak detector indicator complying with AS IEC 61672.1.

Editor's note—

- AS/NZS 1269.1 (Occupational noise management—Measurement and assessment of noise immission and exposure)
- AS IEC 61672.1 (Electroacoustics—Sound level meters—Specifications)

139 Preventing risk from exposure to excessive noise

(1) A relevant person who is an employer must not expose the relevant person's workers to excessive noise at work.

- (2) Subsection (1) is a workplace health and safety obligation for the Act.

Part 13 Asbestos management and removal

Division 1 Interpretation

140 Definitions for pt 13

In this part—

asbestos management code means former NOHSC document entitled ‘Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC:2018 (2005)]’.

asbestos removal code means former NOHSC document entitled ‘Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (2005)]’.

Editor’s note—

Copies of the codes are available on the department’s website at <www.deir.qld.gov.au>.

Division 2 Prohibitions relating to asbestos

141 Prohibited substances and prohibited ACM

- (1) A relevant person must not use a prohibited substance or prohibited ACM mentioned in schedule 9 for a prohibited purpose mentioned in that schedule.
- (2) A relevant person who is an employer must not allow a worker of the relevant person to use a prohibited substance or prohibited ACM mentioned in schedule 9 for a prohibited purpose mentioned in that schedule.

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- (3) Subsections (1) and (2) are workplace health and safety obligations for the Act.

142 Performing work on ACM

- (1) A relevant person must not perform work on ACM other than in accordance with the asbestos management code.
- (2) A relevant person who is an employer must not allow a worker of the relevant person to perform work on ACM other than in accordance with the asbestos management code.
- (3) Subsections (1) and (2) are workplace health and safety obligations for the Act.

143 Cleaning ACM

- (1) A relevant person must not use—
- (a) a power tool or power appliance to clean ACM; or
- Examples of paragraph (a)—*
- using an electric sander to clean asbestos-cement sheeting before painting it
 - using an electric wire brush to remove an asbestos gasket from plant
- (b) a high pressure water process to clean ACM; or
- Examples of paragraph (b)—*
- using a water blaster to clean an asbestos-cement sheeting roof
 - using a water blaster to clean up debris left after removing an asbestos-cement sheeting roof
- (c) compressed air or abrasive blasting to clean—
- (i) ACM; or
- Example of compliance with subparagraph (i)—*
- using a vacuum cleaner suitable for use with asbestos dust to clean vehicle brake or clutch systems fitted with parts containing asbestos rather than blowing the dust away with compressed air

- (ii) a surface where ACM is present.

Example of noncompliance with subparagraph (ii)—

using compressed air to blow dust from clothing after working with asbestos-cement sheeting

- (2) A relevant person who is an employer must not allow a worker of the relevant person to use—
- (a) a power tool or power appliance to clean ACM; or
 - (b) a high pressure water process to clean ACM; or
 - (c) compressed air or abrasive blasting to clean—
 - (i) ACM; or
 - (ii) a surface where ACM is present.
- (3) Subsections (1) and (2) are workplace health and safety obligations for the Act.

Division 3 On-site management of ACM

144 Application of div 3

- (1) This division applies to a structure or part of a structure if—
- (a) for a structure or part that is a building used as a workplace—the structure or part was built under an approval given by a local government before 1 January 1990; or
- Examples for paragraph (a)—*
- a structure built in 1989
 - a structure started in 1989 but completed in 1990
 - a structure built in 1990 under an approval given in 1989
- (b) for a structure or part that is not a building used as a workplace—there is ACM fixed or installed in the structure or part.

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Examples of a structure or part for paragraph (b)—

- fixed plant
 - underground pipeline
- (2) However, this division does not apply to a structure used for domestic residential purposes.

Examples of structures used for domestic residential purposes—

- house
- townhouse
- block of units

145 Compliance with asbestos management code

- (1) The owner of the structure or part must comply with the asbestos management code.
- (2) Subsection (1) is a workplace health and safety obligation for the Act.

Division 4 Removing ACM

146 Removing ACM

- (1) A relevant person must not remove ACM other than in accordance with the asbestos removal code.
- (2) If a relevant person removes ACM from a building used for domestic residential purposes, the relevant person must also comply with the asbestos management code, part 9.4.

Editor's note—

asbestos management code, part 9.4 (Identifying ACM at domestic premises)

- (3) A relevant person who is an employer must not allow a worker of the relevant person to remove ACM other than in accordance with the asbestos removal code.
- (4) If ACM is being or is to be removed from a place, other than a building used for domestic residential purposes—

- (a) the owner of the place; or
- (b) a person engaged by the owner to supervise or arrange for the work to be performed;

must comply with the asbestos removal code part 7.2 as if the owner or person were a client within the meaning of the asbestos removal code.

Editor's note—

asbestos removal code, part 7.2 (Responsibilities of clients)

- (5) Subsections (1), (2), (3) and (4) are workplace health and safety obligations for the Act.

Part 14 Underwater diving work

Division 1 Definitions for part 14

147 Meaning of *underwater diving work*

Underwater diving work means work conducted underwater while breathing compressed gas.

148 Meaning of *construction diving work*

- (1) *Construction diving work* means underwater diving work to assemble, construct, demolish, dismantle, install, clean, inspect, maintain, remove, repair, salvage, sample, search for, photograph, film, video or make a sound recording of a thing, or part of a thing, mentioned in subsection (2).
- (2) For subsection (1), the things are as follows—
 - (a) a building;
 - (b) a bridge;
 - (c) a pile or a structure supported by piles;

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- (d) a jetty, pontoon, wharf, mooring or slipway;
 - (e) a navigational aid;
 - (f) a pipe, cable or tunnel;
 - (g) scaffolding, whether or not for use with a building;
 - (h) a drilling rig;
 - (i) an oil or gas well platform;
 - (j) a weir or the structure or machinery of a dam or other artificial water storage, other than a swimming pool or aquarium;
 - (k) a craft or vehicle for use in, on or above water or land.
- (3) **Construction diving work** includes underwater diving work associated with dredging, reclamation of land or other earthworks.
- (4) However, **construction diving work** does not include underwater diving work—
- (a) for inspecting, sampling, photographing, filming, videoing or making a sound recording—
 - (i) for the entertainment or publishing industry; or
 - (ii) for tourism; or
 - (iii) for the print or electronic media; or
 - (iv) for art; or
 - (v) for genuine scientific research; or
 - (vi) for scientific management of natural resources; or

Example of subparagraph (vi)—

 - scientific management of the Great Barrier Reef or fish stocks
 - (b) for inspecting, sampling, photographing, filming, videoing or making a sound recording of—
 - (i) an artefact to decide its cultural heritage significance under the *Queensland Heritage Act 1992*; or

-
- (ii) an historic relic or historic shipwreck under the *Historic Shipwrecks Act 1976* (Cwlth); or
- (c) for photographing, filming, videoing or making a sound recording while and for the purpose of conducting recreational diving or recreational technical diving, or training to go recreational diving or recreational technical diving; or
- (d) for photographing, filming, videoing or making a sound recording of persons doing recreational diving or recreational technical diving if the photographing, filming, videoing or sound recording is to be used for a souvenir; or
- (e) done in a marina or the ocean for cleaning, inspecting, maintaining or searching for a vessel or mooring solely or mainly used in the tourism industry.
- Examples of vessels used in the tourism industry—*
- glass bottom boats used for tours of a reef
 - boats used to transport tourists to a reef or island
 - yachts hired to sail around islands
 - fishing charter boats
- (5) It is immaterial whether or not a thing mentioned in subsection (2) is floating or wrecked.

Division 2 All underwater diving work—medical fitness to dive

149 Requirements about certificate of medical fitness to dive

- (1) A relevant person must not—
- (a) do underwater diving work unless subsection (2) is complied with; or
- (b) allow a worker to do underwater diving work unless subsection (2) is complied with.
- (2) For subsection (1)—

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- (a) the relevant person must hold an original or copy of a certificate of medical fitness to dive that appears to be current—
 - (i) for subsection (1)(a)—for the relevant person; or
 - (ii) for subsection (1)(b)—for the worker; and
 - (b) the work the relevant person or worker is to do must not be contrary to any limitations on diving stated in the certificate.
- (3) The relevant person must keep the certificate or copy for at least 1 year after the certificate stops being current.
- (4) Subsections (1) and (3) are workplace health and safety obligations for the Act.
- (5) In this section—
- current** for a certificate of medical fitness to dive means—
- (a) the certificate is not replaced or revoked and has not expired; and
 - (b) is not more than 1 year old.

150 Contents of certificate of medical fitness to dive

- (1) A certificate of medical fitness to dive must show its date of issue and the certificate holder's name.
- (2) If the certificate holder is at least 18, the certificate must also show that—
 - (a) the holder is medically fit to dive in accordance with the relevant fitness criteria; or
 - (b) subject to a limitation on diving stated in the certificate, the holder is medically fit to dive in accordance with the relevant fitness criteria.
- (3) If the certificate holder is under 18, and no limitations on diving are imposed on medical grounds, the certificate must also show that—

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- (a) apart from being under 18, the holder is medically fit to dive in accordance with the relevant fitness criteria; and
 - (b) no limitations on diving are needed even though the holder is under 18.
- (4) If the certificate holder is under 18, and limitations on diving are imposed on medical grounds, the certificate must also show—
- (a) that subject to the limitations on diving stated in the certificate, the holder is medically fit to dive in accordance with the relevant fitness criteria; and
 - (b) any limitations imposed because the holder is under 18.
- (5) In this section—

relevant fitness criteria means the fitness criteria stated in AS/NZS 2299, part 1, appendix M, paragraph M4.

Editor's note—

AS/NZS 2299 (Occupational diving operations), part 1 (Standard operational practice), appendix M (Guidance for medical practitioners), paragraph M4 (Fitness criteria)

Division 3 Underwater diving work other than conducting recreational diving or recreational technical diving

Note—

See also division 2 (All underwater diving work—medical fitness to dive).

Subdivision 1 Preliminary

151 Application of div 3

This division does not apply to underwater diving work consisting of conducting recreational diving or recreational technical diving.

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152 Meaning of *competent person* for construction diving work

A person is a *competent person* for construction diving work if the person holds an ADAS diving certificate under which the diving involved in the work may be done.

153 Meaning of *competent person* for other underwater diving work

- (1) A person described in any of the following sections is a *competent person* for underwater diving work other than construction diving work—
 - (a) section 154;
 - (b) section 155(1) or (2);
 - (c) section 156;
 - (d) section 157;
 - (e) section 158.
- (2) However, sections 157 and 158 do not apply in relation to the use of the words ‘competent person’ in section 160(2) or 161(2)(b).

154 Competent person for s 153—holder of ADAS diving certificate for the diving

For section 153, the person is the holder of an ADAS diving certificate under which the diving involved in the underwater diving work may be done.

155 Competent person for s 153—holder of certification under Australian Qualifications Framework

- (1) For section 153, the person is the holder of a statement of attainment from a registered training organisation in relation to training that—
 - (a) is relevant in a substantial way to the work; and

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- (b) is provided within the registered training organisation's scope of registration.
 - (2) For section 153, the person—
 - (a) is the holder of a statement of attainment from a registered training organisation in relation to training in performing diver rescues—
 - (i) that includes the elements of competency mentioned in subsection (3); and
 - (ii) that is provided within the registered training organisation's scope of registration; and
 - (b) has acquired through training, qualifications or experience the knowledge and skills mentioned in the elements of competency and performance criteria in AS 2815, parts 1 to 4 relevant to the underwater diving work.

Editor's note—

AS 2815 (Training and certification of occupational divers), parts 1 (Occupational SCUBA diver—Standard), 2 (Air diving to 30m), 3 (Air diving to 50m) and 4 (Bell diving)

- (3) For subsection (2)(a)(i), the elements of competency are as follows—
 - (a) demonstrate knowledge of diver physiology;
 - (b) demonstrate diver rescue skills;
 - (c) use supplemental oxygen.

156 Competent person for s 153—holder of certificate for AS 4005.2 subject areas

For section 153, the person—

- (a) is the holder of a certificate showing that the person has successfully finished training in the subject areas mentioned in AS 4005, part 2 from a recreational scuba training organisation; and

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Editor's note—

AS 4005 (Training and certification of recreational divers), part 2 (Recreational SCUBA dive supervisor)

- (b) has acquired through training, qualifications or experience the knowledge and skills mentioned in the elements of competency and performance criteria in AS 2815, parts 1 to 4 relevant to the underwater diving work.

157 Competent person for s 153—person doing underwater diving work on no more than 28 days in the last 6 months

- (1) For section 153, the person is someone who—
 - (a) is a person mentioned in subsection (2) or (3); and
 - (b) is being personally supervised in the water by a person who—
 - (i) is a competent person for construction diving work; or
 - (ii) is described in section 154, 155(1) or (2) or 156; and
 - (c) has acquired through training, qualifications or experience the knowledge and skills to do the work in a safe way, including a sound knowledge of the following—
 - (i) the application of diving physics;
 - (ii) the use of diving equipment, including emergency equipment;
 - (iii) the use of decompression tables or dive computers;
 - (iv) ways of communicating with a diver during underwater diving work;
 - (v) how to safely perform underwater diving work of the same type as the underwater diving work;

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- (vi) the use, inspection and maintenance of diving equipment and air supply of the same type that is being used for the underwater diving work;
 - (vii) diving physiology and first aid;
 - (viii) provisions of the Act, this regulation or AS/NZS 2299, part 1 relevant to the underwater diving work.
- (2) For subsection (1)(a)—
- (a) the person has done no underwater diving in the 6 months immediately before the underwater diving work is done; and
 - (b) before that 6 months, the person has spent at least 15 hours doing underwater diving, of which at least 8 hours 20 minutes were spent within a depth of 10m above or below the maximum depth at which the underwater diving work is being done.
- (3) Alternatively for subsection (1)(a)—
- (a) the person has done underwater diving work on no more than 28 days in the 6 months immediately before the underwater diving work is done; and
 - (b) at any time, the person has spent at least 15 hours doing underwater diving, of which at least 8 hours 20 minutes were spent within a depth of 10m above or below the maximum depth at which the underwater diving work is being done.

158 Competent person for s 153—person who is not an Australian citizen or permanent resident doing underwater diving work for a relevant organisation

- (1) For section 153, the person is someone who—
- (a) is not an Australian citizen or permanent resident; and
 - (b) has done no underwater diving work in Queensland in the 6 months immediately before the underwater diving work is done; and

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- (c) is doing the underwater diving work for a relevant organisation for—
 - (i) genuine scientific research; or
 - (ii) scientific management of natural resources; and
Example of scientific management for subparagraph (ii)—
scientific management of the Great Barrier Reef or fish stocks
- (d) has acquired through training, qualifications or experience the knowledge and skills mentioned in the elements of competency and performance criteria in AS 2815, parts 1 to 4 relevant to the underwater diving work; and
- (e) has spent at least 60 hours doing underwater diving, of which at least 8 hours 20 minutes were spent within a depth of 10m above or below the maximum depth at which the underwater diving work is being done; and
- (f) holds a letter (a ***letter of authorisation***) from a relevant organisation that—
 - (i) contains the information mentioned in subsection (2); and
 - (ii) is dated and signed by a person in the organisation who is authorised to sign the letter.
- (2) The letter of authorisation must state the following—
 - (a) the name of the relevant organisation;
 - (b) the relevant organisation's ABN, if any;
 - (c) the relevant organisation's ACN, if any;
 - (d) the relevant organisation's place of business;
 - (e) the name of the person who is to do underwater diving work;
 - (f) that the person is to do underwater diving work for the relevant organisation for—
 - (i) genuine scientific research; or

- (ii) scientific management of natural resources;
 - (g) the date the underwater diving work is to start and end;
 - (h) the location of the underwater diving work;
 - (i) the tasks to be performed by the person during the underwater diving work;
 - (j) that the relevant organisation is satisfied the person has acquired through training, qualifications or experience the knowledge and skills to do the underwater diving work in a safe way.
- (3) In this section—

permanent resident means the holder of a permanent visa as defined by the *Migration Act 1958* (Cwlth), section 30(1).

relevant organisation means an organisation involved in—

- (a) genuine scientific research; or
- (b) scientific management of natural resources.

Note—

However, see division 1, subdivision 2A (Prohibition relating to competent persons under section 158).

Subdivision 2 Proof of competency for underwater diving work other than construction diving work

159 Proof of competency

- (1) This section applies to underwater diving work other than construction diving work.
- (2) A relevant person must not—
 - (a) do underwater diving work unless subsection (3) is complied with; or
 - (b) allow a worker to do underwater diving work unless subsection (3) is complied with.

[s 159A]

- (3) For subsection (2)—
 - (a) the relevant person must hold proof that the relevant person or worker is a competent person for the work; and
 - (b) the work the relevant person or worker is to do must not be contrary to any restrictions stated in the proof of competency.
- (4) The relevant person must keep the proof of competency for at least 1 year after the work done under subsection (2) in reliance on the proof of competency ends.
- (5) Subsections (2) and (4) are workplace health and safety obligations for the Act.

Subdivision 2A Prohibition relating to competent persons under section 158

159A Prohibition relating to competent persons under s 158

- (1) A relevant person must not—
 - (a) if the relevant person is a competent person under section 158—do underwater diving work in any of the circumstances mentioned in subsection (2); or
 - (b) allow a worker who is a competent person under section 158 to do underwater diving work in any of the circumstances mentioned in subsection (2).
- (2) The circumstances are that the diver will—
 - (a) be at a depth of more than 30m; or
 - (b) use a tool powered by anything other than a person; or
 - (c) be doing work requiring a decompression stop; or
 - (d) be at risk of being injured or trapped as a result of anyone's use of mechanical lifting equipment or a buoyancy lifting device; or

- (e) be underneath something that would require the diver to move sideways, other than at an upwards angle, if the diver were to attempt to ascend.
- (3) Subsection (1) is a workplace health and safety obligation for the Act.

Subdivision 3 Risk assessment and control measure process at particular stages

160 Process to be carried out before work starts

- (1) This section applies to underwater diving work to be done by a relevant person.
- (2) Before the work starts, the relevant person must ensure that the process under subsection (3) (the *process*) is carried out by a competent person for the underwater diving work.

Maximum penalty—30 penalty units.

- (3) The process is—
 - (a) identify the hazards associated with the work; and
 - (b) assess the risk of death, illness or injury that may result because of the hazards; and
 - (c) decide on and implement control measures to prevent, or minimise the level of, exposure to the risks.
- (4) The assessment of risk must take into account—
 - (a) the level of competence in underwater diving of the person who is to do the work; and
 - (b) each factor mentioned in AS/NZS 2299, part 1, appendix D, paragraph D2.4.
- (5) In deciding on the control measures, the hierarchy of control measures mentioned in AS/NZS 2299, part 1, appendix D, paragraph D3.2(a) to (f) must be taken into account.

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Editor's note—

- AS/NZS 2299 (Occupational diving operations), part 1 (Standard operational practice), appendix D (Hazard identification, risk assessment and control), paragraph D2.4 (Factors for consideration)
- AS/NZS 2299 (Occupational diving operations), part 1 (Standard operational practice), appendix D (Hazard identification, risk assessment and control), paragraph D3.2 (Control measures)

161 Process to be carried out each time there is a significant change

- (1) This section applies if the process has been carried out under section 160(2).
- (2) Each time there is a change mentioned in subsection (3), the relevant person—
 - (a) if the work has started—must ensure that the work stops immediately; and
 - (b) must not start or restart the work, or allow the work to start or restart, unless a competent person for the underwater diving work, who is out of the water, has carried out the process again.

Maximum penalty—30 penalty units.

- (3) For subsection (2), the change is—
 - (a) a significant change in the way the work is to be done from the way the underwater diving work was to be done when the process was last carried out for the work; or
 - (b) a significant adverse change in the environmental conditions affecting the diving from the conditions prevailing when the process was last carried out for the work.

Examples of adverse changes in environmental conditions—

- reduced underwater visibility resulting from work tasks disturbing sediment
- increased current and surge action

162 Work not to start or restart unless diver has read, understood and signed record of process

- (1) This section applies if the process has been carried out under section 160(2) or section 161(2).
- (2) The relevant person must not start or restart the underwater diving work unless the relevant person and each of the relevant person's workers doing underwater diving work—
 - (a) has read and understood the record of the process made under section 163; and
 - (b) signed an acknowledgement, on the record, that the relevant person or worker has read the record.

Maximum penalty—30 penalty units.

163 Record to be kept for each time process is carried out

- (1) This section applies if the process has been carried out under section 160(2) or section 161(2).
- (2) The relevant person must ensure that a written record is made of the following for the process before the underwater diving work is started or restarted or is allowed to start or restart—
 - (a) the date the process is carried out;
 - (b) the date the work is to start or restart and end;
 - (c) the work;
 - (d) the location of the dive site;
 - (e) the name of each person at the dive site who will be involved in the work;
 - (f) each hazard identified;
 - (g) for each hazard identified—the assessment of the risk of death, illness or injury that may result because of the hazard;
 - (h) each control measure decided on.

Maximum penalty—30 penalty units.

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- (3) The relevant person must—
 - (a) make the written record of the process available for inspection, out of the water at the dive site, by anyone involved in the work; and
 - (b) keep the record for at least 1 year after the last day it is used for the work.

Maximum penalty—30 penalty units.

164 Control measure to be in place and monitored and reviewed

- (1) This section applies if a control measure (an *original control measure*) is implemented under this subdivision for a risk.
- (2) The relevant person who implemented the original control measure must ensure that, while the risk exists—
 - (a) the original control measure is kept in place; or
 - (b) a different control measure necessary to prevent, or minimise the level of, exposure to the risk is implemented and kept in place.

Maximum penalty—30 penalty units.

- (3) The relevant person who implemented the original control measure must monitor and review the effectiveness of—
 - (a) the original control measure; or
 - (b) a different control measure implemented under subsection (2)(b).

Maximum penalty—30 penalty units.

Subdivision 4 Dive safety log

165 Dive safety log—log must be kept

- (1) A relevant person must ensure that a dive safety log is kept about each dive done by the relevant person or a worker of the relevant person doing underwater diving work.

Example of dives for which information must be recorded in a dive safety log kept by a relevant person who is an individual—

a dive by a worker or by the relevant person

Maximum penalty—30 penalty units.

- (2) The dive safety log must be written and comply with section 166.

166 Dive safety log—required information about dives

- (1) The dive safety log must state the following information—
- (a) the diver's name;
 - (b) the name of any diver with whom the dive is done;
 - (c) the name of any dive supervisor;
 - (d) the date and location of the dive;
 - (e) time in;
 - (f) time out;
 - (g) maximum depth of the dive;
 - (h) any incident, problem, discomfort or injury experienced or suffered by the diver;
 - (i) if the dive was done using a dive computer—the dive time;
 - (j) if the dive was done using dive tables—the repetitive dive group, if available, and either bottom time or dive time;

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- (k) if the repetitive dive group and surface interval result in a repetitive factor—the surface interval and the repetitive factor.
- (2) If the underwater diving work is done using EANx, the dive safety log must also state the following information—
 - (a) oxygen content of the EANx;
 - (b) maximum operating depth for the EANx.
- (3) If the underwater diving work is done using mixed gas, the dive safety log must also state the following information—
 - (a) oxygen content and nitrogen content, if any, of the mixed gas;
 - (b) maximum operating depth for the mixed gas;
 - (c) minimum operating depth of the bottom mix.
- (4) The information mentioned in this section must be entered in the dive safety log as soon as practicable.

167 Dive safety log—diver must sign log

- (1) On completion of each dive in relation to which a dive safety log must be kept, the diver must verify the diver's return from the dive—
 - (a) by signing the dive safety log entry for the diver; or
 - (b) if the log is kept electronically—by entering in the log entry the name of, and a unique identifier for, the diver.

Example of a log kept electronically—

a record kept by computer

Maximum penalty—10 penalty units.

- (2) The signature or entry must be made as soon as practicable.

Example—

The diver's signature in the dive safety log is an important check on whether a diver has returned to the boat. Accordingly, the signature needs to be made as soon as the diver has removed necessary gear and dried the diver's hands. However, conditions in open boats, or numerous

dives by the 1 diver in a single day, may make it impracticable to sign the dive safety log until the end of the diver's diving for the day.

168 Dive safety log—further signing of log

- (1) The relevant person must ensure that a person verifies for the relevant person, in the way stated in subsection (2), that—
 - (a) the dive safety log entry for the diver has been made as required under section 165; and
 - (b) the diver has complied with section 167 for the entry.
Maximum penalty—20 penalty units.
- (2) The way is—
 - (a) by signing the log entry; or
 - (b) if the log is kept electronically—by entering in the log entry the name of, and a unique identifier for, the person.
- (3) The signature or entry must be made as soon as practicable.

169 Dive safety log—log to be kept for at least 1 year

The relevant person must keep the dive safety log required under this subdivision for at least 1 year after the last entry in it is made.

Maximum penalty—20 penalty units.

Subdivision 5 Provisions relating only to construction diving work

170 ADAS diving certificate for the diving is required

- (1) A relevant person must not—
 - (a) do construction diving work unless subsection (2) is complied with; or

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- (b) allow a worker to do construction diving work unless subsection (2) is complied with.
- (2) For subsection (1)—
 - (a) the relevant person must hold an original or copy of an ADAS diving certificate for the following persons, under which the diving involved in the work may be done—
 - (i) for subsection (1)(a)—the relevant person;
 - (ii) for subsection (1)(b)—the worker; and
 - (b) the work the relevant person or worker is to do must not be contrary to any restrictions stated in the certificate.
- (3) The relevant person must keep the certificate or copy for at least 1 year after the work done under subsection (1) in reliance on the certificate or copy ends.
- (4) Subsections (1) and (3) are workplace health and safety obligations for the Act.

171 Dive supervisor

- (1) A relevant person must not—
 - (a) do construction diving work unless subsection (2) is complied with; or
 - (b) allow a worker to do construction diving work unless subsection (2) is complied with.
- (2) For subsection (1)—
 - (a) someone must have been appointed as the dive supervisor for the work or for the dive site where the work is to be done (the *dive supervisor*); and
 - (b) the dive supervisor must—
 - (i) hold an ADAS diving certificate under which the diving involved in the work may be done; and
 - (ii) personally supervise the work from a position out of the water at the dive site; and

- (iii) be able to communicate directly with each diver being supervised.
- (3) A dive supervisor may supervise more than 1 diver at the same time.
- (4) Subsection (1) is a workplace health and safety obligation for the Act.

172 Stand-by diver

- (1) A relevant person must not—
 - (a) do construction diving work unless subsection (2) or (3) is complied with; or
 - (b) allow a worker to do construction diving work unless subsection (2) or (3) is complied with.
- (2) For subsection (1)—
 - (a) someone must have been appointed as stand-by diver for the work or for the dive site where the work is to be done (the *stand-by diver*); and
 - (b) the stand-by diver must—
 - (i) be allowed under sections 149 and 170 to make the dive; and
 - (ii) hold an ADAS diving certificate under which the diving involved in the work may be done; and
 - (iii) be out of the water; and
 - (iv) be under the supervision of the dive supervisor; and
 - (v) be fully equipped and otherwise ready to dive to go to the rescue of the diver doing the work; and
 - (vi) be available to rescue the diver.
- (3) Alternatively for subsection (1)—
 - (a) the diver is 1 of only 2 divers who are under the water and under the supervision of the same dive supervisor; and

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- (b) each diver—
 - (i) can clearly see the other diver; and
 - (ii) can immediately go to the rescue of the other diver; and
 - (iii) must not be substantially obstructed from reaching the other diver; and
 - (iv) must be allowed under sections 149 and 170 to make the dive.
- (4) A stand-by diver can not be the dive supervisor.
- (5) A stand-by diver may be the stand-by diver for some or all of the divers diving under the supervision of the same dive supervisor.
- (6) Subsection (1) is a workplace health and safety obligation for the Act.

173 Recompression chamber and qualified operator

- (1) A relevant person must not—
 - (a) do restricted diving work unless subsection (2) is complied with; or
 - (b) allow a worker to do restricted diving work unless subsection (2) is complied with.
- (2) For subsection (1)—
 - (a) an operational recompression chamber must be at, or near, the dive site where the work is to be done; and
 - (b) a person must be at the dive site or chamber to operate the chamber; and
 - (c) the person must hold an ADAS diving certificate for the category—
 - (i) air diving to 50m (AS 2815, part 3); or
 - (ii) bell diving (AS 2815, part 4).

-
- (3) For subsection (2)(a), a recompression chamber is operational if—
- (a) the chamber is fully operational and complies with AS/NZS 2299, part 1, clause 4.2 as published on 31 August 2007, other than clause 4.2.2(f) or 4.2.8; and
 - (b) the equipment mentioned in clause 4.4, other than clause 4.4.4, of that standard is available at the chamber.

Editor's note—

- AS/NZS 2299 (Occupational diving operations), part 1 (Standard operational practice), clause 4.2 (Chamber design, construction, fittings and services)
 - AS/NZS 2299 (Occupational diving operations), part 1 (Standard operational practice), clause 4.4 (Medical equipment)
- (4) For subsection (2)(a), a recompression chamber is near the dive site if a diver could be moved to the chamber in 5 minutes from where the diver doing the work enters the water, if the diver were unconscious when the diver leaves the water.
- (5) Subsection (1) is a workplace health and safety obligation for the Act.
- (6) In this section—
- restricted diving work*** means construction diving work—
- (a) at a depth of over 30m; or
 - (b) requiring a decompression stop.

174 Recompression chamber not to be operated without appropriate qualifications

- (1) This section applies if a relevant person—
- (a) is doing construction diving work; and

Note—

A relevant person is doing construction diving work if the relevant person or a worker of the relevant person is doing construction diving work.

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- (b) has a recompression chamber under the control of the relevant person.
- (2) The relevant person must not—
 - (a) operate the recompression chamber unless subsection (3) is complied with; or
 - (b) allow a worker to operate the recompression chamber unless subsection (3) is complied with.
- (3) For subsection (2), the relevant person must hold an original or copy of an ADAS diving certificate, for the person operating the chamber, for the category—
 - (a) air diving to 50m (AS 2815, part 3); or
 - (b) bell diving (AS 2815, part 4).
- (4) The relevant person must keep the certificate or copy for at least 1 year after a recompression chamber is operated under subsection (2) in reliance on the certificate or copy.
- (5) Subsections (2) and (4) are workplace health and safety obligations for the Act.

175 When using open circuit scuba is prohibited

- (1) A relevant person must not—
 - (a) do construction diving work using open circuit scuba in any of the circumstances mentioned in subsection (2); or
 - (b) allow a worker to do construction diving work using open circuit scuba in any of the circumstances mentioned in subsection (2).
- (2) The circumstances are that the diver will—
 - (a) be at a depth of over 30m; or
 - (b) use a tool powered by anything other than a person; or
 - (c) be doing work requiring a decompression stop; or
 - (d) be at risk of being injured or trapped as a result of anyone's use of mechanical lifting equipment or a buoyancy lifting device; or

- (e) be underneath something that would require the diver to move sideways, other than at an upwards angle, if the diver were to attempt to ascend.
- (3) Subsection (1) is a workplace health and safety obligation for the Act.

176 Work below 50m using SSBA supplying compressed air prohibited

- (1) A relevant person must not—
 - (a) do construction diving work at a depth of over 50m using SSBA supplying compressed air; or
 - (b) allow a worker to do construction diving work at a depth of over 50m using SSBA supplying compressed air.
- (2) Subsection (1) is a workplace health and safety obligation for the Act.

Division 4 Conducting recreational diving or recreational technical diving

177 Ways to prevent or minimise risks prescribed

- (1) This division prescribes ways of preventing or minimising exposure to the risk of death, illness or injury associated with conducting recreational diving or recreational technical diving as part of a relevant person's undertaking in the circumstances mentioned in this division.
- (2) A person may discharge the person's workplace health and safety obligation for exposure to the risk in the circumstances mentioned in this division only by following the prescribed ways.
- (3) This division does not deal with all circumstances that may expose a person to a risk associated with conducting recreational diving or recreational technical diving as part of a relevant person's undertaking.

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178 Count of all persons on board to be made and recorded

- (1) This section applies if a relevant person uses a boat to transport persons to, or to the vicinity of, a recreational diving or recreational technical diving site.
- (2) Before the boat departs for the site, the relevant person must ensure a crew member—
 - (a) counts all persons on board; and
 - (b) makes a written record of the count; and

Note—

Under the *Acts Interpretation Act 1954*, *writing* includes any mode of representing or reproducing words in a visible form.

- (c) verifies the count—
 - (i) by signing the record; or
 - (ii) if the record is made electronically—by entering in the record the name of, and a unique identifier for, the crew member.

Example of a record made electronically—

a record made on a computer

- (3) If anyone leaves the boat permanently for alternative transport to shore or another vessel, or if an additional person permanently joins the boat, the relevant person must ensure a crew member—
 - (a) counts the persons leaving the boat as they leave it; and
 - (b) counts the persons boarding the boat as they board it; and
 - (c) makes a written record of each of the counts; and
 - (d) makes a written record of the number of persons currently on board; and
 - (e) verifies the information recorded under paragraphs (c) and (d)—
 - (i) by signing the record; or

-
- (ii) if the record is made electronically—by entering in the record the name of, and a unique identifier for, the crew member.
 - (4) Before the boat departs from the site or its vicinity, the relevant person must ensure a crew member—
 - (a) counts the persons on board; and
 - (b) makes a written record of the count; and
 - (c) compares the count with the last count recorded under this section to ensure the counts agree; and
 - (d) makes a written record of the comparison; and
 - (e) verifies the information recorded under paragraph (b), and the comparison—
 - (i) by signing the record; or
 - (ii) if the record is made electronically—by entering in the record the name of, and a unique identifier for, the crew member.
 - (5) The relevant person must keep each record made under this section for at least 1 year.

179 Medical conditions of resort divers

- (1) This section applies if a relevant person intends to conduct resort diving for a person.
- (2) The relevant person may allow the person to do resort diving only if—
 - (a) the person first gives the relevant person a medical declaration in the approved form about his or her medical fitness to dive; and
 - (b) the relevant person, or someone on his or her behalf—
 - (i) has read the declaration; and
 - (ii) does not know or suspect that the declaration is false or misleading; and

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- (iii) has assessed the person's fitness to dive, having regard to the declaration; and
- (iv) decides it is reasonable to allow the person to dive.

Example of the process of assessment and decision—

A declaration discloses a medical condition. The relevant person then seeks medical advice. In accordance with the medical advice, the relevant person decides that it is reasonable to allow the person to dive.

180 Lookout and rescuer

- (1) This section applies if a relevant person is conducting recreational diving or recreational technical diving for 1 or more persons.
- (2) The relevant person may allow the persons to do the diving only while there is at least 1 person acting as lookout for the diving.
- (3) The lookout must—
 - (a) be positioned out of the water where the lookout can see the whole area where the diving is taking place; and
 - (b) be solely engaged in being the lookout; and
 - (c) be able to recognise relevant hazards and divers in difficulty; and
 - (d) be able to either—
 - (i) rescue a diver; or
 - (ii) direct a person who is immediately available and capable of rescuing a diver to rescue a diver; and
 - (e) be able to either—
 - (i) provide first aid including expired air resuscitation, oxygen resuscitation and external cardiac compression; or
 - (ii) direct a person who is immediately available and capable of providing the first aid to provide the first aid.

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- (4) A lookout is taken to be acting as lookout while occupied under subsection (3)(d) or (e) if—
- (a) the relevant person, or someone on his or her behalf, has conducted a proper assessment of the risks involved in not having another person available to act as lookout while the lookout is occupied under subsection (3)(d) or (e); and
 - (b) it is reasonable having regard to those risks not to have another person available to act as lookout.

181 Supervision of resort divers

- (1) This section applies if a relevant person is conducting resort diving for 1 or more persons.
- (2) The relevant person must ensure that each person doing resort diving is supervised in the water by a dive instructor or a dive instructor assisted by a certified assistant.
- (3) A dive instructor must not supervise more than 4 resort divers at a time.
- (4) A dive instructor assisted by a certified assistant must not supervise more than 6 resort divers at a time.
- (5) In this section—

certified assistant means a person who holds a current qualification from a recreational scuba training organisation, designed to qualify the person to assist a dive instructor.

dive instructor means a person who holds a current qualification from a recreational scuba training organisation, designed to qualify the person as a scuba instructor.

182 Dive safety log

- (1) This section applies if a relevant person intends to conduct recreational diving or recreational technical diving for 1 or more persons.

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- (2) The relevant person must ensure a written dive safety log is kept.
- (3) The dive safety log must contain the required information about—
 - (a) each dive conducted by the relevant person; and
 - (b) each dive done by the relevant person or the relevant person's workers in conducting the dive.
- (4) Subject to subsections (5) and (6), the following is the required information—
 - (a) the diver's name;
 - (b) the name of any diver with whom the dive is conducted;
 - (c) the dive supervisor's name;
 - (d) the date and location of the dive;
 - (e) time in;
 - (f) time out;
 - (g) maximum depth of the dive;
 - (h) any incident, problem, discomfort or injury experienced or suffered by the diver;
 - (i) if the dive was done using a dive computer—the dive time;
 - (j) if the dive was done using dive tables—the repetitive dive group and either bottom time or dive time;
 - (k) if the repetitive dive group and surface interval result in a repetitive factor—the surface interval and the repetitive factor.
- (5) The following is the additional information required if the recreational technical diving is intended to be done using EANx with scuba or an EANx rebreather—
 - (a) oxygen content of the EANx;
 - (b) maximum operating depth for the gas being used.

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- (6) The following is the additional information required if the recreational technical diving is intended to be done using mixed gas with scuba or a mixed gas rebreather—
- (a) oxygen content and nitrogen content, if any, of the mixed gas;
 - (b) maximum operating depth for the mixed gas;
 - (c) minimum operating depth of the bottom mix.
- (7) On completion of a recreational dive or a recreational technical dive, a diver must verify the diver's return from the dive—
- (a) by signing the dive safety log entry for the diver; or
- Note—*
- The entry may be only partially completed when the diver signs it or enters his or her name and identifier. See subsection (10).
- (b) if the log is kept electronically—by entering in the log entry the name of, and a unique identifier for, the diver.
- Example of a log kept electronically—*
- a record kept by computer
- (8) The dive supervisor, or a person authorised by the relevant person, must verify, in either of the following ways, that the dive safety log entry for the diver has been completed, and the diver's return from the dive has been verified by the diver, as required under subsections (2) to (7)—
- (a) by signing the log entry;
 - (b) if the log is kept electronically—by entering in the log entry the name of, and a unique identifier for, the dive supervisor or authorised person.
- (9) The master of a boat used in connection with the diving, or a person authorised by the relevant person, must verify, in either of the following ways, that the dive safety log has been completed, and verified, as required under subsections (2) to (8)—
- (a) by signing the log entry;

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- (b) if the log is kept electronically—by entering in the log entry the name of, and a unique identifier for, the master or authorised person.
- (10) Each entry and signature in the dive safety log must be made as soon as possible.

Example—

The signature of the diver in the dive safety log is an important check on whether a diver has returned to the boat. Accordingly, the signature needs to be made as soon as the diver has removed necessary gear and dried the diver's hands.

- (11) The relevant person must keep the dive safety log for at least 1 year.

Part 15 Conducting recreational snorkelling

183 Ways to prevent or minimise risks prescribed

- (1) This part prescribes ways of preventing or minimising exposure to the risk of death, illness or injury associated with conducting recreational snorkelling as part of a relevant person's undertaking in the circumstances mentioned in this part.
- (2) A person may discharge the person's workplace health and safety obligation for exposure to the risk in the circumstances mentioned in this part only by following the prescribed ways.
- (3) This part does not deal with all circumstances that may expose a person to risks associated with conducting recreational snorkelling as part of a relevant person's undertaking.

184 Count of all persons on board to be made and recorded

- (1) This section applies if a relevant person uses a boat to transport persons to, or to the vicinity of, a recreational snorkelling site.
- (2) Before the boat departs for the recreational snorkelling site, the relevant person must ensure a crew member—
 - (a) counts all persons on board; and
 - (b) makes a written record of the count; and
 - (c) verifies the count—
 - (i) by signing the record; or
 - (ii) if the record is made electronically—by entering in the record the name of, and a unique identifier for, the crew member.

Example of a record made electronically—

a record made on a computer

- (3) If anyone leaves the boat permanently for alternative transport to shore or another vessel, or if an additional person permanently joins the boat, the relevant person must ensure a crew member—
 - (a) counts the persons leaving the boat as they leave it; and
 - (b) counts the persons boarding the boat as they board it; and
 - (c) makes a written record of each of the counts; and
 - (d) makes a written record of the number of persons currently on board; and
 - (e) verifies the information recorded under paragraphs (c) and (d)—
 - (i) by signing the record; or
 - (ii) if the record is made electronically—by entering in the record the name of, and a unique identifier for, the crew member.

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- (4) Before the boat departs from the recreational snorkelling site or its vicinity, the relevant person must ensure a crew member—
 - (a) counts the persons on board; and
 - (b) makes a written record of the count; and
 - (c) compares the count with the last count recorded under this section to ensure the counts agree; and
 - (d) makes a written record of the comparison; and
 - (e) verifies the information recorded under paragraph (b), and the comparison—
 - (i) by signing the record; or
 - (ii) if the record is made electronically—by entering in the record the name of, and a unique identifier for, the crew member.
- (5) The relevant person must keep each record made under this section for at least 1 year.

185 Advice about medical conditions

- (1) This section applies if a relevant person intends to conduct recreational snorkelling for 1 or more persons.
- (2) The relevant person must ensure that each person who intends to do the recreational snorkelling is advised that—
 - (a) snorkelling can be a strenuous physical activity and may increase the health and safety risks for persons suffering from—
 - (i) any medical condition that may be made worse by physical exertion, for example, heart disease, asthma and some lung complaints; or
 - (ii) any medical condition that can result in loss of consciousness, for example, some forms of epilepsy and some diabetic conditions; or
 - (iii) asthma that can be brought on by cold water or salt water mist; and

- (b) the person should tell the lookout, snorkelling supervisor or snorkelling guide if the person has any concerns about a medical condition.

186 Lookout, guide and rescuer

- (1) This section applies if a relevant person is conducting recreational snorkelling for 1 or more persons.
- (2) The relevant person may allow the persons to do recreational snorkelling only if—
 - (a) there is at least 1 person acting as lookout for the snorkelling; or
 - (b) the snorkelling is done with a guide and—
 - (i) the guide is guiding 10 snorkellers or less; and
 - (ii) the guide has conducted a proper assessment of the risks involved in not having a lookout; and
 - (iii) it is reasonable having regard to those risks not to have a lookout.
- (3) The lookout must—
 - (a) be positioned out of the water where the lookout can see the whole area where the snorkelling is taking place; and
 - (b) be solely engaged in being the lookout.
- (4) The lookout or guide must—
 - (a) be able to recognise relevant hazards and snorkellers in difficulty; and
 - (b) be able to either—
 - (i) rescue a snorkeller; or
 - (ii) direct a person who is immediately available and capable of rescuing a snorkeller to rescue a snorkeller; and
 - (c) be able to either—

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- (i) provide first aid including expired air resuscitation, oxygen resuscitation and external cardiac compression; or
 - (ii) direct a person who is immediately available and capable of providing the first aid to provide the first aid.
- (5) A lookout is taken to be acting as lookout and a guide is taken to be acting as a guide while occupied under subsection (4)(b) or (c) if—
 - (a) the relevant person, or someone on his or her behalf, has conducted a proper assessment of the risks involved in not having another person available to act as lookout or as a guide while the lookout or guide is occupied under subsection (4)(b) or (c); and
 - (b) it is reasonable having regard to those risks not to have another person available to act as lookout or as a guide.

Part 16 Hazardous substances

Division 1 Definitions

187 Meaning of *exposed*

A person is *exposed* to a hazardous substance if the person absorbs, or is likely to absorb, the substance—

- (a) by ingestion or inhalation; or
- (b) through the skin or mucous membrane.

187A Meaning of *GHS*

In this part—

GHS means the Globally Harmonised System of Classification and Labelling of Chemicals published by the United Nations.

Editor's note—

At the commencement of this definition, the GHS is available at <www.unece.org/trans/danger/publi/ghs/ghs_welcome_e.html>.

188 Meaning of *hazardous substance*

(1) In this part, other than division 4—

hazardous substance means—

- (a) a designated hazardous substance; or
- (b) a substance that is not a designated hazardous substance but meets the approved criteria; or
- (c) a substance that is classified as a hazardous substance under the GHS.

(2) However, a hazardous substance does not include—

- (a) lead; or
- (b) a substance containing a disease causing organism; or
- (c) a radioactive substance; or
- (d) a substance used at a workplace for personal or sanitary use not related to a work activity.

Example of subsection (2)(d)—

skin cream brought into the workplace by a worker for the worker's personal use, but not a skin cream supplied at the workplace for removing grease or other chemicals from the skin

Division 2 Manufacturers and importers

189 Who division applies to

This division applies to a manufacturer or importer of a hazardous substance for use at a workplace.

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Editor's note—

See the Act, section 25 (Person may owe obligations in more than 1 capacity).

190 Preparing, amending and reviewing MSDS

- (1) A manufacturer or importer must—
 - (a) prepare an MSDS for the substance—
 - (i) before first manufacturing or importing it; or
 - (ii) if that is not practicable—as soon as practicable after first manufacturing or importing it; and

Example of paragraph (a)(ii)—

It may not be practicable to prepare an MSDS before first manufacturing a substance that is discovered through research.

- (b) amend the MSDS whenever necessary to ensure it contains current information; and
 - (c) review the MSDS at least once in every 5 years to ensure it contains current information.
- (2) The MSDS must state—
 - (a) the substance's product name; and
 - (b) information about the substance's—
 - (i) chemical and physical properties; and
 - (ii) health hazards; and
 - (iii) safe use; and
 - (c) the importer's or manufacturer's name, Australian address and Australian telephone number; and

Editor's note—

See former NOHSC document entitled 'National Code of Practice for the Preparation of Material Safety Data Sheets' for further information about the things mentioned in paragraphs (a) to (c).

- (d) for a substance containing a type 1 ingredient—the ingredient's chemical name; and

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- (e) for a substance containing a type 2 ingredient—
 - (i) the ingredient's chemical name; or
 - (ii) if the manufacturer or importer reasonably believes disclosure of the ingredient's chemical name gives insufficient commercial protection—the ingredient's generic name; and
 - (f) for a substance containing a type 3 ingredient—
 - (i) the ingredient's chemical name; or
 - (ii) the ingredient's generic name.
 - (3) Despite subsection (2)(f), instead of stating a type 3 ingredient's chemical or generic name, the MSDS may state that the ingredient is not hazardous if—
 - (a) the ingredient is not a hazardous substance with a known synergistic effect; and
 - (b) the manufacturer or importer reasonably believes disclosure of its chemical or generic name gives insufficient commercial protection.
 - (4) Subsections (2) and (3) do not apply if—
 - (a) the importer or manufacturer has already prepared a safety data sheet for the substance under the GHS; and
 - (b) the safety data sheet also states the importer's or manufacturer's name, Australian address and Australian telephone number.
 - (5) The MSDS must be in English and contain—
 - (a) unit measures commonly used in Australia; and
 - (b) the national exposure standard, if any, for the substance.
 - (6) Subsection (1) is a workplace health and safety obligation for the Act.

191 Providing MSDS

- (1) A manufacturer or importer who prepares an MSDS must give a copy of it to each person to whom the manufacturer or

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importer supplies the substance when first supplying the substance to the person.

- (2) A manufacturer or importer who amends an MSDS by changing information mentioned in section 190(2)(a), (b) or (c) must give a copy of the amended MSDS to each person to whom the manufacturer or importer supplies the substance when first supplying the substance to the person after preparing the amended MSDS.
- (3) A manufacturer or importer must, on request, give a copy of a hazardous substance's current MSDS to—
 - (a) a relevant person, worker or worker's representative at a workplace where the substance is, or is to be, used; or
 - (b) the chief executive.

Maximum penalty—30 penalty units.

- (4) Subsections (1) and (2) do not apply to a manufacturer or importer if—
 - (a) the manufacturer or importer supplies a substance to a retailer or retail warehouse operator; and
 - (b) the substance is contained in a consumer package that will not be opened on the retailer's or operator's premises.
- (5) Subsections (1) and (2) are workplace health and safety obligations for the Act.

192 Disclosing ingredient's chemical name

- (1) This section applies despite section 190(3).
- (2) A manufacturer or importer must immediately give the chemical name of an ingredient contained in the substance to a designated doctor who—
 - (a) believes a person has been exposed to the substance at a workplace and needs urgent medical treatment; and
 - (b) asks for the information for the person's treatment.

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- (3) If an ingredient's chemical name is needed to give sufficient protection to the relevant person or a worker at a workplace against exposure—
- (a) the relevant person may, by written request, ask the substance's manufacturer or importer to give the person the ingredient's chemical name; or
 - (b) the worker or worker's representative may, by written request, ask the substance's manufacturer or importer to give the person the ingredient's chemical name.
- (4) A request under subsection (3) must contain—
- (a) the reason for the request; and
 - (b) an undertaking to use the information only for the purpose mentioned in subsection (3).
- (5) The manufacturer or importer must not refuse the request unless the manufacturer or importer has a reasonable excuse.
Maximum penalty—30 penalty units.
- (6) Without limiting subsection (5), it is a reasonable excuse to refuse the request if the manufacturer or importer—
- (a) is not satisfied the ingredient's chemical name is needed; and
 - (b) gives the requester, within 30 days after receiving the request—
 - (i) written reasons for refusing the request; and
- Editor's note—*
- The instrument giving the reasons must also refer to the evidence or other material on which those findings were based. See the *Acts Interpretation Act 1954*, section 27B (Content of statement of reasons for decision).
- (ii) information other than the ingredient's chemical name, if any, that may help protect the relevant person or worker from exposure.
- (7) Subsection (2) is a workplace health and safety obligation for the Act.

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193 Providing NICNAS summary report and other information

- (1) A relevant person at a workplace where a hazardous substance is used may, by written request, ask the substance's manufacturer or importer for—
 - (a) information from the substance's NICNAS summary report, if any, that may help in the substance's safe use; and
 - (b) other information, if any, not contained in the substance's MSDS, that may help in the substance's safe use.
- (2) The manufacturer or importer must give the relevant person the information within 30 days after receiving the request, unless the manufacturer or importer has a reasonable excuse.

Maximum penalty for subsection (2)—30 penalty units.

Division 3 Suppliers

194 Who division applies to

This division applies to a supplier of a hazardous substance for use at a workplace.

Editor's note—

See the Act, section 25 (Person may owe obligations in more than 1 capacity).

195 Providing MSDS

- (1) A supplier must give a copy of a hazardous substance's current MSDS to the relevant person at a workplace—
 - (a) when first supplying the substance to the relevant person; and
 - (b) when first supplying the substance to the relevant person after preparing or receiving an amended MSDS.

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- (2) Subsection (1) does not apply to a retailer or retail warehouse operator who supplies a hazardous substance contained in a consumer package that will not be opened on the retailer's or operator's premises.
- (3) A supplier must, on request, give a copy of a hazardous substance's current MSDS to—
- (a) a relevant person, worker or worker's representative at a workplace where the substance is, or is to be, used; or
 - (b) the chief executive.
- Maximum penalty—30 penalty units.
- (4) Subsection (1) is a workplace health and safety obligation for the Act.

196 Labelling containers

- (1) A supplier must ensure a label is fixed to a hazardous substance's container when the substance is supplied.
- (2) The label—
- (a) must be in English; and
 - (b) must state the substance's product name; and
 - (c) must state the substance's risk and safety phrases, other than a safety phrase giving information about a risk phrase; and
- Example of a safety phrase giving information about a risk phrase—*
- a safety phrase stating 'Keep away from heat' if the risk phrase states 'Heating may cause an explosion'
 - (d) if the substance contains a type 1 or type 2 ingredient—must state the ingredient's chemical name; and
 - (e) if the substance contains a type 2 ingredient and the substance's manufacturer or importer reasonably believes disclosure of the ingredient's chemical name

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gives insufficient commercial protection—may state the ingredient's generic name.

- (3) However, if the supplier is supplying a hazardous substance that is labelled under the GHS, it is sufficient compliance with subsection (2) if the label also states the supplier's name, Australian address and Australian telephone number.
- (4) Subsection (1) is a workplace health and safety obligation for the Act.

Division 4 Relevant persons

197 Who division applies to

This division applies to a relevant person at a workplace where a hazardous substance is used.

Editor's note—

See the Act, section 25 (Person may owe obligations in more than 1 capacity).

198 Meaning of *hazardous substance* for division

In this division—

hazardous substance means a substance for which its supplier must, under section 195, give a relevant person its current MSDS.

199 Obtaining MSDS

- (1) A relevant person who, when first supplied with a substance in a container labelled under section 196, does not receive an MSDS for the substance must—
 - (a) ask the supplier if the substance is a hazardous substance; and
 - (b) if it is—ask the supplier for a copy of its current MSDS.

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- (2) This section does not apply to a retailer or retail warehouse operator if the substance—
 - (a) has been supplied to the retailer or operator for retail sale; and
 - (b) is contained in a consumer package that will not be opened on the retailer's or operator's premises.
 - (3) Subsection (1) is a workplace health and safety obligation for the Act.

200 Recording and displaying MSDS

- (1) A relevant person must—
 - (a) put the copy of a hazardous substance's MSDS in the register immediately after the relevant person prepares or receives it; and
 - (b) take reasonable steps to ensure the contents of the MSDS are not changed other than in accordance with an amendment of the MSDS by the manufacturer or importer.
- (2) A relevant person who is an employer must also keep a copy of the MSDS close enough to where the substance is being used to allow a worker who may be exposed to the substance to refer to it easily.
- (3) This section does not apply to a retailer or retail warehouse operator if the substance—
 - (a) has been supplied to the retailer or operator for retail sale; and
 - (b) is contained in a consumer package that will not be opened on the retailer's or operator's premises.
- (4) Subsections (1) and (2) are workplace health and safety obligations for the Act.

201 Labelling containers

- (1) A relevant person must—

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- (a) ensure a label complying with section 196 is fixed to the container of a hazardous substance used at the workplace; and
 - (b) take reasonable steps to ensure the label is not interfered with.
- (2) If a hazardous substance is transferred from 1 container into a second container and the second container's contents are not entirely used immediately, the relevant person must ensure the second container is fixed with a label stating—
- (a) the substance's product name; and
 - (b) the substance's risk and safety phrases (other than a safety phrase giving information about a risk phrase).
- Example of a safety phrase giving information about a risk phrase—*
- a safety phrase stating 'Keep away from heat' if the risk phrase states 'Heating may cause an explosion'
- (3) Subsections (1) and (2) do not apply to a container if it has been cleaned of the hazardous substance.
 - (4) Subsections (1) and (2) are workplace health and safety obligations for the Act.

202 Hazardous substances in enclosed systems

- (1) A relevant person must ensure suitable warning of the presence and location of a hazardous substance in an enclosed system at a workplace is given to anyone who may be exposed to the substance if it escapes from the enclosed system.
- Example of suitable warning—*
- a suitable warning stated in AS 1345 (Identification of the contents of pipes, conduits and ducts)
- (2) Subsection (1) is a workplace health and safety obligation for the Act.

203 Risk assessments

- (1) A relevant person must assess the risk to the health of the relevant person or a worker from a hazardous substance that is used, or is to be used, at the workplace.

Maximum penalty—30 penalty units.

- (2) The assessment must be done—
- (a) as soon as is practicable after it is used; and
 - (b) within 5 years after the last assessment; and
 - (c) when any of the following happen at the workplace—
 - (i) a work practice involving the substance is significantly changed;

Examples of significantly changed work practices for subparagraph (i)—

- the form of a catalyst for a chemical reaction is changed from liquid to a vaporised state
- the form of a substance used is changed from fine powder to pellets

- (ii) new information about the substance's hazards is available;
- (iii) health surveillance or monitoring shows control measures need to be reviewed;
- (iv) new or improved control measures are implemented.

Examples of control measures for subparagraph (iv)—

engineering controls, safe work practices and personal protective equipment

- (3) The assessment must include—
- (a) an identification of the hazardous substance; and
 - (b) if the substance's MSDS is available—a review of the MSDS; and
 - (c) if the substance's MSDS is not available—a review of available equivalent information; and

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- (d) if the substance is contained in a consumer package—a review of the package’s label; and
 - (e) a decision whether any workers may be exposed to the substance; and
 - (f) a decision about the control measures, health surveillance and monitoring needed for the substance.
- (4) The assessment may be a generic assessment prepared for workplaces where the substance is used in the same or similar circumstances.

Example of generic assessment for subsection (4)—

an assessment prepared by an industry body or trade association about the use of brake fluid at service stations

204 Risk assessment records

The relevant person must, as soon as practicable after doing an assessment, record the following information—

- (a) the date when the assessment was done;
- (b) whether the degree of risk is assessed to be significant;
- (c) the substance’s product name;
- (d) the control measures for the use of the substance that were in place when the assessment was done;
- (e) the type of monitoring that is needed and the intervals at which the monitoring must be done;
- (f) the type of health surveillance that is needed and the intervals at which the health surveillance must be done.

Maximum penalty—30 penalty units.

205 Controlling exposure

- (1) If a risk assessment shows a relevant person or worker may be exposed to a hazardous substance, the relevant person must—
- (a) prevent the exposure; or

-
- (b) if prevention is not practicable—reduce the exposure to as low a level as is practicable, but in any case the exposure must not be more than the relevant national exposure standard for the relevant period for the substance.
 - (2) The relevant person must, as far as is practicable, prevent or reduce the exposure by ways other than the use of personal protective equipment.
 - (3) However, if the exposure can not be prevented or reduced other than by using personal protective equipment, the relevant person must ensure that anyone who may be exposed—
 - (a) is given personal protective equipment; and
 - (b) is properly instructed in the use of the personal protective equipment; and
 - (c) uses the equipment when there is a risk of being exposed to the substance.
 - (4) The relevant person must also ensure the control measures decided under the risk assessment are—
 - (a) implemented as soon as practicable at the workplace; and
 - (b) effectively maintained.
 - (5) Subsections (1) to (4) are workplace health and safety obligations for the Act.
 - (7) In this section—

relevant period means the exposure period stated in former NOHSC document entitled ‘Exposure Standards for Atmospheric Contaminants in the Occupational Environment’.

206 Monitoring

- (1) This section applies if the risk assessment shows monitoring is needed.

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- (2) The relevant person must ensure the monitoring is done at the workplace.
- (3) The relevant person must also ensure a record of the monitoring result is made as soon as practicable.
Maximum penalty—30 penalty units.
- (4) A relevant person who is an employer must—
 - (a) ensure a worker who may be exposed to a hazardous substance at the workplace is given a copy of the record; and
 - (b) allow a worker who may be exposed to inspect the record at any reasonable time.
Maximum penalty—30 penalty units.
- (5) Subsection (2) is a workplace health and safety obligation for the Act.

207 Health surveillance

- (1) A relevant person must arrange for health surveillance of the relevant person or a worker who a risk assessment shows has been exposed to a hazardous substance if—
 - (a) the substance is listed in schedule 8, column 1 and the degree of risk to the health of the relevant person or worker is significant; or
 - (b) the relevant person reasonably believes, or ought to reasonably believe—
 - (i) an identifiable adverse health effect may be related to the exposure; and
 - (ii) the health effect may happen under the work conditions of the relevant person or worker; and
 - (iii) a valid technique capable of detecting signs of the health effect exists; or
 - (c) the relevant person reasonably believes, or ought to reasonably believe—

-
- (i) an identifiable adverse health effect may be related to the exposure; and
 - (ii) the health effect may happen under the work conditions of the relevant person or worker; and
 - (iii) a valid biological monitoring procedure is available to detect, in the relevant person or worker, changes from the current accepted values for the substance.

Examples of changes from current accepted values for subparagraph (iii)—

- lower than normal blood levels of acetylcholinesterase resulting from organophosphate pesticide exposure
 - raised urinary mercury levels in a laboratory technician exposed to mercury vapour
- (2) If the health surveillance relates to exposure to a hazardous substance mentioned in schedule 8, column 1, the surveillance must include the things stated in schedule 8, column 2 for the substance.
 - (3) The relevant person must—
 - (a) arrange for the health surveillance to be done by, or under, the supervision of a designated doctor; and
 - (b) ask the designated doctor to give—
 - (i) the relevant person a health surveillance report; and
 - (ii) the worker a health surveillance report and an explanation of the report; and
 - (c) keep the report as a record at the workplace.
 - (4) If the health surveillance is of a worker, the relevant person must consult the worker before choosing a designated doctor to do, or supervise, the surveillance.
Maximum penalty—30 penalty units.
 - (5) The relevant person must pay for the health surveillance of a worker of the relevant person under this section.

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Maximum penalty—30 penalty units.

(6) Subsections (1) and (3) are workplace health and safety obligations for the Act.

(7) In this section—

health surveillance report means information, other than a medical record, about—

- (a) the effects on a person's health related to the person's exposure to a hazardous substance at a workplace; and
- (b) the need, if any, for remedial action.

208 Confidentiality of worker's medical record

(1) A relevant person who is an employer may only obtain a worker's medical record with the worker's written consent.

Maximum penalty—30 penalty units.

(2) A relevant person who is an employer must not disclose to anyone, other than the worker or someone with the worker's written consent, the contents of the worker's medical record.

Example of someone with the worker's written consent—

the worker's representative at the workplace

Maximum penalty—30 penalty units.

209 Keeping register

(1) A relevant person at a workplace must keep a register at the workplace containing—

- (a) a list of all hazardous substances used at the workplace; and
- (b) the current MSDS for each substance.

Maximum penalty—30 penalty units.

(2) A relevant person who is an employer must allow the relevant person's workers who may be exposed to a hazardous

substance at the workplace to inspect the register at any reasonable time.

Maximum penalty—30 penalty units.

- (3) This section does not apply to a retailer or retail warehouse operator if the hazardous substance is contained in a consumer package that will not be opened on the retailer's or operator's premises.

210 Keeping records

- (1) If a risk assessment shows a hazardous substance's use at a workplace causes a significant degree of risk to health, the relevant person must keep the following documents for 30 years from the day the particular document was made—

- (a) the risk assessment record;
- (b) a monitoring result;
- (c) a health surveillance report.

Maximum penalty—30 penalty units.

- (2) If a risk assessment shows a hazardous substance's use at a workplace does not cause a significant degree of risk to health, the relevant person must keep a record of the assessment for at least 5 years from the day it was made.

Maximum penalty—30 penalty units.

- (3) A relevant person who is an employer must allow a worker who may be exposed to a hazardous substance at the workplace to inspect a document mentioned in subsection (1) or (2) at any reasonable time.

Maximum penalty—30 penalty units.

- (4) If a person stops being a relevant person in the period a document is required to be kept under subsection (1) or (2), the person must ask for, and comply with, the chief executive's directions about the document's storage.

Maximum penalty—30 penalty units.

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211 Induction and training about hazardous substances

- (1) A relevant person who is an employer must give a worker who may be exposed to a hazardous substance at the workplace induction and ongoing training about the substance.
- (2) The induction and training must be appropriate having regard to—
 - (a) the level of risk identified in a risk assessment; and
 - (b) the workers who may be exposed to the substance.
- (3) The relevant person must keep a record of the induction and training given to a worker for at least 5 years from the date of the last entry in the record.

Maximum penalty—30 penalty units.

- (4) The record must include the following information for each induction or training session—
 - (a) the date of the session;
 - (b) the topics dealt with at the session;
 - (c) the name of the person who conducted the session;
 - (d) the names of the workers who attended the session.
- (5) Subsection (1) is a workplace health and safety obligation for the Act.

Division 5 Spray painting with hazardous substances

212 Ways to prevent or minimise risk prescribed

- (1) Sections 213 to 219 prescribe ways of preventing or minimising exposure to the risk of exposure to a hazardous substance used in or for spray painting in the circumstances mentioned in the sections.

- (2) However, the sections do not deal with all circumstances that expose someone to the risk of exposure to a hazardous substance from spray painting.
- (3) A person may discharge the person's workplace health and safety obligation for exposure to the risk in the circumstances mentioned in the sections only by following the prescribed ways.

213 Manufacturing or importing a spray painting booth

- (1) This section applies to a manufacturer or importer of a spray painting booth—
 - (a) for use at a workplace; and
 - (b) in which a hazardous substance is likely to be used.

Examples of hazardous substances for paragraph (b)—

enamels, lacquers, powders, solvents, varnishes

- (2) The manufacturer or importer must ensure the booth—
 - (a) is constructed to be safe and without risk to health when used properly; and
 - (b) is able to prevent or control the escape of a hazardous substance that might be a risk to health; and
 - (c) undergoes appropriate testing and examination to ensure it complies with paragraphs (a) and (b).

- (3) The manufacturer or importer must ensure the booth is fitted with an effective ventilation system that incorporates—

- (a) a filtration system to remove airborne residue produced during a spray painting process; and

Example of airborne residue for paragraph (a)—

paint particles from overspray

- (b) an exhaust capture system—
 - (i) to prevent the exposure of a person in an adjoining work area to a hazardous substance produced by a spray painting process; and

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- (ii) if prevention is not practicable—to reduce the exposure to as low a level as is practicable, but in any case the exposure must not be more than the relevant national exposure standard for the relevant period for the substance.

- (4) In this section—

relevant period means the exposure period stated in former NOHSC document entitled ‘Exposure Standards for Atmospheric Contaminants in the Occupational Environment’.

214 Supplying a spray painting booth

- (1) This section applies to a supplier of a spray painting booth—
 - (a) for use at a workplace; and
 - (b) in which a hazardous substance is likely to be used.

Examples of hazardous substances for paragraph (b)—
enamels, lacquers, powders, solvents, varnishes

- (2) The supplier must take all reasonable steps to ensure the person who is supplied with the booth is given the following information—
 - (a) the use for which the booth has been designed and tested;
 - (b) how the booth is to be used safely and without risk to health;
 - (c) the maintenance procedures for the booth, including the maintenance procedures for any filters.

215 Protecting persons from spray painting

- (1) A relevant person must ensure that the risk of a person’s exposure to a hazardous substance used in or for spray painting is—

-
- (a) prevented; or
- (b) if prevention is not practicable—minimised to as low a level as is practicable, but in any case the exposure must not be more than the relevant national exposure standard for the relevant period for the substance.
- (2) In this section—

relevant period means the exposure period stated in former NOHSC document entitled ‘Exposure Standards for Atmospheric Contaminants in the Occupational Environment’.

216 Spray painting to be done in spray painting booth

- (1) A relevant person must ensure any spray painting using a hazardous substance is done in a spray painting booth.

Examples of hazardous substances for this subsection—

acrylic lacquers, 2 pack polyurethane paint, conventional epoxy paint, powders, solvents

- (2) However, a spray painting booth is not required if—

- (a) it is not practical to do the painting in a booth; or

Examples for paragraph (a)—

- painting a bridge, building or tower
- painting a large boat that can not be easily placed in a booth because of its size

- (b) the painting involves spotting, touching up or other minor work.

Example of spotting or touching up—

occasionally painting a scratch, small dent or stone chip on a car door

Example of what is minor work for paragraph (b)—

occasionally painting a car panel with an acrylic lacquer

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Examples of what is not minor work for paragraph (b)—

- consecutively painting a number of car panels with an acrylic lacquer
- painting a whole car panel with 2 pack polyurethane paint

217 Controlling exposure from spray painting

- (1) This section applies if a relevant person can not prevent or reduce someone's exposure to a hazardous substance used in or for spray painting other than by using personal protective equipment.
- (2) The relevant person must ensure that—
 - (a) anyone who may be exposed—
 - (i) is given the appropriate personal protective equipment; and
 - (ii) is properly instructed in how to use the equipment; and
 - (iii) uses the equipment when there is a risk of being exposed to the substance; and
 - (b) personal protective equipment given to someone is effectively maintained.

218 Maintaining a spray painting booth

- (1) This section applies if a spray painting booth is used by a relevant person for spray painting a hazardous substance.
- (2) The relevant person must ensure the booth is—
 - (a) regularly inspected by a competent person to ascertain whether the booth can be used safely and without risk to health; and
 - (b) appropriately maintained by a competent person.

Example of appropriately maintained for paragraph (b)—

maintained in accordance with the procedures supplied by the supplier of the booth

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- (3) To work out how often to inspect the booth, the relevant person must consider the following things—
 - (a) the inspection intervals recommended by the manufacturer, importer or supplier of the booth;
 - (b) the types of spray painting processes done in the booth;
 - (c) how often the booth is used;
 - (d) the types of substances, and the volumes of them, used in the booth.
 - (4) In this section—

competent person means a person who has acquired, through training, qualifications, experience, or a combination of these, the knowledge and skills enabling the person to inspect or maintain a spray painting booth for its safe use and proper air movement.

219 Minimum air movement for booths

- (1) This section applies if a spray painting booth is used by a relevant person for spray painting a hazardous substance.
- (2) The relevant person must ensure the booth's ventilation system can produce and keep an air movement of—
 - (a) for a full down draught booth—not less than 0.3 metres per second; or
 - (b) for a booth used only for electrostatic spray painting—not less than 0.4 metres per second; or
 - (c) for any other booth—not less than 0.5 metres per second;averaged over the area of the booth where the spray painting is done.
- (3) For subsection (2), the air movement must be measured—
 - (a) when the booth is empty; and
 - (b) during the booth's spray cycle; and
 - (c) in the area of the booth where the painting is done; and

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- (d) for a booth that is not fully contained or enclosed—at the opening in the booth where the internal environment in the booth and the external environment meet.

Example of a booth that is not fully contained—

a tunnel booth that is not fitted with vapour barriers

Example of a booth that is not fully enclosed—

an open face booth

- (4) In this section—

spray cycle of a spray painting booth means the time during the booth's operation when the booth may be used for spray painting.

Part 17 Lead

Division 1 Interpretation

220 Meaning of ***exposed***

A person is ***exposed*** to lead if the person absorbs, or is likely to absorb, lead—

- (a) by ingestion or inhalation; or
- (b) through the skin or mucous membrane.

221 Meaning of ***lead hazardous substance***

A ***lead hazardous substance*** is—

- (a) a substance listed in schedule 10 in a concentration more than the concentration cut-off level stated for the substance in former NOHSC document entitled 'List of Designated Hazardous Substances'; or
- (b) a substance that meets the approved criteria.

Division 2 Manufacturers and importers

222 Who division applies to

This division applies to a manufacturer or importer of lead for use at a workplace.

Editor's note—

See the Act, section 25 (Person may owe obligations in more than 1 capacity).

223 Preparing, amending and reviewing MSDS

- (1) A manufacturer or importer must—
 - (a) prepare an MSDS for the lead—
 - (i) before first manufacturing or importing it; or
 - (ii) if that is not practicable—as soon as reasonably practicable after first manufacturing or importing it; and

Example for subparagraph (ii)—

It may not be practicable to prepare an MSDS before first manufacturing a lead hazardous substance that is discovered through research.

- (b) amend the MSDS whenever necessary to ensure it contains current information; and
 - (c) review the MSDS at least once in every 5 years to ensure it contains current information.
- (2) The MSDS must state—
 - (a) the lead's product name; and
 - (b) the lead's chemical name; and
 - (c) information about the lead's—
 - (i) chemical and physical properties; and
 - (ii) health hazards; and
 - (iii) safe use; and

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Editor's note—

See former NOHSC document entitled 'National Code of Practice for the Preparation of Material Safety Data Sheets' for further information about the things mentioned in paragraphs (a) to (c).

- (d) the importer's or manufacturer's name, Australian address and Australian telephone number.
- (3) The MSDS must be in English and contain—
 - (a) unit measures commonly used in Australia; and
 - (b) the national exposure standard, if any, for the lead.
- (4) Subsection (1) is a workplace health and safety obligation for the Act.

224 Providing MSDS

- (1) A manufacturer or importer who prepares an MSDS must give a copy of it to each person to whom the manufacturer or importer supplies the lead when first supplying the lead to the person.
- (2) A manufacturer or importer who amends an MSDS by changing information mentioned in section 223(2) must give a copy of the amended MSDS to each person to whom the manufacturer or importer supplies the lead when first supplying the lead to the person after preparing the amended MSDS.
- (3) A manufacturer or importer must, on request, give a copy of the lead's current MSDS to—
 - (a) a relevant person, worker or workplace health and safety representative at a workplace where the lead is, or is to be, used; or
 - (b) the chief executive.

Maximum penalty—30 penalty units.
- (4) Subsections (1) and (2) do not apply to a manufacturer or importer if—

-
- (a) the manufacturer or importer supplies lead to a retailer or retail warehouse operator; and
 - (b) the lead is contained in a consumer package that will not be opened on the retailer's or operator's premises.
- (5) Subsection (1) and (2) are workplace health and safety obligations for the Act.

225 Providing NICNAS summary report and other information

- (1) A relevant person at a workplace where lead is used may, by written request, ask the lead's manufacturer or importer for—
 - (a) information from the lead's NICNAS summary report, if any, that may help in the lead's safe use; and
 - (b) other information, if any, not contained in the lead's MSDS, that may help in the lead's safe use.
- (2) The manufacturer or importer must give the relevant person the information within 30 days after receiving the request, unless the manufacturer or importer has a reasonable excuse.

Maximum penalty for subsection (2)—30 penalty units.

Division 3 Suppliers

226 Who division applies to

This division applies to a supplier of lead for use at a workplace.

Editor's note—

See the Act, section 25 (Person may owe obligations in more than 1 capacity).

227 Providing MSDS

- (1) A supplier must give a copy of the lead's current MSDS to the relevant person at a workplace—
 - (a) when first supplying the lead to the relevant person; and

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- (b) when first supplying the lead to the relevant person after preparing or receiving an amended MSDS.
- (2) A supplier must, on request, give a copy of the lead's current MSDS to—
- (a) a relevant person, worker or workplace health and safety representative at a workplace where the lead is, or is to be, used; or
 - (b) the chief executive.
- Maximum penalty—30 penalty units.
- (3) Subsection (1) does not apply to a retailer or retail warehouse operator who supplies lead contained in a consumer package that will not be opened on the retailer's or operator's premises.
- (4) Subsection (1) is a workplace health and safety obligation for the Act.

228 Labelling containers

- (1) A supplier must ensure a label is fixed to a container of lead when the lead is supplied.
- (2) The label must be in English and state—
- (a) the lead's product name; and
 - (b) the lead's risk and safety phrases, other than a safety phrase giving information about a risk phrase;
Example of a safety phrase giving information about a risk phrase—
a safety phrase stating 'When using, do not eat or drink' if the risk phrase states 'Harmful by inhalation and if swallowed'
- (c) the lead's chemical name.
- (3) Subsection (1) is a workplace health and safety obligation for the Act.

Division 4 Relevant persons

229 Who division applies to

This division applies to a relevant person at a workplace where a lead process is carried out.

Editor's note—

See the Act, section 25 (Person may owe obligations in more than 1 capacity).

230 Obtaining MSDS

- (1) A relevant person who, when first supplied with a substance in a container labelled under section 228, does not receive an MSDS for the lead must—
 - (a) ask the supplier if the substance is lead; and
 - (b) if it is—ask the supplier for a copy of its current MSDS.
- (2) This section does not apply to a retailer or retail warehouse operator if the lead—
 - (a) has been supplied to the retailer or operator for retail sale; and
 - (b) is contained in a consumer package that will not be opened on the retailer's or operator's premises.
- (3) Subsection (1) is a workplace health and safety obligation for the Act.

231 Keeping registers

- (1) A relevant person at a workplace must—
 - (a) keep a register at the workplace containing—
 - (i) a list of the lead used in a lead process at the workplace; and
 - (ii) the MSDS for the lead used in a lead process at the workplace; and

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- (b) put the copy of the MSDS in the register immediately after the relevant person receives it; and
- (c) keep a copy of the MSDS close to where the lead is being used; and
- (d) take reasonable steps to ensure the contents of the MSDS are not changed other than in accordance with an amendment of the MSDS by the manufacturer or importer.

Maximum penalty—30 penalty units.

- (2) A relevant person who is an employer must allow the relevant person's workers to inspect the register at any reasonable time.

Maximum penalty—30 penalty units.

- (3) This section does not apply to a retailer or retail warehouse operator if the lead—
 - (a) has been supplied to the retailer or operator for retail sale; and
 - (b) is contained in a consumer package that will not be opened on the retailer's or operator's premises.

232 Labelling containers

- (1) A relevant person must—
 - (a) ensure a label complying with section 228 is fixed to the container of lead used at the workplace; and
 - (b) take reasonable steps to ensure the label is not changed.
- (2) If lead is transferred from a container into a second container and the second container's contents are not entirely used immediately, the relevant person must ensure the second container is fixed with a label stating—
 - (a) the lead's product name; and
 - (b) the lead's risk and safety phrases, other than a safety phrase giving information about a risk phrase.

Example of a safety phrase giving information about a risk phrase—

a safety phrase stating ‘When using, do not eat or drink’ if the risk phrase states ‘Harmful by inhalation and if swallowed’

- (3) Subsection (2) does not apply to a container if it has been cleaned of the lead.
- (4) Subsections (1) and (2) are workplace health and safety obligations for the Act.

233 Risk assessment

- (1) A relevant person must assess the risk to the health of the relevant person or a worker from a lead process at the workplace.

Maximum penalty—30 penalty units.

- (2) The assessment must be done—
 - (a) when a new lead process starts at the workplace and again within 4 weeks after the process starts; and
 - (b) if, in the last assessment, the process was assessed to include a lead-risk job—within 1 year after the last assessment; and
 - (c) if, in the last assessment, the process was assessed not to include a lead-risk job—within 5 years after the last assessment; and
 - (d) when any of the following happen at the workplace—
 - (i) if there is a significant change in the way a lead process is done at the workplace;
 - (ii) if there is a significant change in the amount of lead, or the amount of lead contained in a thing, used at the workplace.
- (3) The assessment must—
 - (a) identify the lead used at the workplace; and
 - (b) if the MSDS for the lead is available—review the MSDS; and

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- (c) if the MSDS for the lead is not available—review available equivalent information; and
 - (d) if the lead is contained in a consumer package—review the package’s label.
- (4) Having assessed the risk, the relevant person must decide whether a job in a lead process is a lead-risk job.
- (5) If the process is assessed to include a lead-risk job, the relevant person must decide—
- (a) the type of atmospheric monitoring needed; and
Example of a type of atmospheric monitoring—
monitoring a worker’s breathing zone
 - (b) the control measures needed.
- (6) The assessment may be a generic assessment prepared for workplaces where lead is used in the same or similar circumstances.
- Example—*
where there are several soldering stations in a battery factory soldering the same kind of terminals under similar environmental conditions
- (7) After doing the assessment, the relevant person must—
- (a) if the process is assessed not to include a lead-risk job—develop a plan to ensure a job in the process does not become a lead-risk job; or
 - (b) if the process is assessed to include a lead-risk job—
 - (i) notify the chief executive, in the approved form within 28 days after the assessment, that the process includes a lead-risk job; and
 - (ii) if the process can be changed to a process that does not include a lead-risk job—develop a plan to do that; and
 - (iii) if the process can not be changed to a process that does not include a lead-risk job—develop a plan to minimise risk to health from the lead.

Maximum penalty for subsection (7)(b)(i)—20 penalty units.

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- (8) The relevant person must ensure a plan under subsection (7)—
 - (a) if the relevant person is an employer—is developed in consultation between the relevant person, worker and workplace health and safety representative; and
 - (b) contains specific aims and ways of deciding whether the aims are being achieved.
 - (9) A relevant person who is an employer must not allow a person to start work in a lead-risk job if the relevant person knows the person—
 - (a) has a medical condition that may be adversely affected by exposure to lead; or
 - (b) is pregnant or breast feeding.
 - (10) Subsections (4), (5), (7)(a), (b)(ii) and (iii), (8) and (9) are workplace health and safety obligations for the Act.

234 Risk assessment records

As soon as practicable after doing an assessment, the relevant person must record the following information—

- (a) the date when the assessment was done;
- (b) the results of atmospheric monitoring;
- (c) whether the process is assessed to include a lead-risk job;
- (d) if a process is assessed to include a lead-risk job—
 - (i) the lead's product name or other identification; and
 - (ii) the control measures that were in place when the assessment was done; and
 - (iii) the decision made about—
 - (A) the type of atmospheric monitoring needed; and
 - (B) the control measures needed.

Maximum penalty—30 penalty units.

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235 Controlling exposure

- (1) If a risk assessment shows a relevant person or worker may be exposed to lead, the relevant person must—
 - (a) prevent the exposure; or
 - (b) if that is not practicable—reduce the exposure to as low a level as is necessary to minimise risk to health, but in any case the exposure must be less than the national exposure standard for the lead.
- (2) The relevant person must, as far as is practicable, prevent or reduce the exposure by ways other than the use of personal protective equipment.
- (3) However, if the exposure can not be prevented or reduced other than by using personal protective equipment, the relevant person must ensure that—
 - (a) anyone who may be exposed—
 - (i) is given personal protective equipment, including suitable respiratory protective equipment; and
 - (ii) is properly instructed in the use of the personal protective equipment; and
 - (iii) uses the equipment when being exposed to the lead; and
 - (b) warning signs are erected showing the need to wear the personal protective equipment in the lead process area.
- (4) The relevant person must ensure—
 - (a) the control measures decided, and plans developed, under the risk assessment are implemented at the workplace as soon as practicable; and
 - (b) the control measures, including all engineering controls, safe work practices and personal protective equipment, are effectively maintained.

Example of effective maintenance of personal protective equipment—

cleaning lead from respiratory equipment to maintain its effective use

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- (5) A relevant person must also ensure—
- (a) lead used in a lead process area does not, as far as is practicable, contaminate other areas of the workplace; and
 - (b) workers are not exposed to the risk from lead in an area provided by the relevant person for eating and drinking; and
 - (c) before moving from a lead process area to an area used for eating and drinking, a worker washes the worker's forearms, hands and face at the washing facilities provided at the workplace; and
 - (d) no one eats, chews gum, smokes or carries anything used for smoking in a lead process area; and
 - (e) no one in a lead process area drinks from anything other than a drinking facility that is made free from lead contamination; and
 - (f) the workplace is, as far as is practicable, cleaned of lead; and
 - (g) a lead process area is not cleaned by compressed air or another compressed gas or dry sweeping; and
 - (h) a worker does not take lead contaminated clothing home for laundering; and
 - (i) lead contaminated clothing is laundered.
- (6) Subsections (1) to (5) are workplace health and safety obligations for the Act.

236 Atmospheric monitoring

- (1) If the risk assessment shows a process includes a lead-risk job, the relevant person must ensure—
- (a) atmospheric monitoring is done in a lead process area at the workplace; and
 - (b) the result of the monitoring is recorded as soon as practicable.

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Maximum penalty for subsection (1)(b)—30 penalty units.

- (2) Subsection (1)(a) is a workplace health and safety obligation for the Act.

237 Health surveillance

- (1) If the risk assessment shows a process includes a lead-risk job, the relevant person must arrange for health surveillance of the relevant person or a worker who—
- (a) is to start work in the job; or
 - (b) works in the job.
- (2) For a relevant person or worker who is to start work in the lead-risk job, the relevant person must arrange for—
- (a) health surveillance of the relevant person or worker to be done before the relevant person or worker starts work; and
 - (b) more biological monitoring of the relevant person or worker to be done within 1 month after the relevant person or worker starts work; and
 - (c) more health surveillance of the relevant person or worker to be done within 3 months after the relevant person or worker starts work; and
 - (d) more health surveillance of the relevant person or worker to be done within 6 months after the relevant person or worker starts work.
- (3) For a relevant person or worker who works in the lead-risk job, the relevant person must arrange for—
- (a) health surveillance of the relevant person or worker to be done within 1 month after the risk assessment shows the job is a lead-risk job; and
 - (b) health surveillance or biological monitoring of the relevant person or worker to be done at any other time if requested by a designated doctor.
- (4) The relevant person must—

-
- (a) arrange for health surveillance or biological monitoring to be done by a designated doctor; and
 - (b) give the designated doctor, on request, the risk assessment record; and
 - (c) when arranging for health surveillance or biological monitoring to be done, ask the designated doctor to, as soon as possible after it is done, give—
 - (i) the relevant person a health surveillance report; and
 - (ii) the worker—
 - (A) if health surveillance is done—a health surveillance report and an explanation of the report; and
 - (B) if biological monitoring is done—the results of biological monitoring; and
 - (d) give the chief executive notice, in the approved form, of the results of the health surveillance within 6 months of receiving the report.

Maximum penalty for subsection (4)(d)—30 penalty units.

- (5) Anything that must be done by a designated doctor under subsection (4) may be done under the supervision of the designated doctor.
- (6) If the health surveillance is of a worker, the relevant person must ensure the designated doctor is chosen after consultation between the relevant person, worker and workplace health and safety representative.

Maximum penalty—30 penalty units.

- (7) If, after consultation, the relevant person, worker and workplace health and safety representative are unable to decide on a designated doctor, the designated doctor is to be chosen by the relevant person.
- (8) The relevant person must pay for the health surveillance of a worker of the relevant person under this section.

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Maximum penalty—30 penalty units.

- (9) Subsections (1) to (4)(c) are workplace health and safety obligations for the Act.
- (10) In this section—
health surveillance report means information about—
 - (a) the effects on a person's health related to the person's exposure to lead because of a lead-risk job; and
 - (b) the need, if any, for remedial action; and
 - (c) the type of remedial action needed.

238 Reviewing control measures

- (1) If the atmospheric monitoring shows the level of exposure is equal to or more than the national exposure standard for lead, the relevant person must review the control measures decided in the risk assessment.
- (2) If the designated doctor, in a health surveillance report, recommends the relevant person or worker must be removed from a lead-risk job, or that control measures must be reviewed, the relevant person must—
 - (a) identify how the relevant person or worker was exposed to the lead; and
 - (b) review the control measures; and
 - (c) control the exposure.
- (3) Subsections (1) and (2) are workplace health and safety obligations for the Act.

239 Removal of worker from a lead-risk job

- (1) A relevant person who is an employer must immediately remove a worker from a lead-risk job to a job that is not a lead-risk job if—
 - (a) the designated doctor, in the health surveillance report, recommends the worker be removed from the lead-risk

-
- job because of the worker's confirmed blood lead level;
or
- (b) the worker tells the relevant person that the worker—
 - (i) has a medical condition that may be adversely affected by exposure to lead; or
 - (ii) is pregnant or breast feeding; or
 - (c) the relevant person, after consultation with the worker, considers the worker has been exposed to an excessive level of lead; or
 - (d) the worker, after consultation with the relevant person, considers the worker has been exposed to an excessive level of lead.

Note—

In relation to taking action under this section or division, a person may also have obligations to comply with anti-discrimination or industrial laws.

- (2) If the relevant person or worker considers the worker has been exposed to an excessive level of lead, the relevant person must arrange for health surveillance of the worker to be done within 7 days after the worker is removed.
- (3) Subsections (1) and (2) are workplace health and safety obligations for the Act.

240 Removal of relevant person from a lead-risk job

- (1) A relevant person must remove himself or herself from a lead-risk job to a job that is not a lead-risk job if—
 - (a) the designated doctor, in the health surveillance report, recommends the relevant person be removed from the lead-risk job because of the person's confirmed blood lead level; or
 - (b) the relevant person—
 - (i) has a medical condition that may be adversely affected by exposure to lead; or

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- (ii) is pregnant or breast feeding.
- (2) If the relevant person considers he or she has been exposed to an excessive level of lead, the relevant person must arrange for health surveillance of himself or herself to be done within 7 days after the relevant person removes himself or herself.
- (3) Subsections (1) and (2) are workplace health and safety obligations for the Act.

241 Return to a lead-risk job

- (1) A relevant person who is an employer must not allow a worker to return to a lead-risk job from which the worker was removed under section 239 unless a designated doctor, after determining the worker's confirmed blood lead level by health surveillance, advises the worker may return.
- (2) A relevant person must not return to a lead-risk job from which the relevant person removed himself or herself under section 240 unless a designated doctor, after determining the confirmed blood lead level of the relevant person by health surveillance, advises the relevant person may return.
- (3) Subsection (1) is a workplace health and safety obligation for the Act.

242 Confidentiality of worker's medical record

A relevant person who is an employer must not disclose to anyone, other than the worker or someone with the worker's written consent, the contents of a worker's medical record.

Maximum penalty—30 penalty units.

243 Induction and training about lead

- (1) A relevant person who is an employer must give a worker who may be exposed to lead at the workplace induction and, at least annually, information and ongoing training about lead, including about the worker's obligations under division 5.

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- (2) The induction and training must be appropriate having regard to—
- (a) the level of risk identified in a risk assessment; and
 - (b) the types of workers who may be exposed to the lead; and
- Examples for paragraph (b)—*
- workers from a non-English speaking background
 - females of reproductive capacity
- (c) the potential health risks and toxic effects associated with lead absorption; and
 - (d) the control measures being used to minimise the risk; and
 - (e) the correct way to implement the control measures; and
- Examples for paragraph (e)—*
- the correct care and use of personal protective equipment
 - the correct way to do the work practices mentioned in section 235(5)
- (f) the health surveillance required under this part.
- (3) Subsection (1) is a workplace health and safety obligation for the Act.

244 Keeping records

- (1) If a risk assessment shows that a process includes a lead-risk job, the relevant person must keep the following documents for 30 years from the day the particular document was made—
- (a) a record of the person working in the lead-risk job, including the person's name, sex and the type of work carried out by the person;
 - (b) the risk assessment record;
 - (c) the results of atmospheric monitoring;
 - (d) the health surveillance report;

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- (e) a record of the date when a person was removed from, or returned to, the lead-risk job.

Maximum penalty—30 penalty units.

- (2) If a risk assessment shows that a process does not include a lead-risk job, the relevant person must keep the risk assessment record for at least 5 years from the day it was made.

Maximum penalty—30 penalty units.

- (3) A relevant person who is an employer must keep a record of the induction and training given to a worker for at least 5 years from the date of the last entry in the record.

Maximum penalty—30 penalty units.

- (4) The record must include the following information for each induction or training session—

- (a) the date of the session;
- (b) the topics dealt with at the session;
- (c) the name of the person who conducted the session;
- (d) the names of the workers who attended the session.

Maximum penalty—30 penalty units.

- (5) The relevant person must allow—

- (a) a worker, or the workplace health and safety representative to inspect a document mentioned in subsection (1)(a), (b) or (c), (2) or (3) at any reasonable time; and
- (b) a worker to copy the document.

Maximum penalty—30 penalty units.

- (6) If a person stops being a relevant person in the period a document is required to be kept under subsection (1), (2) or (3), the person must ask for, and comply with, the chief executive's directions about the documents storage.

Maximum penalty—30 penalty units.

Division 5 Workers

245 Who division applies to

This division applies to a worker at a workplace where a lead process is carried out.

246 Health surveillance

- (1) A worker must comply with the request of the worker's employer to undergo health surveillance.
- (2) Subsection (1) is a workplace health and safety obligation for the Act.

247 Advising of pregnancy or breast feeding

- (1) A worker must tell the worker's employer that the worker—
 - (a) if the worker knows the worker has a medical condition that may be adversely affected by exposure to lead—has the medical condition; or
 - (b) if the worker knows the worker is pregnant—is pregnant; or
 - (c) is breast feeding.
- (2) Subsection (1) is a workplace health and safety obligation for the Act.

Part 18 Confined spaces

248 Designing, manufacturing or supplying a confined space

- (1) A designer, manufacturer or supplier of plant that is a confined space must comply with clauses 6.1 to 6.3 of AS/NZS 2865.

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Editor's note—

AS/NZS 2865 (Safe working in a confined space)

- (2) Subsection (1) is a workplace health and safety obligation for the Act.

249 Modifying a confined space

- (1) A person who modifies a confined space must comply with clause 6.4 of AS/NZS 2865.
- (2) Subsection (1) is a workplace health and safety obligation for the Act.

250 Using a confined space

- (1) A relevant person at a workplace at which a confined space is used, or is to be used, must comply with the following clauses of AS/NZS 2865—
- (a) clause 8.1;
 - (b) clauses 9.1 and 9.2;
 - (c) clauses 10.1, 10.5, 10.11, 10.22, 10.30, 10.41 and 10.46 to 10.48;
 - (d) clauses 11.1, 11.3, 11.6 and 11.9;
 - (e) clauses 12.1 and 12.2;
 - (f) clause 13.

Editor's note—

AS/NZS 2865 (Safe working in a confined space)—clause 8.1 (Hazard identification), clauses 9.1 and 9.2 (Risk assessment), clauses 10.1, 10.5, 10.11, 10.22, 10.30, 10.41 and 10.46 to 10.48 (Control measures), clauses 11.1, 11.3, 11.6 and 11.9 (Training and competence), clauses 12.1 and 12.2 (Emergency response), and clause 13 (Record keeping)

Maximum penalty for subsection (1)(a), (b) or (f)—30 penalty units.

- (2) A risk assessment under subsection (1)(b) must be carried out by a person who has acquired through training, qualifications

or experience the knowledge and skills enabling the person to perform the assessment.

- (3) Subsection (1)(c) to (e) is a workplace health and safety obligation for the Act.

Part 19 Roll-over protective structures for wheeled tractors

Division 1 Interpretation

251 Definitions for pt 19

In this part—

exempt tractor means a tractor that—

- (a) weighs less than 560kg, or more than 15000kg, measured with a full fuel tank, coolant and lubricating oil; or
- (b) is being used in, or driven to or from, an orchard that would impede the operation of the tractor if a roll-over protective structure were to be fitted to the tractor; or
- (c) is being used in or near a building or other structure that would impede the operation of the tractor if a roll-over protective structure were to be fitted to the tractor; or
- (d) is being used in a stationary position; or
- (e) is being driven to or from a place where the tractor is to be used, or has been used, in a stationary position; or
- (f) is being maintained, modified, serviced or repaired if it is necessary to remove the tractor's roll-over protective structure to do the maintenance, modification, service or repair; or
- (g) is being used for a historical activity; or

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(h) is being sold for scrap or spare parts.

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

Example of a historical activity—

a historical display, parade, demonstration or re-enactment

Example of an activity ancillary to a historical activity—

restoring, maintaining, modifying, servicing, repairing or housing a tractor used, or to be used, for a historical activity

roll-over protective structure means a structure—

- (a) designed and constructed to prevent or minimise the risk of death or injury to the operator of a tractor because of the tractor rolling over in any direction; and
- (b) if the structure is fitted to a tractor on or after 1 July 2003—that complies with any of the following standards—
- AS 1636
 - AS 2294
 - ISO 3463
 - ISO 3471-1
 - ISO 5700
 - OECD Code 3
 - OECD Code 4
 - OECD Code 6
 - OECD Code 7
 - OECD Code 8
 - SAE J 1040
 - SAE J 1194
 - SAE J 2194

Editor's note—

AS 1636 (Tractors—Roll-over protective structures—Criteria and tests)

AS 2294 (Earth-moving machinery—Protective structures)

ISO 3463 (Tractors for agriculture and forestry—Roll-over protective structures (ROPS)—Dynamic test method and acceptance conditions)

ISO 3471-1 (Earth-moving machinery—Roll-over protective structures—Laboratory tests and performance requirements)

ISO 5700 (Tractors for agriculture and forestry—Roll-over protective structures (ROPS)—Static test method and acceptance conditions)

OECD Code 3 (Standard code for the official testing of protective structures on agricultural and forestry tractors (dynamic test))

OECD Code 4 (Standard code for the official testing of protective structures on agricultural and forestry tractors (static test))

OECD Code 6 (Standard code for the official testing of front mounted roll-over protective structures on narrow-track wheeled agricultural and forestry tractors)

OECD Code 7 (Standard code for the official testing of rear mounted roll-over protective structures on narrow-track wheeled agricultural and forestry tractors)

OECD Code 8 (Standard code for the official testing of protective structures on agricultural and forestry tracklaying tractors)

SAE J 1040 (Performance Criteria for Rollover Protective Structures (ROPS) for Construction, Earthmoving, Forestry, and Mining Machines)

SAE J 1194 (Rollover Protective Structures (ROPS) for Wheeled Agricultural Tractors)

SAE J 2194 (Roll-Over Protective Structures (ROPS) for Wheeled Agricultural Tractors)

tractor see section 252.

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252 Meaning of *tractor*

- (1) In this part, ***tractor*** means a vehicle primarily designed to—
 - (a) haul agricultural machinery or implements; or
 - (b) provide power for agricultural machinery or implements by transmission shaft, belt or linkage system.
- (2) For subsection (1), it does not matter whether the vehicle—
 - (a) is used at an agricultural workplace; or
 - (b) can be converted temporarily into earthmoving machinery.
- (3) However, a vehicle primarily designed as earthmoving machinery is not a tractor under this part.

Example of earthmoving machinery—

a dozer or front-end loader

- (4) A vehicle is not a tractor if the vehicle has been permanently modified to the extent that it can no longer—
 - (a) haul agricultural machinery or implements; or
 - (b) provide power for agricultural machinery or implements by transmission shaft, belt or linkage system.

253 Demonstrator tractor is taken to be new

For this part, a tractor that is a demonstrator for new tractors is taken to be new.

Division 2 Ways to prevent or minimise risk from wheeled tractor rolling over

254 Ways to prevent or minimise risk prescribed

Sections 255 and 256 prescribe ways of preventing or minimising exposure of the operator of a wheeled tractor to the risk of death or injury from the tractor rolling over.

255 Roll-over protective structure to be fitted to wheeled tractor used by relevant person

- (1) This section does not apply to—
 - (a) an exempt tractor; or
 - (b) a tractor manufactured before 1 January 1981.
- (2) A relevant person must ensure that a wheeled tractor used by himself or herself, as the operator of the tractor, in the conduct of his or her business or undertaking is fitted with a roll-over protective structure.

Maximum penalty—40 penalty units.

256 Roll-over protective structure to be fitted to wheeled tractor used by worker

A relevant person who is an employer must ensure that a wheeled tractor, other than an exempt tractor, used by a worker of the relevant person as the operator of the tractor is fitted with a roll-over protective structure.

Maximum penalty—40 penalty units.

Division 3 Obligation of prospective supplier of wheeled tractor not fitted with a roll-over protective structure

257 Obligation of prospective supplier of wheeled tractor not fitted with a roll-over protective structure

- (1) This section applies to a wheeled tractor that—
 - (a) weighs at least 560kg, but not more than 15000kg, measured with a full fuel tank, coolant and lubricating oil; and
 - (b) is not fitted with a roll-over protective structure complying with AS 1636.

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- (2) A person (the *prospective supplier*) must not supply the tractor.
- (3) The prospective supplier does not contravene subsection (2) if the person to whom the tractor is to be supplied tells, in general terms, the prospective supplier, or someone for the prospective supplier, that the person intends to use the tractor only in 1 or more of the following ways (the *stated way*)—
 - (a) in a stationary position;
 - (b) in an orchard that would impede the operation of the tractor if a roll-over protective structure were to be fitted to the tractor;
 - (c) in or near a building or other structure that would impede the operation of the tractor if a roll-over protective structure were to be fitted to the tractor;
 - (d) for a historical activity;
 - (e) for scrap or spare parts.
- (4) However, subsection (3) does not apply if the prospective supplier knows or suspects that the person intends to use the tractor in a way other than the stated way.
- (5) Subsection (2) is a workplace health and safety obligation for the Act.
- (6) A person must not tell a prospective supplier, as mentioned in subsection (2), that the person intends to use a tractor only in 1 or more of the stated ways if the person does not have that intention at the time of the statement.
Maximum penalty—20 penalty units.
- (7) In this section—
supply includes sell, hire out, lease, auction and barter.

Part 20 Construction work

Division 1 Definitions

258 Definitions for pt 20

In this part—

anchorage point means a device or thing by which a lanyard, static line or other line may be attached to a building or other structure, and includes the part of the building or structure to which the device or thing is attached.

Examples—

- a stainless steel eyebolt, set in a concrete floor, to which a lanyard may be attached
- a sling around a steel I beam, with padding under the sling, joined by a shackle or other joining device to which a lanyard may be attached
- a plate for a travel restraint system fixed by screws to a roof component to which a lanyard may be attached

barricade means a self-supporting fence, or a self-supporting series of continuous plastic, concrete or other solid barriers, usually temporary, erected or placed to restrict the entry of persons to a workplace.

Examples of fences—

- steel pickets joined by chain wire of appropriate height to restrict entry
- steel pickets joined by rows of wire at appropriate heights to restrict entry
- steel pickets joined by taut plastic webbing commonly known as para-webbing

caisson means a structure that provides an underground passageway or a passageway through water.

catch platform means a platform designed to provide overhead protection to persons by catching falling objects.

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civil construction work means construction work in relation to any of the following structures—

- (a) a structure mentioned in schedule 3 of the Act, definition *structure*, paragraph (b), (c) or (d);
- (b) a bridge;
- (c) a pumping station;
- (d) a refinery;
- (e) a telecommunications structure.

cofferdam means a temporary wall erected to exclude water from an area normally under water.

common plant means plant provided by the principal contractor for use by any person at the workplace for a purpose other than discharging the principal contractor's workplace health and safety obligations.

construction safety plan means a plan prepared by a principal contractor under section 263.

edge protection means a barrier to prevent a person falling erected along the edge of—

- (a) a building or other structure; or
- (b) an opening in a surface of a building or other structure; or
- (c) a fall arresting platform; or
- (d) the surface from which work is to be done.

excavation means a hole in the earth, or a face of earth, formed after rock, sand, soil or other material is removed.

Examples—

- a trench, ditch, shaft, well, tunnel, pier hole, cutting, caisson or cofferdam
- a hole drilled in the earth

excavation work means work to make, fill or partly fill an excavation.

fall-arrest harness system means a system that—

- (a) is designed to arrest the fall of a person using it and prevent or minimise the risk of injury to the person as the fall is arrested; and
- (b) consists of a harness attached to—
 - (i) a device to absorb the energy of the falling person attached to a lanyard that is attached to a static line or anchorage point; or
 - (ii) a line that—
 - (A) has a device that automatically locks the line, and absorbs the energy of the falling person; and
 - (B) is attached to a static line or anchorage point; or
 - (iii) a lanyard that—
 - (A) has a device that travels along a line or rail, automatically locks onto the line or rail, and absorbs the energy of the falling person; and
 - (B) is attached to a static line or anchorage point.

fall arresting platform means a platform installed to arrest the fall of a person who falls from a building or other structure.

fall protection cover means a structure that—

- (a) is placed over an opening in a surface of a building or other structure to prevent a person falling through the opening; and
- (b) consists of solid sheets of sturdy material.

Examples for paragraph (b)—

solid sheets of sturdy timber, plywood, metal, mesh

gantry means a structure that has—

- (a) an overhead platform; and

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- (b) a hoarding, at least 1800mm high that is fully sheeted with timber, plywood, metal or sturdy synthetic sheets, running along its length.

geo-technical engineer means an engineer who holds an engineering qualification relevant to geo-technology.

high risk construction activity see section 259.

hoarding means a self-supporting structure, fully sheeted with timber, plywood, metal or sturdy synthetic sheets, or fully covered by chain wire or sturdy mesh, that is designed—

- (a) to prevent persons other than relevant persons or workers from entering a place where construction work is being performed; and
- (b) to provide protection to those persons against objects approaching them from the side.

housing construction work means construction work that is work to erect, construct, extend or structurally alter—

- (a) any of the following dwellings that is not located above or below another dwelling or another part of a building, other than a part that is a private garage—
- (i) a detached house;
- (ii) an attached dwelling, separated from the dwelling to which it is attached by a fire-resisting wall, including, for example, a terrace house or town house;
- (iii) a boarding house, guest house, hostel or similar building with a floor area of not more than 300m²;
or
- (b) a building that is not designed for habitation but is ancillary to a building to which paragraph (a) applies.

Example of an ancillary building—

a private garage, carport or shed

light work means work that is light having regard to the following—

- (a) the amount of physical exertion involved;
- (b) the physical capacity of the person doing the work;
- (c) the range of movement involved;
- (d) the weight or bulk of materials or equipment involved.

Examples of light work—

- painting
- installing a roof gutter, air-conditioning duct, metal fascia or lighting
- placing pine roof trusses in position on the roof of a low-set house
- performing inspections or tests
- installing an electrical connection

Examples of work that is not light work—

- fixing plaster board sheeting to an internal stairwell void
- fixing cladding to a gable end of a roof
- using a medium or heavy duty angle grinder or circular saw

object includes material.

overhead platform means a platform designed to provide overhead protection to persons against falling objects.

perimeter containment screening means a screen—

- (a) designed to stop objects falling on persons from a level of a building; or
- (b) to redirect a falling object onto a catch platform.

permitted work, in relation to work involving a ladder, means work in which—

- (a) the weight, size or shape of any equipment or material the person using the ladder is carrying is not likely to—
 - (i) restrict the person's movement while the person is climbing or descending the ladder; or

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- (ii) cause the person to lose balance on the ladder while doing the work; and
- (b) the person's trunk is approximately centred over the centre of the space between the sides of the ladder from when the person is fully on the ladder to when the person is leaving the ladder; and
- (c) any equipment being used by the person can be operated using 1 hand unless a control measure designed to support the person's body is being worn or used.

Example of a control measure—

a strap, commonly known as a pole strap, that fits around a pole and is attached to a harness worn by the person

prescribed information, about an underground service, means the information about the service necessary to safely do excavation work at or near the service, including—

- (a) the location of the service; and
- (b) the type of the service; and
- (c) the depth of the service; and
- (d) for an electrical service—whether the service is or is not live; and
- (e) the restrictions to be followed in doing the work.

site-specific induction, for construction work, means a workplace health and safety induction that is specific to the place where the construction work is to be performed.

static line means a flexible line, to which a lanyard is attached, supported by at least 2 anchorage points located so that the angle between the horizontal and an imaginary straight line between any anchorage point and the other or nearest anchorage point is—

- (a) if the manufacturer of the flexible line has specified the size of the angle—not more than the size specified; or
- (b) if the manufacturer has not specified the size of the angle—not more than 5°.

travel restraint system means a system that—

- (a) consists of a harness or belt, attached to 1 or more lanyards, each of which is attached to a static line or anchorage point; and
- (b) is designed to restrict the travelling range of a person wearing the harness or belt so that the person can not get into a position where the person could fall off an edge of a surface or through a surface.

trench means an excavation where the maximum depth is more than the minimum width.

underground service means a cable, pipe or other thing laid or installed underground for the transmission, transportation or storage of electricity or a substance.

Examples—

- underground electrical cables
- underground gas pipelines
- underground fuel tanks or pipes
- underground water pipes
- underground sewerage pipelines or services
- underground stormwater pipes or services

work method statement—

- (a) for a high risk construction activity other than a prescribed activity—see section 260; or
- (b) for a high risk construction activity that is a prescribed activity—see section 261.

259 Meaning of *high risk construction activity*

- (1) An activity is a ***high risk construction activity*** if the activity is part of construction work and—
 - (a) the activity involves a person—
 - (i) entering a trench that is more than 1.5m deep; or
 - (ii) using explosives; or

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- (iii) using a confined space; or
- (iv) using a hazardous substance; or
- (b) during the activity, a person could fall—
 - (i) if the activity is housing construction work—at least 3m; or
 - (ii) if the activity is not housing construction work—at least 2m; or
- (c) the activity is performed on a roof with a pitch of more than 26°; or
- (d) the activity is—
 - (i) a prescribed activity; or
 - (ii) demolition work that is not a prescribed activity; or
- (e) the activity consists of—
 - (i) tilt-up and precast construction work; or
 - (ii) structural alterations that require temporary support to prevent collapse; or
 - (iii) the movement of powered mobile plant at the workplace; or
 - Examples for subparagraph (iii)—*
 - the movement of forklifts at the workplace
 - the interaction of rollers with other powered mobile plant at the workplace
 - the interaction of graders with persons at the workplace
 - (iv) work on a telecommunications tower; or
 - (v) work in, over or adjacent to water if there is a risk of drowning; or
 - (vi) work on, or adjacent to, a road or railway; or
 - (vii) work on or near a pressurised gas distribution mains and consumer piping; or

- (viii) work on or near a chemical, fuel or refrigerant line;
or
 - (ix) work near an exposed energised electrical installation; or
 - (x) work in an area that may have a contaminated or flammable atmosphere; or
 - (xi) work in an area where there are artificial extremes of temperature; or
- (f) the principal contractor for the construction work reasonably believes the activity could result in death or bodily harm.
- (2) In this section—

electrical installation see the *Electrical Safety Act 2002*, schedule 2.

energise see the *Electrical Safety Act 2002*, schedule 2.

exposed see the *Electrical Safety Act 2002*, schedule 2.

hazardous substance has the same meaning as in section 198.

powder-actuated hand-held fastening tool has the same meaning as in AS/NZS 1873.

Editor's note—

AS/NZS 1873 (Powder-actuated (PA) hand-held fastening tools)

using explosives does not include using powder-actuated hand-held fastening tools.

260 Meaning of *work method statement* for high risk construction activity other than prescribed activity

- (1) A ***work method statement***, for a high risk construction activity, other than a prescribed activity, is a written statement for the activity prepared by or under the direction of a relevant person and stating—
- (a) the high risk construction activity; and
 - (b) if the relevant person has an ABN, the ABN; and

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- (c) the specific control measures the relevant person proposes to use to discharge the relevant person's workplace health and safety obligations for the activity; and
- (d) the way the relevant person proposes to perform the activity, including how the control measures are to be used; and
- (e) how the effectiveness of the control measures will be monitored and reviewed; and

Example of how the effectiveness of a control measure may be monitored—

Before work starts each day, a competent person will check the shoring of a trench more than 1.5m deep to ensure the trench will not collapse.

- (f) if the activity is to be performed in an earthmoving or particular crane occupation—the occupation; and
 - (g) if the activity is high risk work—the class of high risk work that includes the work.
- (2) Control measures mentioned in subsection (1)(c) are control measures directed at—
- (a) if the activity is a high risk construction activity because of section 259(1)(a)(i)—the trench collapsing; or
 - (b) if the activity is a high risk construction activity because of section 259(1)(a)(ii)—an explosion; or
 - (c) if the activity is a high risk construction activity because of section 259(1)(a)(iii)—working in the confined space; or
 - (d) if the activity is a high risk construction activity because of section 259(1)(a)(iv)—being exposed to the substance; or
 - (e) if the activity is a high risk construction activity because of section 259(1)(b) or (c)—falling; or
 - (f) if the activity is a high risk construction activity because of section 259(1)(f)—hazards the principal contractor identifies.

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- (3) A work method statement for a high risk construction activity, other than a prescribed activity, may be a generic work method statement prepared for workplaces where the activity is to be performed in the same way in the same or similar circumstances.

261 Meaning of *work method statement* for high risk construction activity that is prescribed activity

- (1) A *work method statement*, for a high risk construction activity that is a prescribed activity, is a written statement for the activity prepared by or under the direction of a relevant person who is the holder of a certificate under section 46 to perform the activity that states—
- (a) what prescribed activity is being performed; and
 - (b) if the holder has an ABN, the ABN; and
 - (c) the certificate number of the certificate; and
 - (d) the specific control measures the holder proposes to use to discharge the holder's workplace health and safety obligations for the activity; and
 - (e) the way the holder proposes to perform the activity, including how the control measures are to be used; and
 - (f) how the effectiveness of the control measures will be monitored and reviewed; and
 - (g) the arrangements for appropriate training under part 4 of workers employed, or otherwise allowed, to perform the activity; and
 - (h) the arrangements for supervision under part 4 of the performance of the activity by a competent person within the meaning of section 50(2).
- (2) A work method statement for a high risk construction activity that is a prescribed activity may be a generic work method statement prepared for workplaces where the activity is to be performed in the same way in the same or similar circumstances.

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Division 2 Principal contractors

Subdivision 1 Preliminary

262 Application of div 2

- (1) This division applies only to a principal contractor performing construction work.
- (2) However, subsection (1) does not prevent a principal contractor from having obligations under division 3 if the principal contractor performs construction work as a relevant person.

Subdivision 2 Obligation to prepare construction safety plan

263 Principal contractor must prepare construction safety plan

- (1) A principal contractor must prepare a written construction safety plan complying with subsections (2) and (3) before construction work starts.

Maximum penalty—30 penalty units.

- (2) The construction safety plan must state—
 - (a) the address where the construction work is to be performed; and
 - (b) the name and address of the principal contractor for the construction work; and
 - (c) if the principal contractor has an ABN, the ABN; and
 - (d) whether there is a workplace health and safety committee for the workplace where the construction work is to be performed; and

Note—

See part 7 (Workplace consultative arrangements), division 4 (Workplace health and safety committees) of the Act.

- (e) whether there is a workplace health and safety officer appointed for the workplace where the construction work is to be performed; and

Note—

See part 8 (Workplace health and safety officers) of the Act.

- (f) when the construction work is expected to start; and
(g) the principal contractor's estimate of how long the construction work will take; and
(h) the type of construction work to be performed; and

Examples of the type of construction work to be performed—

- work to erect a town house
- work to construct a road
- work to demolish an office block

- (i) the risks of the construction work for which the principal contractor has a workplace health and safety obligation; and
(j) the proposed control measures to prevent, or minimise the level of the risks; and
(k) how the principal contractor proposes to ensure the proposed control measures are used; and
(l) how the principal contractor proposes to monitor and review the effectiveness of the proposed control measures; and
(m) the site rules; and

Examples of site rules—

- 1 All visitors to the site must report immediately to the site office.
- 2 Safety boots and goggles must be worn on the site.
- 3 A person must not consume alcohol on the site.

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- (n) the emergency procedures for the construction work; and

Examples of emergency procedures—

- 1 If there is an emergency evacuation, a siren will sound and all personnel must assemble on the corner of Green Street and Blue Street to await further instruction for returning to the site.
- 2 the periodic testing of emergency lighting installations
- 3 the periodic testing of fire fighting equipment

- (o) how the principal contractor proposes to discharge the principal contractor's obligation to persons using areas adjacent to the place where the construction work is being performed; and

Example—

A gantry with a hoarding will be provided over the footpath to protect persons from falling objects.

- (p) the common plant to be provided.

Examples of common plant—

- perimeter guard railing
- 1800mm hoarding

- (3) The construction safety plan must be—

- (a) written in a way likely to be understood by the persons likely to be performing the construction work; and
- (b) signed and dated by the principal contractor.

264 When principal contractor not to allow relevant person to start housing construction work

A principal contractor must not allow a relevant person to start construction work that is housing construction work unless the principal contractor, or someone acting for the principal contractor, has—

- (a) given the person a copy of the current construction safety plan; or

- (b) discussed with the person the aspects of the construction safety plan relevant to the person's work.

Maximum penalty—30 penalty units.

265 When principal contractor not to allow relevant person to start construction work, other than housing construction work

A principal contractor must not allow a relevant person to start construction work other than housing construction work unless the current construction safety plan—

- (a) is available for inspection at the workplace by any person performing or intending to perform the construction work; or
- (b) if the principal contractor, or someone acting for the principal contractor, is not present at the workplace—is readily available for inspection by any person performing or intending to perform the construction work.

Maximum penalty—30 penalty units.

266 Availability of current construction safety plan

A principal contractor must ensure the current construction safety plan and current work method statements held by the principal contractor are readily available for inspection while the construction work is being performed.

Maximum penalty—30 penalty units.

267 Amendment of construction safety plan

- (1) A principal contractor must ensure the construction safety plan is amended if there is a change in the information mentioned in section 263(2)(i) to (p).

Maximum penalty—30 penalty units.

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(2) If the construction safety plan is amended under subsection (1), the principal contractor must ensure each relevant person affected by the amendment is—

- (a) advised of the details of the amendment; or
- (b) given a copy of the amendment.

Maximum penalty—30 penalty units.

Subdivision 3 Principal contractor's obligation for work method statements

268 Principal contractor not to allow relevant person to start high risk construction activity unless work method statement prepared

A principal contractor must not allow a relevant person to start a high risk construction activity unless the relevant person has prepared a work method statement for the activity.

Maximum penalty—30 penalty units.

269 Work method statement or amended work method statement to be kept with construction safety plan

- (1) This section applies if a principal contractor is given a work method statement or amended work method statement for a high risk construction activity to be performed.
- (2) The principal contractor must—
 - (a) sign and date the work method statement or amended work method statement; and
 - (b) keep the statement or amended statement with the construction safety plan.

Maximum penalty—30 penalty units.

270 Principal contractor not to allow person to perform prescribed activity unless in compliance with work method statement

A principal contractor must not allow a person to perform a high risk construction activity that is a prescribed activity unless the activity is performed in a way complying with the current work method statement for the activity.

Maximum penalty—30 penalty units.

271 Principal contractor to monitor use of work method statement

A principal contractor must monitor the use of any work method statement required under this regulation to ensure that all persons to whom the statement applies comply with the statement.

Maximum penalty—30 penalty units.

Subdivision 4 Principal contractor's obligation to sight induction evidence and conduct site-specific workplace health and safety inductions

272 Principal contractor to sight general induction evidence before construction work starts

- (1) A principal contractor must not allow a relevant person to start construction work unless the principal contractor has sighted general induction evidence for the person.

Maximum penalty—30 penalty units.

- (2) In this section—

construction work does not include work to repair a structure that is fixed plant, a ship or a submarine.

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273 Site-specific induction to be given

- (1) This section does not apply to construction work that is housing construction work.
- (2) A principal contractor must ensure a person has been given a site-specific induction for the workplace before allowing the person to start construction work.

Maximum penalty—30 penalty units.

- (3) A principal contractor must ensure a person entering a part of the workplace where construction work is being performed—
 - (a) has been given a site-specific induction for the workplace; or
 - (b) is accompanied by the principal contractor or someone who has been given a site-specific induction for the workplace.

Maximum penalty—30 penalty units.

- (4) The principal contractor must ensure that induction given to a person includes the following aspects of the construction safety plan for the workplace—
 - (a) whether there is a health and safety committee for the workplace;
 - (b) if there is a workplace health and safety officer appointed—
 - (i) the officer's name and contact details; and
 - (ii) a description of the officer's role;
 - (c) the principal contractor's estimate of how long the construction work will take;
 - (d) how the principal contractor proposes to monitor and review the effectiveness of the control measures the principal contractor has used or will use;
 - (e) the site rules;
 - (f) emergency procedures, including the name and contact details of the first aid officer;

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- (g) the common plant and directions about how it is to be used at the workplace.

Maximum penalty—30 penalty units.

- (5) The principal contractor must ensure a record is made of—

- (a) the name of each person inducted; and
- (b) the date the induction was given.

Maximum penalty—30 penalty units.

- (6) The principal contractor must keep the record made under subsection (5) until the construction work ends.

Maximum penalty—30 penalty units.

Subdivision 5 Principal contractor's obligation for others

274 Authority to perform work for prescribed activities, work in an earthmoving or particular crane occupation or high risk work

A principal contractor must not allow a person to perform the following—

- (a) high risk work unless the person has appropriate authority to perform the high risk work under section 18 or is exempted from the requirement to hold appropriate authority;
- (b) work in an earthmoving or particular crane occupation unless the person has appropriate authority to perform work in the occupation under section 25 or is exempted from the requirement to hold appropriate authority;
- (c) work that is a prescribed activity unless the person has authority under section 46 to perform the activity or section 46 does not apply to the performance of the work.

Maximum penalty—30 penalty units.

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Subdivision 6 Principal contractor's obligation to erect signs

275 Signs

(1) A principal contractor must, before construction work starts, ensure that adequate numbers of general safety signs, having regard to the size and complexity of the workplace, are erected at the workplace to adequately indicate to persons—

(a) the nature of the workplace; and

Example of sign for paragraph (a)—

‘Construction site’

(b) that unauthorised entry to the workplace is not allowed; and

Examples of signs for paragraph (b)—

- ‘No unauthorised entry’
- ‘All persons must report to the site office.’

(c) that they are not to use the workplace or any adjoining area in stated circumstances.

Example of sign for paragraph (c)—

‘Do not proceed if light is flashing. Load is being lifted onto site.’

Examples of general safety signs—

- signs, at each point of entry to the workplace, indicating that unauthorised entry to the workplace is not allowed
- signs indicating the direction to the site office or site amenities
- signs indicating where first aid equipment and facilities and fire extinguishing equipment are kept
- signs indicating that a means of access must be kept clear
- signs indicating where hazardous substances are kept
- signs indicating who the principal contractor is
- signs indicating that head and foot protection must be worn

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- (2) The principal contractor must keep the signs in good condition.
 - (3) Subsections (1) and (2) are workplace health and safety obligations for the Act.

Subdivision 7 Principal contractor's obligation about safe housekeeping practices

276 Purpose of sdiv 7

The purpose of this subdivision is to establish and maintain an orderly workplace environment to prevent or minimise a person's exposure to risk that may result because of hazards at the workplace in relation to which the principal contractor owes a workplace health and safety obligation.

Examples of establishing and maintaining an orderly workplace environment—

- installing and maintaining adequate entry and exit lighting in accordance with AS/NZS 1680
- installing and maintaining emergency evacuation signs and lighting in accordance with AS/NZS 2293

277 Safe housekeeping practices

- (1) The principal contractor for construction work must ensure that—
 - (a) safe housekeeping practices are used for the construction work; and
 - (b) the effectiveness of the practices is monitored and reviewed; and
 - (c) the practices are kept up to date; and
 - (d) each relevant person performing the work is instructed to follow the practices to the extent they relate to the relevant person.
- (2) For subsection (1), safe housekeeping practices include—

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- (a) ensuring there is appropriate, safe and clear entry to and exit from the workplace; and
 - (b) ensuring there is a safe system for collecting, storing and disposing of excess or waste materials; and
 - (c) ensuring there is enough area in which to safely store materials or plant for the construction work.
- (3) Subsection (1) is a workplace health and safety obligation for the Act.

Subdivision 8 Principal contractor's obligation for common plant

278 Common plant

- (1) If a principal contractor provides common plant, the principal contractor must—
- (a) ensure the plant is safe for the purpose for which it is provided when it is provided; and
 - (b) keep the plant effectively maintained while it is provided; and
 - (c) comply with the provisions of this regulation about plant of the same type as the common plant as if the provisions applied to the common plant.
- (2) Subsection (1) is a workplace health and safety obligation for the Act.

Subdivision 9 Principal contractor's obligation for hazardous substances

279 Register of hazardous substances

- (1) A principal contractor must keep a register, containing the information mentioned in subsections (2) and (3), of all

hazardous substances the principal contractor is aware are at, or are proposed to be used at, the workplace.

Maximum penalty—30 penalty units.

- (2) The register must contain the name of the relevant person, if any, the principal contractor knows is proposing to use the substance at the workplace.
- (3) The register must also contain a copy of the substance's current MSDS.
- (4) The information must be entered in the register as soon as reasonably practicable after the principal contractor becomes aware that the hazardous substance is at, or is proposed to be used at, the workplace.

Maximum penalty—30 penalty units.

- (5) The principal contractor must allow anyone working, or about to work, at the workplace to inspect the register at all reasonable times.

Maximum penalty—30 penalty units.

Subdivision 10 Principal contractor's obligation for underground services

280 Information about underground services

- (1) This section applies if a principal contractor intends to perform construction work that includes excavation work.
- (2) Before the excavation work starts the principal contractor must—
 - (a) find out from appropriate sources what underground services are at or near the location where the work is to be done that could create a risk if contacted or damaged; and
 - (b) obtain prescribed information about each underground service from an appropriate source; and

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- (c) ensure the information is recorded in writing; and
 - (d) give the information to each relevant person who is to do excavation work at or near the location of the service.
- (3) Subsection (2) is a workplace health and safety obligation for the Act.
- (4) The principal contractor must keep the information recorded until the construction work ends.

Maximum penalty for subsection (4)—30 penalty units.

Subdivision 11 Principal contractor's obligation for falling objects

281 Application of sdiv 11

This subdivision applies to construction work if an object could fall on or otherwise hit persons during the work.

282 What is *mesh* for sdiv 11

- (1) *Mesh*, for this subdivision, is mesh that complies with this section.
- (2) The mesh must be made of at least 2.5mm diameter steel with a tensile strength of at least 380MPa.
- (3) If the pattern of the openings within the mesh are a square or other rectangle, the openings within the mesh must not be over—
- (a) for mesh with prescribed lining securely attached to the inside of the mesh—50mm by 50mm; or
 - (b) otherwise—
 - (i) if the openings are square, 25mm by 25mm; or
 - (ii) if the openings are not square, 25mm by 50mm.

-
- (4) If the pattern of the openings within the mesh are not a square or other rectangle, the openings within the mesh must not be over—
- (a) if the mesh has prescribed lining securely attached to the inside of the mesh—50mm in any direction; or
- (b) otherwise—25mm in any direction.
- (5) In this section—

prescribed lining, in relation to mesh, means intact shade cloth, or another intact lining, that when tested, wet or dry, in accordance with method A in AS 2001.2.4 has a mean bursting pressure of at least 1000kPa.

Editor's note—

AS 2001.2.4 (Methods of test for textiles—Physical tests—Determination of bursting pressure of textile fabrics—Hydraulic diaphragm method)

283 Risk assessment and control measures for civil construction work and housing construction work

- (1) This section applies to construction work that is—
- (a) civil construction work; or
- (b) housing construction work.
- (2) A principal contractor must, before the construction work starts—
- (a) assess the risk of death or injury to persons that may result from objects that could fall on or otherwise hit persons during the work; and

Examples of objects that could fall—

- parts of a structure being built or demolished
- walls being demolished
- materials stored or stacked at the workplace
- construction material
- waste material
- debris

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- plant
 - tools
 - scaffolding components
 - precast panels
- (b) ensure control measures are used to prevent, or minimise the level of, exposure to the risk.

Examples of control measures—

- a sign stating ‘Construction site. No unauthorised entry.’
 - an 1800mm chain wire barricade, or an 1800mm hoarding, for work done beside a footpath near a school
 - a gantry for work involving a multiple level domestic house that is beside a footpath
 - perimeter containment screening
 - a catch platform
 - a catch net
 - closure of the adjoining area
 - a traffic control device
 - a road diversion
 - a detour
 - traffic controllers to direct pedestrians or other traffic
 - working outside normal hours
- (3) However—
- (a) if the control measure is a hoarding—it must comply with the requirements for a hoarding under section 284(6)(a) and (b); or
 - (b) if the control measure is perimeter containment screening—it must—
 - (i) comply with section 287; and
 - (ii) if it is designed to stop objects falling on persons from a level of a structure—be erected along each part of a structure from which an object could fall in the adjoining area during the work; or

- (c) if the control measure is a catch platform—it must comply with section 288; or
 - (d) if the control measure is a gantry—it must comply with the requirements for a gantry under section 289; or
 - (e) if the control measure is a closure of the adjoining area—it must be used in compliance with the requirements for a closure under section 291.
- (4) Subsections (2) and (3) are workplace health and safety obligations for the Act.

284 Control measures for construction work that is not civil construction work or housing construction work

- (1) This section applies to construction work that is not civil construction work or housing construction work.
- (2) A principal contractor must ensure that a relevant person—
 - (a) identifies and decides the line (the *proposed line*) along which any barricade or hoarding required under subsection (3) is to be erected; and
 - (b) measures the angle to the horizontal formed by an imaginary straight line drawn between—
 - (i) the highest point at which work is being done on the structure involved in the work during which an object could fall on or otherwise hit a person; and
 - (ii) the point on the ground, along the proposed line, that is closest to the highest point.
- (3) Before the work starts, the principal contractor must ensure that—
 - (a) if the measured angle is not more than 15°—a barricade or hoarding at least 900mm high that surrounds the structure is erected along the proposed line; or
 - (b) if the measured angle is more than 15° but not more than 30°—a hoarding at least 1800mm high is erected along the proposed line; or

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- (c) if the measured angle is more than 30° but less than 75°—a hoarding at least 1800mm high that is fully sheeted with timber, plywood, metal or sturdy synthetic sheets is erected along the proposed line; or
- (d) if the measured angle is 75° or more—
 - (i) a hoarding at least 1800mm high that is fully sheeted with timber, plywood, metal or sturdy synthetic sheets and that is not part of a gantry is erected along the proposed line; or
 - (ii) a gantry is erected under section 285(3)(a).
- (4) A hoarding under subsection (3)(b), (c) or (d) must be erected adjacent to the sides of each part of the structure from which an object could fall.
- (5) If subsection (3) or (4) does not require part of the structure to have a hoarding erected adjacent to the side of the part, the principal contractor must ensure that a barricade or hoarding at least 900mm high is erected along the proposed line adjacent to the sides of the part of the structure.
- (6) A hoarding under subsection (3) must—
 - (a) prevent an object that may reasonably be expected to hit it from entering the adjoining area; and
 - (b) be strong enough, and appropriately designed and erected, for the circumstances in which it is used, including the location of the workplace and the type of work to be carried out near the hoarding.
- (7) A hoarding under subsection (3)(c) or (d)—
 - (a) must be able to withstand a horizontal force of—
 - (i) 500N per m² applied over 1m² at the top of the hoarding midway between any post and its nearest post without deforming permanently; and
 - (ii) 950N applied over 1500mm² at any point on the hoarding without fully penetrating the hoarding; and

- (b) may have gaps to minimise wind resistance, if the gaps are no larger than are reasonably necessary; and
 - (c) if it is part of a gantry—must extend to the gantry's overhead platform.
- (8) Subsections (2) to (7) are workplace health and safety obligations for the Act.

285 Additional control measures if measured angle is 75° or more, other than for demolition work or work erecting or dismantling formwork

- (1) This section applies if the angle measured under section 284(2)(b) is 75° or more.
- (2) This section does not apply to—
 - (a) demolition work; or
 - (b) work erecting or dismantling formwork on or for a structure.
- (3) The principal contractor must ensure that at least 1 of the following control measures is used before construction work starts—
 - (a) a gantry is erected along the proposed line adjacent to the sides of each part of the structure from which an object could fall;
 - (b) the adjoining area is closed under section 291 at least to the extent necessary to prevent objects falling on or otherwise hitting persons;
 - (c) a catch platform with perimeter containment screening complying with section 287 is installed—
 - (i) along the sides of each part of the structure from which an object could fall; and
 - (ii) not more than 1m below—
 - (A) if the structure has storeys—the storey of the structure from which an object could fall; or

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- (B) if the structure does not have storeys—the surface from which an object could fall.
- (4) Subsection (3) is a workplace health and safety obligation for the Act.
- (5) In this section—
formwork includes a structure installed to support formwork.

286 Control measures for demolition work or work erecting or dismantling formwork

- (1) This section applies to construction work that is—
 - (a) demolition work; or
 - (b) work erecting or dismantling formwork.
- (2) A principal contractor must ensure that, before the construction work starts—
 - (a) the adjoining area is closed under section 291 at least to the extent necessary to prevent objects falling on or otherwise hitting persons; or
 - (b) perimeter containment screening complying with section 287 is erected along each part of a structure from which an object could fall.
- (3) However, if the work is demolition work, the principal contractor must ensure that a control measure other than a control measure mentioned in subsection (2) is used before the work starts to prevent objects falling on or otherwise hitting persons if—
 - (a) the adjoining area can not be closed under subsection (2)(a) because the person who controls the area withholds written approval to close the area; and
 - (b) perimeter containment screening can not be erected under subsection (2)(b).
- (4) If the principal contractor erects perimeter containment screening under subsection (2)(b), or extends or reduces perimeter containment screening erected under subsection

(2)(b), the principal contractor must ensure that control measures are used to prevent a component of the screening falling on persons while the screening is being erected, extended or reduced.

- (5) Subsections (2), (3) and (4) are workplace health and safety obligations for the Act.
- (6) In this section—
formwork includes a structure installed to support formwork.

287 Perimeter containment screening as control measure

- (1) Each screen of perimeter containment screening used as a control measure, and its supporting framework, must comply with this section.
- (2) If the perimeter containment screening is used to redirect a falling object onto a catch platform, each screen must be fitted vertically to the top of, or flush with, the outer edge of the catch platform to redirect a falling object, that may reasonably be expected to hit the perimeter containment screening, onto the catch platform.
- (3) If the perimeter containment screening is not used to redirect a falling object onto a catch platform, each screen must be designed to prevent an object, that may reasonably be expected to hit the perimeter containment screening, from falling on persons from the level at which the work is to be done.
- (4) Each screen must be made of mesh or of timber, plywood or metal sheeting.
- (5) Each of the following gaps must be not over 25mm—
 - (a) the gap, measured horizontally, between—
 - (i) screens immediately beside each other; or
 - (ii) a screen and the framework supporting it;
 - (b) the gap, measured vertically, between—

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- (i) a screen and another screen immediately above it;
or
 - (ii) a screen and the framework supporting it.
- (6) The framework supporting a screen must be able to bear the load of the screen.

288 Catch platform as control measure

- (1) If a catch platform used or to be used as a control measure is installed, extended or reduced, the principal contractor must ensure that control measures are used to prevent a component of the platform falling on persons while the platform is being installed, extended or reduced.
- (2) Subsection (1) is a workplace health and safety obligation for the Act.

289 Gantry as control measure

- (1) A gantry used as a control measure must be designed by an engineer to withstand a downwards force of at least—
- (a) if light work, or work other than light work at a height of not more than 10m above the ground, is to be done—5kPa applied on its overhead platform; or
 - (b) if work, other than light work, at a height of more than 10m above the ground is to be done—10kPa applied on its overhead platform.
- (2) The gantry must—
- (a) be able to stop an object that may reasonably be expected to fall on it from falling; and
 - (b) have an overhead platform that is secured to prevent it lifting or coming apart; and
 - (c) have solid sheeting erected along the outer edge of its overhead platform to at least the higher of—
 - (i) 900mm above the platform; and

- (ii) the height of any object stored on the platform; and
- (d) if it is used to store materials or has a shed erected on it—be designed by an engineer to take the additional load involved; and
- (e) be able to stop water or dust falling on persons; and
- (f) have natural or other lighting of at least 50 lux illuminating all of the area below it; and
- (g) not tip over or rotate if a force that could reasonably be expected to be applied to it is applied to it.

Example of a force mentioned in paragraph (g)—
the force of a truck backing into the gantry

290 Load lifted over adjoining area

- (1) This section applies to construction work that involves lifting a load over the adjoining area.
- (2) This section does not apply to construction work that is housing construction work.
- (3) A principal contractor must ensure that, before the work starts—
 - (a) the adjoining area is closed under section 291 at least to the extent necessary to prevent objects falling on or otherwise hitting persons in the adjoining area; or
 - (b) a gantry is erected that provides adequate protection to persons in the adjoining area against falling objects if the load were to fall.
- (4) Without limiting subsection (3)(b), the gantry must at least comply with section 289.

Example—

If a pallet of scaffolding components is to be lifted over an adjoining area, the downwards force that the gantry's overhead platform must be able to withstand is—

- (a) if the force applied by the pallet and components is less than or equal to 10kPa—10kPa; or

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- (b) if the force applied by the pallet and components is greater than 10kPa—the force applied by the pallet and components.
- (5) Subsection (3) is a workplace health and safety obligation for the Act.

291 Closure of part or all of adjoining area

- (1) If an adjoining area is to be closed, a principal contractor must, before construction work starts, do each of the following—

- (a) ensure that written approval to close the area is obtained from the authority or other person who controls the area;

Examples of an authority—

- a local government
- the Department of Main Roads
- the Queensland Police Service

- (b) if an authority controls the area, use any measures for the closure required by the authority.

Examples of measures for the closure—

- physical barriers to prevent use of a footpath or road
- signs about the closure
- signs directing pedestrians to use another footpath
- traffic controllers to direct pedestrians or other traffic

- (2) Subsection (1) is a workplace health and safety obligation for the Act.

Subdivision 12 Principal contractor's obligation for amenities

292 Amenities

- (1) Schedule 11 states particular duties of a principal contractor about amenities.

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- (2) A principal contractor must ensure that an amenity provided under schedule 11 is maintained in a hygienic, safe and serviceable condition, including by ensuring that there is a system for—
- (a) inspecting and cleaning the amenity; and
 - (b) if the amenity has facilities to dispose of sanitary items for females—the adequate and hygienic disposal of the sanitary items.

Maximum penalty for subsection (2)—20 penalty units.

Division 3 Relevant persons

Subdivision 1 Preliminary

293 Application of div 3

- (1) This division applies only to a relevant person performing construction work.
- (2) However, subsection (1) does not prevent a relevant person from having obligations under division 2 if the relevant person performs construction work as a principal contractor.

Subdivision 2 Relevant person's obligation for work method statements

294 Relevant person to prepare work method statement before starting high risk construction activity

- (1) A relevant person must prepare a work method statement for a high risk construction activity, complying with subsection (2), before starting construction work for the activity.

Maximum penalty—30 penalty units.

- (2) The statement must—

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- (a) take into account—
 - (i) the current construction safety plan; and
 - (ii) if the activity is demolition work—the requirements of AS 2601; and

Editor's note—

AS 2601 (Demolition of structures)

 - (iii) circumstances at the workplace that will, or are likely to, affect the way the activity is performed; and
- (b) be written in a way likely to be understood by the persons working, or about to work, at the workplace who are likely to be affected by the activity; and
- (c) be signed and dated by the relevant person; and
- (d) if the relevant person is not also the principal contractor for the construction work—be copied and the copy given to the principal contractor.

295 When relevant person not to allow another relevant person to start prescribed activity

- (1) This section applies if—
 - (a) a relevant person is the holder of a certificate under section 46 to perform a prescribed activity; and
 - (b) the activity is to be performed by another relevant person.
- (2) The relevant person must not allow the other relevant person to perform the prescribed activity unless the relevant person who is the holder of the certificate—
 - (a) has given a copy of the work method statement for the activity to the other relevant person; and
 - (b) has discussed with the other relevant person the aspects of the work method statement relevant to the activity; and

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- (c) has ensured that the other relevant person understands and is able to comply with those aspects of the statement.

Maximum penalty—30 penalty units.

296 When relevant person who is an employer not to allow worker to start high risk construction activity

A relevant person who is an employer must not allow a worker of the relevant person to perform a high risk construction activity unless—

- (a) the relevant person, or someone acting for the relevant person, has discussed with the worker the aspects of the current work method statement for the activity relevant to the worker's work; and
- (b) the worker has satisfied the relevant person, or someone acting for the relevant person, that the worker understands and is able to comply with those aspects of the statement.

Maximum penalty—30 penalty units.

297 High risk construction activity not to be performed unless in compliance with work method statement

- (1) A relevant person must not perform a high risk construction activity unless the activity is performed in a way complying with the current work method statement for the activity.

Maximum penalty—30 penalty units.

- (2) A relevant person who is an employer must not allow a worker of the relevant person to perform a high risk construction activity unless the activity is performed in a way complying with the current work method statement for the activity.

Maximum penalty—30 penalty units.

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298 Amendment of work method statement

- (1) This section applies if there is a change in the way the high risk construction activity is to be performed.

Example of a change—

a change in a control measure included in the statement or the insertion of a new control measure

- (2) A relevant person must—
 - (a) ensure a work method statement for the activity is amended as soon as possible after the change; and
 - (b) if the relevant person is not also the principal contractor for the construction work—give the principal contractor a copy of the amended statement; and
 - (c) ensure each person affected by the amendment is advised of the details of the amendment.

Maximum penalty—30 penalty units.

299 Availability and review of work method statement

- (1) A relevant person must ensure the current work method statement for the high risk construction activity is readily available for inspection while the activity is being performed.

Maximum penalty—30 penalty units.

- (2) The relevant person must review, and if necessary amend, the statement within 1 year after it is prepared and afterwards at intervals of not more than 1 year while the statement is required.

Maximum penalty—30 penalty units.

Subdivision 3 Relevant person's obligation for general induction evidence

300 Definition for sdiv 3

In this subdivision—

construction work does not include work to repair a structure that is fixed plant, a ship or a submarine.

301 Relevant person to hold general induction evidence before starting construction work

A relevant person must not start construction work unless the person—

- (a) holds general induction evidence; and
- (b) has shown the principal contractor the general induction evidence.

Maximum penalty—30 penalty units.

302 Relevant person who is an employer to ensure worker holds general induction evidence before worker starts construction work

A relevant person who is an employer must not allow a worker of the relevant person to start construction work unless the relevant person has sighted general induction evidence for the worker.

Maximum penalty—30 penalty units.

Subdivision 4 Relevant person's obligation for safe housekeeping practices

303 Safe housekeeping practices

- (1) A relevant person performing construction work must ensure that—
 - (a) safe housekeeping practices are used for the construction work; and
 - (b) the effectiveness of the practices is monitored and reviewed; and
 - (c) the practices are kept up to date; and

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- (d) each of the person's workers at the workplace where the construction is being performed is instructed to follow the practices.

Note—

For workers' obligations see the Act, section 36.

- (2) For subsection (1), safe housekeeping practices include the following, other than to the extent of the obligations of a principal contractor for the construction work—

- (a) establishing and maintaining an orderly workplace environment;
- (b) ensuring there is safe and clear entry to, and exit from, the workplace;
- (c) erecting general safety signs and keeping them in good condition;

Examples of general safety signs—

- 'Hazardous substances in use'
- 'Hearing protection required'
- 'Scaffolding incomplete'

- (d) ensuring there is a safe system for collecting, storing and disposing of excess or waste materials at the workplace;
- (e) ensuring there are safe storage areas for materials and plant;
- (f) making safe protruding objects that are a hazard;

Examples of safe housekeeping practices for paragraph (f)—

- bending over or removing exposed nails
- placing a cap over vertical reinforcing steel

- (g) supplying and maintaining lighting that is adequate for the work being done.

- (3) Subsection (1) is a workplace health and safety obligation for the Act.

Subdivision 5 Relevant person’s obligation for common plant

304 Common plant

- (1) A relevant person who is not also the principal contractor—
 - (a) must not use common plant other than in accordance with the provisions of this regulation about plant of the same type as the common plant as if the provisions applied to the common plant; or
 - (b) must not alter or otherwise interfere with common plant without the approval of the principal contractor who provided the plant.
- (2) Subsection (1) is a workplace health and safety obligation for the Act.

Subdivision 6 Relevant person’s obligation for hazardous substances

305 Relevant person to give principal contractor details of hazardous substances to be used

A relevant person may use, and a relevant person who is an employer may allow a worker to use, a hazardous substance during construction work only if the principal contractor for the construction work has been given—

- (a) notice that the relevant person proposes to use the hazardous substance at the workplace; and
- (b) a copy of the substance’s current MSDS.

Maximum penalty—30 penalty units.

[s 306]

Subdivision 7 Relevant person's obligation for underground services

306 Risk from contact with underground services—construction work for which there is principal contractor

- (1) This section applies if—
 - (a) a relevant person intends to perform construction work that is excavation work; and
 - (b) there is a principal contractor for the construction work.
- (2) The relevant person must not start the excavation work unless the principal contractor—
 - (a) has advised the relevant person to the effect that the principal contractor's inquiries have shown there are no underground services at or near the location where the work is to be done; or
 - (b) has given prescribed information about the underground services at the workplace to the relevant person.
- (3) The relevant person must—
 - (a) ensure information obtained under subsection (2) is considered in doing the work; and
 - (b) ensure any reasonable restrictions contained in the information that are to be followed in doing the work are followed in doing the work; and
 - (c) decide on and use any control measures necessary to prevent a person's exposure to the risk of death, illness or injury from contact with, or damage to, the service the information is about.
- (4) Subsections (2) and (3) are workplace health and safety obligations for the Act.

307 Risk from contact with underground services—construction work for which there is no principal contractor

- (1) This section applies if—
 - (a) a relevant person intends to perform construction work that is excavation work; and
 - (b) there is no principal contractor for the construction work.
- (2) The relevant person must, before the excavation work starts—
 - (a) find out from appropriate sources what underground services are at or near the location where the work is to be done that could create a risk if contacted or damaged; and
 - (b) obtain prescribed information about each underground service from an appropriate source; and
 - (c) ensure the information is considered in planning the work; and
 - (d) ensure the information is recorded in writing.
- (3) The relevant person must—
 - (a) ensure information obtained under subsection (2) is considered in doing the work; and
 - (b) ensure any reasonable restrictions contained in the information that are to be followed in doing the work are followed in doing the work; and
 - (c) decide on and use any control measures necessary to prevent a person's exposure to the risk of death, illness or injury from contact with, or damage to, the service the information is about; and
 - (d) keep the information recorded until the construction work ends.
- (4) Subsections (2) and (3) are workplace health and safety obligations for the Act.

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Subdivision 8 Relevant person's obligation for excavation work that could reduce the stability of a structure

308 Obligation before excavation work starts

- (1) This section applies if a relevant person intends to do excavation work that could reduce the stability of part or all of a structure.
- (2) The relevant person must, before the work starts, use the control measures necessary to prevent a person's exposure to the risk of death, illness or injury from the collapse of part or all of the structure.
- (3) Subsection (2) is a workplace health and safety obligation for the Act.

309 Obligation during excavation work

- (1) This section applies if a relevant person is doing excavation work that could reduce the stability of part or all of a structure.
- (2) The relevant person must ensure the work proceeds only if the relevant person has used the control measures necessary to prevent a person's exposure to the risk of death, illness or injury from the collapse of part or all of the structure.

Example of circumstances requiring control measures—

A large rock is encountered while performing excavation work. As a result, the excavation has to be performed closer to a structure than originally planned.

- (3) Subsection (2) is a workplace health and safety obligation for the Act.

Subdivision 9 Relevant person's obligation for risk from excavations

310 Meaning of *competent person* for sdiv 9

- (1) A person is a *competent person* for this subdivision if the person—
 - (a) has at least 3 years experience in stabilising excavations that are trenches; and
 - (b) either—
 - (i) is a geo-technical engineer; or
 - (ii) holds a qualification, or statement of attainment, from a registered training organisation covering the knowledge and skills mentioned in subsection (2).
- (2) The following are knowledge and skills for subsection (1)—
 - (a) knowledge of relevant Australian Standards, relevant codes of practice and other relevant legislation;
 - (b) knowledge of, and competence in, the following—
 - (i) hazard identification and risk assessment for trench stability;
 - (ii) measures to control exposure to risks from trench collapse;
 - (iii) safe work practices and procedures for installing control measures;
 - (iv) how to plan and prepare for working in a trench;
 - (v) how to identify the location of underground services;
 - (vi) how to identify soil types and other factors that affect the stability of a trench.

311 Risk from all excavations

- (1) This section applies if a relevant person intends to do—

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- (a) excavation work; or
 - (b) work in an excavation.
- (2) The relevant person must, before the work starts—
- (a) for each of the following possible events that are relevant to the work, identify each hazard associated with the event—
 - (i) a person being trapped by the collapse of the excavation;
 - (ii) a person being struck by an object falling into the excavation;
 - (iii) a person falling into the excavation;
 - (iv) a person inhaling, or otherwise being exposed to, carbon monoxide or another impurity of the air in the excavation; and
- Examples of hazards for paragraph (a)—*
- unstable rock or soil
 - underground water tables
 - a previous trench
 - machinery being moved near the excavation
 - vibration and fumes from vehicles or other plant in or near the excavation
 - structures near the excavation
 - piles of excavated material beside the excavation
- (b) assess the risk that may result because of the hazards; and
 - (c) decide on the appropriate control measures for the work.
- (3) The relevant person must use and maintain the control measures for the work, including the control measures required under subsection (4) or (5), necessary to prevent, or minimise the level of, exposure to the risk.

Examples of control measures—

- plant fitted with suitable overhead protection against the collapse of the excavation
 - benching, battering or shoring the sides of the excavation
 - a hoarding to prevent access by persons
 - a secure cover over the excavation
 - filling the excavation as soon as possible
 - ensuring there is adequate ventilation to prevent exposure to carbon monoxide
- (4) The control measures must include a barricade or hoarding at least 900mm high erected to restrict access by persons to the excavation, unless—
- (a) the erection of the barricade or hoarding is impracticable; or
 - (b) no person is likely to be in the vicinity of the excavation.
- (5) If the work will involve a person entering a trench more than 1.5m deep, the control measures specified in section 313 must be used to prevent risks to the person from the collapse of the trench.
- (6) Subsections (2) and (3) are workplace health and safety obligations for the Act.

312 Risk from working in trench at least 1m deep

- (1) This section applies if a relevant person—
- (a) is doing work that involves a trench at least 1m deep; and
 - (b) is not already required to erect a barricade under section 311(4).
- (2) The relevant person must erect a barricade at least 900mm high to restrict access by a person to the trench unless—
- (a) the erection of the barricade is impracticable; or
 - (b) the only persons likely to be in the vicinity of the trench are persons involved with the trench.

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- (3) However, the relevant person need not erect a barricade around a part of the trench if there already is a barrier beside the part of the trench that restricts access to the trench.

Examples of a barrier—

a permanent fence, wall or pile of excavated material

- (4) Subsection (2) is a workplace health and safety obligation for the Act.

313 Risk from working in trench more than 1.5m deep

- (1) This section applies if a relevant person intends to do work that will involve a person entering a trench more than 1.5m deep.
- (2) The relevant person must use at least 1 of the following control measures, complying with this section, as a control measure under section 311(3) to prevent risk to the person from the collapse of the trench—
- (a) shoring all sides of the trench by shielding or in another way;
 - (b) benching all sides of the trench;
 - (c) battering all sides of the trench;
 - (d) having a geo-technical engineer—
 - (i) approve in writing all sides of the trench as safe from collapse; and
 - (ii) state in writing how long the approval lasts if there is no stated natural occurrence that could affect adversely the stability of the trench; and
 - (iii) state in writing the natural occurrences that could affect adversely the stability of the trench.
- (3) However, the relevant person may use a combination of the control measures mentioned in subsection (2) if all sides of the trench are dealt with.
- (4) If shoring is used and it is commercially manufactured shielding, it must be—

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- (a) designed by an engineer for the purpose for which it is intended to be used; and
 - (b) erected in accordance with the instructions, if any, of its manufacturer or supplier.
- (5) Sheeting or timber may only be used to shore the trench if a competent person has inspected the trench, assessed the shoring and approved the use of the shoring.
 - (6) Each bench cut into the side of the trench must be no higher than it is wide, unless a geo-technical engineer has approved a greater height in writing.
 - (7) The angle of each batter in the trench must not be more than 45° from the horizontal, unless a geo-technical engineer has approved a greater angle in writing.
 - (8) The relevant person must ensure no vertical face of the side of a benched or battered trench is higher than 1.5m, unless a geo-technical engineer has approved a greater height in writing.
 - (9) Subsection (2) is a workplace health and safety obligation for the Act.

314 Access by ladders to trench more than 1.5m deep

- (1) This section applies if access to and from a trench more than 1.5m deep is by ladders.
- (2) A relevant person must ensure that at least 1 ladder giving access to and from the trench is installed in every 9m of the length of the trench in the part of the trench where a person will be.
- (3) Subsection (2) is a workplace health and safety obligation for the Act.

315 Events in trench more than 1.5m deep that is not shored, benched or battered

- (1) This section applies if—

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- (a) a trench more than 1.5m deep is not shored, benched or battered; and
- (b) something happens that could affect the stability of the trench or place the safety of a person at risk because of the trench.

Examples of things that may happen that could affect the stability of the trench—

- water seeping from a side, or the base, of the trench
 - subsidence happening beside the trench
 - cracks appearing near, and parallel to, the edge of the trench
 - excavated or other material being piled beside the trench
- (2) A relevant person must ensure that work in the trench stops immediately and does not restart, other than work to shore, bench or batter the trench, until—
 - (a) a geo-technical engineer has inspected the trench and approved, in writing, the trench as safe to enter; or
 - (b) all sides of the trench have been—
 - (i) shored by shielding or another way; or
 - (ii) benched; or
 - (iii) battered.
 - (3) However, the relevant person may use a combination of the methods mentioned in subsection (2)(b) if all sides of the trench are dealt with.
 - (4) Subsection (2) is a workplace health and safety obligation for the Act.

Subdivision 10 Relevant person's obligation for risk of a person falling

316 Definition for sdiv 10

In this subdivision—

ladder does not include a fixed ladder.

317 Risk of fall of less than 3m in housing construction work or less than 2m in other construction work or construction work on roof with slope not over 26°

- (1) This section applies to—
 - (a) construction work that is housing construction work during which a person could fall less than 3m; or
 - (b) construction work that is not housing construction work during which a person could fall less than 2m; or
 - (c) construction work on a roof, or partly completed roof, surface with a slope not over 26°.
- (2) However, this section does not apply to construction work if a person could fall from—
 - (a) a ladder or fixed ladder; or
 - (b) a platform supported by trestle ladders; or
 - (c) scaffolding that the person is erecting or dismantling; or
 - (d) an area near a ladder that the person needs to use to get on or off the ladder.
- (3) A relevant person who intends to do the construction work must, before the work starts—
 - (a) ensure each hazard that may result in a fall or cause death or injury if the person were to fall is identified; and

Examples of hazards—

 - vertical reinforcing steel, or the edge of a rubbish skip, 1m below a surface from which the work is to be done

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- unsheeted floor bearers and joists 2m below a surface from which the work is to be done
 - an object, for example a picket fence or stack of bricks, that could cause injury if the person fell on it 2m below, or nearly below, a surface from which the work is to be done
 - a brittle roof on which the work is to be done 2m above a floor
- (b) ensure the risk of death or injury that may result because of the hazard is assessed; and
- (c) ensure any control measures necessary to prevent, or minimise the level of, exposure to the risk are used.
- (4) If a control measure mentioned in this subdivision is used, the control measure and the use of the control measure must comply with this subdivision.
- (5) However, a fall arresting platform used under subsection (3)(c) need not comply with section 322 if the fall would be internal within formwork the person is erecting or dismantling.
- (6) Subsections (3) and (4) are workplace health and safety obligations for the Act.

318 Risk of fall of at least 3m in housing construction work or at least 2m in other construction work or construction work on roof with a slope over 26°

- (1) This section applies to—
- (a) construction work that is housing construction work during which a person could fall at least 3m; or
 - (b) construction work that is not housing construction work during which a person could fall at least 2m; or
 - (c) construction work on a roof, or partly completed roof, surface with a slope over 26°.
- (2) However, this section does not apply to work if a person could fall from—
- (a) a ladder or fixed ladder; or

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- (b) a platform supported by trestle ladders; or
- (c) scaffolding that the person is erecting or dismantling; or
- (d) an area near a ladder that the person needs to use to get on or off the ladder.
- (3) A relevant person who intends to do the construction work must, before the work starts, use control measures—
- (a) to prevent the person falling any distance; or
- Examples of control measures to prevent the person falling—*
- edge protection
 - a fall protection cover placed over an opening
 - a travel restraint system
- (b) if prevention is not practicable—
- (i) to arrest the person's fall; and
- (ii) to prevent or minimise the risk of death or injury to the person when the fall is arrested.
- Examples of control measures to arrest a person's fall—*
- a fall arresting platform
 - a fall-arrest harness system
 - an industrial safety net
- (4) If a control measure mentioned in this subdivision is used, the control measure, and the use of the control measure, must comply with this subdivision.
- (5) However, a fall arresting platform used under subsection (3)(b) need not comply with section 322 if the fall would be internal within formwork the person is erecting or dismantling.
- (6) Subsections (3) and (4) are workplace health and safety obligations for the Act.

319 Edge protection as control measure

- (1) Edge protection used as a control measure must be erected in accordance with the instructions of—

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- (a) if the edge protection's manufacturer or supplier has given instructions about its installation—the manufacturer or supplier; or
 - (b) otherwise—an engineer or competent person.
- (2) The edge protection must be designed to withstand the downwards or outwards force of the impact of a fall against it of any person who may reasonably be expected to fall against it to ensure that the person does not fall from the surface from which work is to be done.
- (3) The edge protection must—
- (a) have a rail, or another component that prevents the person from falling, fitted so that the top of the rail or component is at least—
 - (i) if the surface that is at the base of the edge protection is at least 1200mm wide—900mm higher than that surface; or
 - (ii) otherwise—
 - (A) if the surface from which work is to be done is sloped—900mm higher than where that surface, if extended downwards at that slope, would intersect with the edge protection; or
 - (B) if the surface from which work is to be done is not sloped—900mm higher than that surface; and
 - (b) have another rail or rails or sturdy mesh, sheeting or other material below the rail or component.
- (4) However, if the edge protection has rails, the edge protection must have—
- (a) either—
 - (i) a bottom rail fitted at least 150mm but not over 250mm higher than the surface that is at the base of the edge protection; or

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- (ii) a toe board, for the surface that is at the base of the edge protection, at least 150mm high and fitted below all rails of the edge protection; and
 - (b) another rail or rails fitted so that there is not over 450mm between any rail and its nearest rail or between the lowest rail and any toe board for the surface that is at the base of the edge protection; and
 - (c) if the slope of the surface from which work is to be done is over 26°—sturdy mesh, sheeting or other material that extends upwards at least 900mm from—
 - (i) the surface that is at the base of the edge protection; or
 - (ii) the toe board.
- (5) A relevant person must not use, or allow another person to use, the edge protection unless it is used in accordance with the instructions of—
- (a) if the edge protection’s manufacturer or supplier has given instructions about its use—the manufacturer or supplier; or
 - (b) otherwise—an engineer or competent person.
- (6) In this section—
- toe board*** for a surface means an upright timber or metal board securely fixed in place at an edge of the surface.

320 Fall protection cover as control measure

A fall protection cover used as a control measure must—

- (a) be able to withstand the impact of a fall onto it of any person who may reasonably be expected to fall onto it to ensure that the person does not fall; and
- (b) be securely fixed in place to prevent it being moved or removed accidentally.

[s 321]

321 Travel restraint system as control measure

- (1) A travel restraint system used as a control measure must—
 - (a) be installed by a competent person; and
 - (b) have an anchorage point with a capacity to withstand any load that could be exerted on it in the normal operation of the system to restrain any person who may reasonably be expected to use the system.
- (2) A relevant person must not use, or allow another person to use, the system unless the person who is to use the system has been trained in the safe and correct use of the system.
- (3) A relevant person must not use, or allow another person to use, a component of the system that shows evidence of wear or weakness to an extent that may affect the system's safety.
- (4) A relevant person must ensure that, at least once every 6 months, a competent person—
 - (a) inspects the system; and
 - (b) gives the relevant person a written record of the inspection.
- (5) A relevant person must keep the record for the lesser of the following—
 - (a) 4 years;
 - (b) the life of the system.

322 Fall arresting platform as control measure

- (1) A fall arresting platform used as a control measure must be able to withstand the impact of a fall onto it of any person who may reasonably be expected to fall onto it.
- (2) The platform of the fall arresting platform must provide an unobstructed landing area, for a falling person, at least 675mm wide for the length of the platform.
- (3) If the slope of the surface from which construction work is to be performed is not over 26°, the fall arresting platform must be not over 1m lower than the surface.

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- (4) If the slope of the surface from which construction work is to be performed is over 26°, the fall arresting platform must be not over 300mm lower than the surface.
 - (5) The fall arresting platform must have edge protection complying with section 319 erected—
 - (a) along the outer edge of the length of the fall arresting platform; and
 - (b) along the edge of each end of the fall arresting platform.
 - (6) Subsection (7) applies if the gap between the following is over 225mm—
 - (a) the inner edge of the length of the platform;
 - (b) the face of a structure that is immediately beside the fall arresting platform.
 - (7) A relevant person must, in complying with section 317 or 318, ensure that any control measures required to prevent or minimise the risk of a person falling off the inner edge are used.

323 Fall-arrest harness system as control measure

- (1) Each anchorage point of a fall-arrest harness system used as a control measure must be—
 - (a) designed by an engineer for the purpose for which it is intended to be used; or
 - (b) inspected and approved by a competent person before the anchorage point is first used by any person.
- (2) Each anchorage point of the system, other than an anchorage point supporting a static line, must have a capacity of at least—
 - (a) if only 1 person is using the anchorage point and the person could have a limited free fall—12kN; or
 - (b) if only 1 person is using the anchorage point and the person could have a free fall—15kN; or
 - (c) if 2 persons are using the anchorage point—21kN.

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- (3) Each anchorage point of the system must be located so that a lanyard of the system can be attached to it before the person using the system moves into a position where the person could fall.
- (4) The system's device to absorb the energy of a falling person must limit the force applied to the person by a fall to not more than 6kN.
- (5) The system must be installed in accordance with the instructions of—
 - (a) if the system's manufacturer or supplier has given instructions about its installation—the manufacturer or supplier; and
 - (b) to the extent the system's manufacturer or supplier has not given instructions—an engineer or competent person.
- (6) The system must be maintained in accordance with the instructions of—
 - (a) if the system's manufacturer or supplier has given instructions about its maintenance—the manufacturer or supplier; and
 - (b) to the extent the system's manufacturer or supplier has not given instructions—an engineer or competent person.
- (7) A relevant person must ensure there is enough distance available for a person using the system to fall to prevent the person hitting an object, the ground or another surface, other than a vertical surface.
- (8) For subsection (7), whether there is enough distance available must be worked out by taking the following into account—
 - (a) the person's height;
 - (b) the height and position of the anchorage point;
 - (c) the length of the lanyard;
 - (d) any slack in the static line;

-
- (e) any stretching of the lanyard or static line when extended by a fall;
- (f) the length of the energy absorber when extended by a fall;
- (g) any other relevant factor.
- (9) A relevant person must ensure that—
- (a) no part of the system can come into contact with anything that could affect the safe use of the system; and
- Examples of a thing that could affect the safe use of a system—*
- an edge of a platform or beam over which a lanyard would tighten if a fall were to happen
 - part of an anchorage point that is not adequately padded
- (b) a person using the system is trained in the safe and correct use of the system; and
- (c) there are written procedures about—
- (i) safely retrieving a person who has fallen, as soon as possible after the person has fallen; and
- (ii) ensuring the safety of persons involved in the retrieval; and
- (d) the persons to be involved in carrying out the procedures are familiar with the procedures.
- (10) A relevant person must ensure that—
- (a) a component of the system is not used if it shows evidence of wear or weakness to an extent that may affect the system's safety; and
- (b) if a competent person considers that an anchorage point of the system is worn or that its load bearing capacity may be impaired—
- (i) the anchorage point is not used; and
- (ii) appropriate measures are taken to prevent its use while it is worn or its load bearing capacity may be impaired; and

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- (c) at least once every 6 months, a competent person inspects the components of the system, other than each anchorage point, and gives the relevant person a written record of the inspection; and
- (d) the record is kept for the lesser of the following—
 - (i) 4 years;
 - (ii) the life of the system.
- (11) If the system has been used to arrest a fall, the system must not be used again unless its manufacturer or a competent person has inspected it and decided that it is fit for safe use.
- (12) A relevant person must not use, or allow another person to use, the system unless it is used in accordance with the instructions of—
 - (a) if the system's manufacturer or supplier has given instructions about its use—the manufacturer or supplier; or
 - (b) otherwise—an engineer or competent person.
- (13) A relevant person must not use, or allow another person to use, the system while the person using the system is alone.
- (14) Subsection (7) is a workplace health and safety obligation for the Act.
- (15) In this section—

free fall means a fall in which the distance a person using a fall-arrest harness system falls vertically before the system starts to take loading is more than 600mm but not more than 2m.

limited free fall means a fall in which the distance a person using a fall-arrest harness system falls vertically before the system starts to take loading is not more than 600mm.

324 Industrial safety net as control measure

- (1) An industrial safety net used as a control measure must—

- (a) be designed by an engineer or competent person for the purpose for which it is intended to be used; and
 - (b) be made of material designed to minimise injury to a person falling into the net; and
 - (c) have energy absorbing characteristics to reduce the shock or injury to a person falling into the net.
- (2) The net must be installed—
- (a) so that a person falling into the net will not hit anything below the net; and
 - (b) as close as possible below the surface from which the person who is to be protected by the net is to work, but not more than the distance below the surface specified by—
 - (i) if the net’s manufacturer or supplier has specified the distance—the manufacturer or supplier; or
 - (ii) otherwise—an engineer or competent person.
- (3) The net must, subject to anything specified under subsection (2), be installed in accordance with the instructions of—
- (a) if the net’s manufacturer or supplier has given instructions about its installation—the manufacturer or supplier; or
 - (b) otherwise—an engineer or competent person.
- (4) A relevant person must not use, or allow another person to use, the net unless it is used in accordance with the instructions, if any, of the net’s manufacturer or supplier, an engineer or a competent person.
- (5) A relevant person must ensure the net is inspected and maintained in accordance with the instructions, if any, of an engineer or competent person or the net’s manufacturer or supplier.

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Subdivision 11 Relevant person's obligation for ladders

325 What work may be done from single or extension ladder

- (1) This section applies if a relevant person intends to perform construction work that involves a single or extension ladder.
- (2) The relevant person must not use, or allow another person to use, the ladder—
 - (a) to gain access to a place, unless the person using the ladder has at least 2 hands and 1 foot, or 2 feet and 1 hand, on the ladder from when the person is fully on the ladder to when the person is leaving the ladder; or
 - (b) to do construction work, other than to gain access to a place under paragraph (a), unless the work is permitted work.
- (3) Subsection (2) is a workplace health and safety obligation for the Act.

326 Work on a ladder

- (1) This section applies if a relevant person intends to perform construction work that involves a ladder.
- (2) The relevant person must, before the work starts—
 - (a) ensure that each hazard that may result in a fall by the person who is to use the ladder or cause death or injury if the person were to fall from the ladder is identified; and
 - (b) ensure that the risk of death or injury that may result because of the hazard is assessed; and
 - (c) ensure that any control measures required to prevent, or minimise the level of, exposure to the risk are used.
- (3) Subsection (4) applies if the construction work is permitted work, and, in doing the work, a person could fall—

-
- (a) for housing construction work—at least 3m; or
- (b) otherwise—at least 2m.
- (4) The relevant person must not use, or allow another person to use, the ladder, if it is a single or extension ladder, unless—
- (a) the person using the ladder—
- (i) has at least 3 limbs holding, wrapped around or standing on the ladder in any combination; or
- Example—*
- holding the ladder with 1 hand while standing on it with 2 feet
- (ii) is prevented from falling by a control measure, for example, a strap commonly known as a pole strap; or
- (iii) is using a fall-arrest harness system that is not attached to the ladder; and
- (b) the ladder is secured—
- (i) at or near the top to prevent it moving; or
- Examples—*
- tying the top of the ladder to a plate fixed to the top of a wall frame
 - clamping the top of the ladder to structural steel
- (ii) at or near the bottom to prevent it moving.
- Examples—*
- tying the bottom of the ladder to pegs in the ground
 - a person, other than the person using the ladder, holding the ladder in position near the bottom of the ladder
- (5) Despite subsection (4)(a)(i), the person using the ladder may hold a stable object with 1 or both hands instead of holding the ladder with 1 or both hands.

Examples of stable objects—

- guttering

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- a fascia board or timber stud
 - a plate fixed to the top of a wall frame
- (6) The relevant person must ensure that the ladder, if it is a single or extension ladder, and is used against a pole to do construction work, has a device that—
- (a) is fitted at or near the top of the ladder between its sides; and
 - (b) helps to ensure the ladder's stability by partly accepting the shape of the pole.
- Example—*
- a steel rope or steel hoop
- (7) Subsections (2), (4) and (6) are workplace health and safety obligations for the Act.

327 Ladders generally

- (1) A relevant person performing construction work must ensure that a ladder, other than a trestle ladder, used for the work—
- (a) has a load rating of at least 120kg; and
 - (b) is manufactured for industrial use; and
 - (c) is used only for the purpose for which it is designed; and
 - (d) is not used to support a weight greater than that for which it is designed; and
 - (e) is no longer than—
 - (i) for a single ladder—6.1m; or
 - (ii) for an extension ladder used to do electrical work—9.2m; or
 - (iii) for another extension ladder—7.5m.
- (2) However, subsection (1)(e) does not apply if the ladder is used for work in a confined space.

Example of a confined space—

a well

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- (3) A ladder may be taken to have a load rating of at least 120kg if it appears to be marked by its manufacturer to show it has a load rating of at least 120kg.
 - (4) A ladder may be taken to be manufactured for industrial use if it appears to be marked by its manufacturer to show it is for industrial use.
 - (5) However, subsection (3) or (4) does not apply if the relevant person knows or suspects that the marking is—
 - (a) false; or
 - (b) not the manufacturer's marking.
 - (6) The relevant person must ensure that—
 - (a) the bottom of the ladder is on a stable surface; and
 - (b) the rungs of the ladder are approximately level.
 - (7) The relevant person must not use, or allow another person to use, the ladder to support a platform.
 - (8) The relevant person must not use, or allow another person to use, the ladder, if it is a single or extension ladder, unless—
 - (a) it is placed so that the angle between the ladder and the horizontal is at least 70° but not more than 80° when in use; and
 - (b) if it is being used as a temporary means of access to or from a surface—the ladder extends at least 1m above the surface.
 - (9) However, the ladder may be placed so that the angle between the ladder and the horizontal is more than 80° if—
 - (a) a lesser angle is impractical because the ladder is being used in a confined space; and
 - (b) control measures are used to prevent the ladder moving when in use.

Example of a control measure—

securing the top and bottom of the ladder to prevent it moving

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- (10) Subsection (8)(b) does not apply if—
- (a) it is impractical to comply with it, for example, because the work is being done from a surface attached to a pole; and
 - (b) the person using the ladder is attached to a fall-arrest harness system before the person moves from the ladder to the surface.
- (11) Subsections (1), (6), (7) and (8) are workplace health and safety obligations for the Act.

Subdivision 12 Relevant person's obligation for platforms supported by trestle ladders

328 Work on platform supported by trestle ladders

- (1) This section applies if a relevant person intends to perform construction work that involves a platform supported by trestle ladders.
- (2) The relevant person must, before the work starts—
- (a) ensure that each hazard that may result in a fall by the person who is to use the platform, or cause death or injury if the person who is to use the platform were to fall from the platform, is identified; and
 - (b) ensure that the risk of death or injury that may result because of the hazard is assessed; and
 - (c) ensure that any control measures required to prevent, or minimise the level of, exposure to the risk are used.
- (3) Also, the relevant person must ensure subsections (4) to (6) are complied with before the work starts if the work is—
- (a) housing construction work and the person could fall at least 3m from the platform; or
 - (b) not housing construction work and the person could fall at least 2m from the platform.

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- (4) Each trestle ladder must be secured to prevent it moving.
- Examples of how a trestle ladder must be secured—*
- tying the ladder to a sturdy wall
 - bracing the ladder to the ground
 - applying weights to the bottom of the ladder
- (5) Edge protection complying with section 319 must be erected along the outer edge of the length of the platform.
- (6) Any control measures required to prevent, or minimise the level of, exposure to the following risks must be used—
- (a) the risk of the person falling off the inner edge of the length of the platform, if the gap between that inner edge and the face of a building, or other structure, that is immediately beside the platform is over 225mm;
 - (b) the risk of the person falling off the edge of each end of the platform.
- (7) Subsections (2) and (3) are workplace health and safety obligations for the Act.

329 Platform supported by trestle ladders

- (1) This section applies if a relevant person is performing construction work on a platform supported by trestle ladders.
- (2) Subsection (3) applies if the construction work—
- (a) is housing construction work and a person doing the work could fall less than 3m from the platform; or
 - (b) is not housing construction work and a person doing the work could fall less than 2m from the platform.
- (3) The relevant person must ensure the platform has an unobstructed surface that is—
- (a) if the work is light work—at least 225mm wide along the length of the platform; or
 - (b) if the work is not light work—at least 450mm wide along the length of the platform.

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- (4) Subsection (5) applies if the construction work—
 - (a) is housing construction work and a person doing the work could fall at least 3m from the platform; or
 - (b) is not housing construction work and a person doing the work could fall at least 2m from the platform.
- (5) The relevant person must ensure—
 - (a) the platform has an unobstructed surface at least 450mm wide along the length of the platform; and
 - (b) the platform is not higher than 5m.
- (6) Subsections (3) and (5) are workplace health and safety obligations for the Act.

Subdivision 13 Relevant person's obligation for scaffolding

330 Obligations before starting to erect or dismantle

- (1) A relevant person must, before construction work that is the erecting or dismantling of scaffolding starts—
 - (a) ensure each hazard that may result in a fall by the person who is to use the scaffolding, or cause death or injury if the person who is to use the scaffolding were to fall from the scaffolding, is identified; and
 - (b) ensure the risk of death or injury that may result because of the hazard is assessed; and
 - (c) ensure any control measures required to prevent, or minimise the level of, exposure to the risk are used.
- (2) Subsection (1) is a workplace health and safety obligation for the Act.

331 Erecting scaffolding

- (1) This section applies if a relevant person intends to perform construction work that is the erecting of scaffolding.

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- (2) The relevant person must not erect, or allow another person to erect, the scaffolding if—
- (a) the erection of the scaffolding is housing construction work and a person could fall at least 3m in erecting the scaffolding; or
 - (b) the erection of the scaffolding is not housing construction work and a person could fall at least 2m in erecting the scaffolding.
- (3) However, subsection (2) does not apply if—
- (a) the person erecting the scaffolding—
 - (i) is prevented from falling from the scaffolding by a control measure; or
 - (ii) is using a fall-arrest harness system; or
 - (b) subsection (4) is complied with.
- (4) This subsection is complied with if—
- (a) each of the following things is installed immediately after enough components of the scaffolding have been erected to support the thing—
 - (i) a platform at least 450mm wide along the full length of the section of scaffolding, designed to support the platform, at the level the scaffolding has reached;
 - (ii) edge protection across the space between the uprights forming the outer frame of the scaffolding at the level the scaffolding has reached;
 - (iii) a means of access to the level the scaffolding has reached; and

Example of a means of access—

temporary stairs or a ladder
 - (b) before the next level of the scaffolding is erected, a platform is installed below the level at a distance of not more than—

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- (i) if the erection of the scaffolding is housing construction work—3m; or
 - (ii) otherwise—2m.
- (5) A platform under subsection (4)(b) must cover the full length and width of the section of scaffolding designed to support the platform at the level at which it is installed, other than a part of the section required to raise planks or other components of the scaffolding between levels.
- (6) Subsection (4)—
 - (a) does not require a platform to be installed on the bottom level of the scaffolding; and
 - (b) does not stop the relevant person removing a platform after the relevant person has started work 2 levels above the level from which the platform is to be removed.
- (7) Subsection (2) is a workplace health and safety obligation for the Act.

332 Dismantling scaffolding

- (1) This section applies if a relevant person intends to perform construction work that is the dismantling of scaffolding.
- (2) The relevant person must not dismantle, or allow another person to dismantle, the scaffolding if—
 - (a) the dismantling of the scaffolding is housing construction work and a person could fall at least 3m in dismantling the scaffolding; or
 - (b) the dismantling of the scaffolding is not housing construction work and a person could fall at least 2m in dismantling the scaffolding.
- (3) However, subsection (2) does not apply if—
 - (a) the person dismantling the scaffolding is—
 - (i) prevented from falling from the scaffolding by a control measure; or
 - (ii) using a fall-arrest harness system; or

-
- (b) each of the following is complied with—
- (i) any edge protection for the scaffolding and any means of access to the level that the dismantling has reached are kept in place while it is practicable to do so;
 - (ii) there is in place while it is practicable a platform at least 450mm wide at the level the dismantling has reached;
 - (iii) there is in place a platform at a level (the *lower level*) below the level the dismantling has reached at a distance of not more than—
 - (A) if the dismantling of the scaffolding is housing construction work—3m; or
 - (B) otherwise—2m.
- (4) The platform required under subsection (3)(b)(iii) must cover the full length and width of the section of scaffolding designed to support the platform at the lower level, other than a part of the section required to lower planks or other components of the scaffolding between levels.
- (5) Subsection (2) is a workplace health and safety obligation for the Act.

Subdivision 14 Relevant person's obligation for falling objects

333 Application of sdiv 14

This subdivision applies to construction work if—

- (a) an object could fall on or otherwise hit persons during the work; and
- (b) there is no principal contractor for the work.

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334 Relevant person's obligation if no principal contractor

- (1) The relevant person has the obligations contained in division 2, subdivision 11 for the construction work if the relevant person is doing the work.
- (2) In applying the subdivision to the relevant person, a reference to a principal contractor in the subdivision is taken to be a reference to a relevant person.
- (3) Subsection (1) is a workplace health and safety obligation for the Act.

Subdivision 15 Relevant person's obligation for first aid

335 First aid

- (1) A relevant person performing construction work must ensure that first aid equipment is reasonably accessible to the person and, if the relevant person is an employer, to the person's workers.

Maximum penalty—20 penalty units.

- (2) The first aid equipment must be appropriate and adequate for the construction work and the relevant person or the person's workers.
- (3) The relevant person must ensure that all first aid equipment made available by the person is maintained in a hygienic, safe and serviceable condition.

Maximum penalty—20 penalty units.

Division 4 Workers

336 Application of div 4

This division applies only to a worker performing construction work.

337 Worker to hold general induction evidence before starting construction work

- (1) A worker must not start construction work unless the worker—
 - (a) holds general induction evidence; and
 - (b) has shown the employer of the worker the general induction evidence.

Maximum penalty—30 penalty units.

- (2) In this section—

construction work does not include work to repair a structure that is fixed plant, a ship or a submarine.

Division 5 General provisions about control measures and plant for this part

338 Control measure to be in place and monitored and reviewed

- (1) This section applies if—
 - (a) a provision (the *original provision*) of this part requires a principal contractor or relevant person to use a control measure for a risk before particular work starts; and
 - (b) a control measure (the *original control measure*) is used in accordance with the original provision.
- (2) The principal contractor or relevant person must ensure that, while the risk exists, an effective control measure for the risk is used.
- (3) If the original control measure was chosen from a number of control measures that were available under this regulation to be used for the risk (the *available control measures*), a control measure used for the risk is an effective control measure for the risk only if it was chosen from the available control measures.

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- (4) If the original control measure is the only control measure that was available under this regulation to be used for the risk, only the original control measure is an effective control measure for the risk.
- (5) The principal contractor or relevant person must monitor and review the effectiveness of a control measure in place for the risk unless the control measure is an effective control measure because of subsection (3) or (4).
- (6) Subsections (2) and (5) are workplace health and safety obligations for the Act.
- (7) In this section—
effective control measure, for a risk, means a control measure that is effective to prevent, or minimise the level of, exposure to the risk.

339 Plant not to be used as control measure unless it has been maintained

- (1) A principal contractor for construction work must not use, or allow a person to use, plant provided by the principal contractor as a control measure under this part unless the plant has been maintained.
- (2) A relevant person must not use, or allow another person to use, plant provided by the relevant person as a control measure under this part unless the plant has been maintained.
- (3) Subsections (1) and (2) do not affect the requirement about the maintenance of an industrial safety net under section 324(5).
- (4) Subsections (1) and (2) are workplace health and safety obligations for the Act.

340 Plant erected or installed after construction work starts

- (1) This section applies if—

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- (a) a provision of this part requires a principal contractor or relevant person to use control measures before particular construction work starts; and
 - (b) a provision of this part imposes a requirement in relation to an item of plant if it is used as a control measure; and

Example of a provision—

a provision about the design, specifications, inspection, maintenance or use of the plant

- (c) the principal contractor or relevant person erects or installs plant of the same type at a later time.
- (2) The principal contractor or relevant person must comply with the provision as if the plant were to be erected or installed before the construction work started.
 - (3) Subsection (2) is a workplace health and safety obligation for the Act.

341 Written evidence about plant from engineer or competent person may be relied on

- (1) This section applies if a provision of this part imposes a requirement on a principal contractor or relevant person in relation to an item of plant.
- (2) If compliance with the requirement requires an engineer or competent person to have performed a task in relation to the plant, the principal contractor or relevant person may comply with the requirement by obtaining a document in original or copy form purporting to be by an engineer or competent person for the task evidencing the task has been performed by the engineer or competent person.
- (3) If the requirement is about the ability of the plant or a component of the plant to withstand a particular force or impact or bear a particular load, the principal contractor or relevant person may comply with the requirement by obtaining a document in original or copy form purporting to be by an engineer evidencing the plant or component can withstand the force or impact or bear the load.

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- (4) Subsections (2) and (3) do not permit reliance on a document the principal contractor or relevant person knows or suspects to be false, or misleading, in a material particular.

Division 6 Chief executive may ask for information from Queensland Building Services Authority

342 Definitions for div 6

In this division—

building contractor has the meaning given by the *Queensland Building Services Authority Act 1991*, schedule 2.

relevant information means the following information about residential construction work—

- (a) the name of the owner of the land on which the residential construction work is being carried out;
- (b) the address of the land;
- (c) the name of any building contractor or other person who will be carrying out the residential construction work.

residential construction work means—

- (a) residential construction work under the *Queensland Building Services Authority Act 1991* for which an insurance premium has been paid under section 68 of that Act; or
- (b) building work under the *Queensland Building Services Authority Act 1991* being carried out at a workplace under an owner-builder permit under that Act.

343 Chief executive may ask general manager of Queensland Building Services Authority for relevant information

- (1) For ensuring the workplace health and safety of persons who may be affected by residential construction work, the chief

executive may ask the general manager of the Queensland Building Services Authority for relevant information.

- (2) If the chief executive asks the general manager for information under subsection (1), the general manager must comply with the request.
- (3) The general manager does not commit an offence merely by failing to comply with subsection (2).

Part 21 Amenities—work that is not construction work

344 Amenities for rural industry work

Section 346 and schedule 12 state particular duties of a relevant person who is an employer about amenities for work in a rural industry.

345 Amenities for work that is not construction work or rural industry work

Section 346 and schedule 13 state particular duties of a relevant person who is an employer about amenities for the relevant person's workers performing work that is not construction work or work in a rural industry.

346 Maintenance of amenities

- (1) A relevant person who is an employer and who makes an amenity available under schedule 12 or 13 must ensure that the amenity is maintained under subsection (2).

Maximum penalty—20 penalty units.

- (2) An amenity must be maintained in a hygienic, safe and serviceable condition, including by ensuring that there is a system for—

- (a) inspecting and cleaning the amenity; and
- (b) if the amenity has facilities to dispose of sanitary items for females—the adequate and hygienic disposal of the sanitary items.

Part 22 Relevant persons who are employers—requirements for building provided for worker to occupy

347 Ventilation, lighting, floor area and air space for building

- (1) Schedule 14 states particular duties of a relevant person who is an employer—
 - (a) whose worker is at a workplace and performing work that is not construction work or work in a rural industry; and
 - (b) who provides a building at the workplace for the worker to occupy when performing work that is not construction work or work in a rural industry.
- (2) The duties are about ventilation, lighting, floor area and air space for the building.

Part 23 Relevant persons who are employers—atmospheric contaminants

348 Level of atmospheric contaminants

- (1) This section applies to an atmospheric contaminant, other than a hazardous substance as defined in section 198, for which the national exposure standard states an exposure level.
- (2) A relevant person who is an employer must ensure that the level of the atmospheric contaminant generated from a process carried out in the conduct of the relevant person's business or undertaking is not more than the exposure standard stated for the atmospheric contaminant in the national exposure standard.

Maximum penalty—20 penalty units.

Part 24 First aid

349 Relevant persons who are employers—work other than construction work

- (1) This section does not apply to construction work.
- (2) A relevant person who is an employer must ensure that first aid equipment is reasonably accessible to each of the relevant person's workers.

Maximum penalty—20 penalty units.

- (3) The first aid equipment must be appropriate and adequate for the worker and the worker's work.
- (4) A relevant person who is an employer must ensure that first aid equipment is reasonably accessible to the relevant person.

Maximum penalty—20 penalty units.

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- (5) The first aid equipment must be appropriate and adequate for the relevant person and the relevant person's work.
- (6) A relevant person who is an employer must ensure that the following first aid equipment is maintained in a hygienic, safe and serviceable condition—
 - (a) all first aid equipment made available by the relevant person to a worker of the relevant person;
 - (b) all first aid equipment made available by the relevant person for his or her own use.

Maximum penalty—20 penalty units.

350 Relevant persons who are employers—workers performing rural industry work

A relevant person who is the employer of a worker performing work in a rural industry must ensure that, if practicable, a person with first aid training is available to treat an injury suffered by the worker in performing the work.

Maximum penalty—20 penalty units.

Part 25 Workplace health and safety contributions

351 Purpose of pt 25

The purpose of this part is to provide for the payment of workplace health and safety contributions by non-scheme employers for part 14, division 1B of the Act.

352 Amount of workplace health and safety contribution

- (1) For section 182F(2)(a) of the Act, the amount of the workplace health and safety contribution payable by a

non-scheme employer for a financial year is the amount worked out under the formula—

$$W = \left(\frac{A}{B} \times C \right) \times \frac{D}{E}$$

- (2) In subsection (1)—

A means the total amount of payments for the financial year made by the Workers' Compensation Regulatory Authority under the Workers' Compensation Act, section 479(1)(b) for the prevention or recognition of injury to workers.

B means the number of workers covered by the Queensland workers' compensation scheme in the financial year.

C means the number of workers employed by the non-scheme employer in Queensland in the financial year.

D means the rate for the financial year for the non-scheme employer's industry or business specified by gazette notice under the Workers' Compensation Act, section 54.

E means the average rate of premium for the financial year of all employers under the Queensland workers' compensation scheme.

W means workplace health and safety contribution.

- (3) However, no payment is required if an amount has been paid as annual levy under the Workers' Compensation Act, section 81 by or in relation to the non-scheme employer for the same financial year.

Part 26 Miscellaneous

353 Rural industry exemption

- (1) A relevant person in a rural industry is exempted from complying with—

[s 354]

- part 2, in relation to plant that is a mobile elevating work platform with an elevation of 6m or less, until the end of 31 August 2010
 - part 3
 - part 4, other than in relation to a prescribed activity that is work to remove friable asbestos containing material, until the end of 31 August 2009
 - part 6
 - part 16 until the end of 31 August 2009
 - part 18 until the end of 31 August 2010
 - part 20, division 3, subdivision 9 until the end of 31 August 2009
 - part 23 until the end of 31 August 2010.
- (2) A worker in a rural industry is exempted from complying with part 3.

354 Time for giving workplace health and safety undertaking

For section 42DA(2) of the Act, a workplace health and safety undertaking must be received by the chief executive within 90 days after the identified person for the undertaking is served with a summons in relation to the alleged contravention.

355 Workplace health and safety representative training course

- (1) For section 81(1)(o) of the Act, the accredited course mentioned in subsection (2) is prescribed.
- (2) For subsection (1), the accredited course is course 30630QLD—Course in functioning as a workplace health and safety representative.

356 Appeal against decision of Authority

The *Building and Construction Industry (Portable Long Service Leave) Act 1991*, part 9 applies to a decision, determination, direction or notice made or given by the Authority under this regulation.

357 Fees

- (1) The fees payable under the Act are stated in schedule 1.
- (2) The registration fee for a registrable plant that is first registered after 1 February in any year is adjusted on a proportional basis according to the number of whole months from the end of the month when the plant was first used and 31 January in the following year.
- (3) The chief executive may enter into an agreement with the Authority or another agent for the collection of fees.
- (4) An agreement may provide for an agent to be paid.

Part 27 Repeal

358 Repeal of Workplace Health and Safety Regulation 1997

The Workplace Health and Safety Regulation 1997, SL No. 409 is repealed.

Part 28 Transitional provisions

Division 1 Transitional provision for Workplace Health and Safety Amendment Regulation (No. 1) 2004

359 Certificate of registration of registrable plant design

- (1) Subsection (2) applies if, immediately before 30 July 2004—
 - (a) a certificate of registration of registrable plant design for the design of plant was in force; and
 - (b) repealed section 15(1)(a) and (b) had been complied with for the design.
- (2) The certificate is taken to be a certificate of registration of registrable plant design for the design in force under part 8, division 2 until the certificate stops having effect under section 13.
- (3) Subsection (4) applies if—
 - (a) a certificate of registration of registrable plant design for the design of plant is granted under repealed section 233; and
 - (b) when the certificate is granted, repealed section 15(1)(a) and (b) is complied with for the design.
- (4) The certificate is taken to be a certificate of registration of registrable plant design for the design in force under part 8, division 2 until the certificate stops having effect under section 13.
- (5) In this section—

repealed section 15(1)(a) and (b) means section 15(1)(a) and (b) of the repealed regulation as in force immediately before 30 July 2004.

repealed section 233 means section 233 of the repealed regulation as in force immediately before the commencement of this section.

Division 2 Transitional provisions for Workplace Health and Safety Amendment Regulation (No. 3) 2004

360 Definitions for div 2

In this division—

agreement, in relation to a formerly complying amenity, includes—

- (a) a lease or arrangement; and
- (b) a variation of an agreement; and
- (c) an agreement under which the relevant person is not the only party to the agreement to whom the formerly complying amenity is to be made available.

formerly complying amenity means—

- (a) a lunch room, whether in or adjacent to the employer's workplace, complying with the repealed miscellaneous regulation, schedule 7, section 5 (*formerly complying lunch room*); or
- (b) a dressing room complying with the repealed miscellaneous regulation, schedule 7, section 6 (*formerly complying dressing room*); or
- (c) a toilet complying with the repealed miscellaneous regulation, schedule 7, section 7 (*formerly complying toilet*).

repealed miscellaneous regulation means the repealed *Workplace Health and Safety (Miscellaneous) Regulation 1995* as in force immediately before 1 January 2005.

[s 361]

361 Persons to whom this division applies

- (1) This division applies to a relevant person who is an employer if, immediately before 1 January 2005, the relevant person's workplace had a formerly complying amenity.

Example—

A workplace had an amenity even if the amenity was temporarily closed for repairs or for another reason.

- (2) This division also applies to a relevant person who is an employer if—
- (a) before 1 January 2005, the relevant person entered into an agreement under which a formerly complying amenity is to be leased or acquired by, or otherwise made available to, the relevant person; and
 - (b) when entering into the agreement, the relevant person intended to make the formerly complying amenity available, as a relevant person, for the relevant person's workplace or future workplace; and
 - (c) the formerly complying amenity is made available to the relevant person on or after 1 January 2005 under the agreement.
- (3) The relevant person need not have been a relevant person who is an employer when the event described in subsection (2)(a), (b) or (c) happened.

362 Lunch room

- (1) This section applies if—
- (a) a person to whom this division applies makes a dining room available for the purpose of complying with schedule 13, section 17(3); and
 - (b) the dining room is a formerly complying lunch room; and
 - (c) the dining room is not being used to accommodate more workers at the 1 time than could reasonably be

accommodated at the 1 time as a formerly complying lunch room.

- (2) For that purpose—
 - (a) the following provisions do not apply, in relation to the dining room, to the person—
 - (i) schedule 16, part 1, division 1, acceptable solution A8;
 - (ii) schedule 16, part 1, division 2, acceptable solution A9(i)(i) to the extent it requires a combined dining room and dressing room to comply with A8; and
 - (b) the dining room need not be part of a building.
- (3) In this section—

dining room see schedule 16, part 2, section headed ‘Definitions’.

363 Dressing room

- (1) This section applies if—
 - (a) a person to whom this division applies makes a formerly complying dressing room available for the purpose of complying with schedule 13, section 21(3); and
 - (b) the formerly complying dressing room is not being used to accommodate more workers at the 1 time than could reasonably be accommodated at the 1 time as a formerly complying dressing room.
- (2) For that purpose, the following provisions of schedule 16, part 1, division 2 do not apply, in relation to the formerly complying dressing room, to the person—
 - (a) acceptable solution A9(a), (b) or (d);
 - (b) acceptable solution A9(i)(i) to the extent it requires a combined dining room and dressing room to comply with A9(a), (b) or (d).
- (3) In this section—

[s 364]

dressings room see schedule 16, part 2, section headed 'Definitions'.

364 Toilets

- (1) This section applies if a person to whom this division applies makes a formerly complying toilet, that is not portable, available for the purpose of complying with schedule 13, section 10(1).
- (2) For that purpose, the following provisions do not apply, in relation to the formerly complying toilet, to the person—
 - (a) schedule 13, section 13;
 - (b) schedule 15, part 1, division 2, section F2.5.
- (3) However, the formerly complying toilet must be in a cubicle, or room, that gives privacy.

Division 3 Transitional provision for Workers' Compensation and Rehabilitation and Other Legislation Amendment Regulation (No. 1) 2005

365 Construction work—construction safety plans

- (1) This section applies to construction work started before 16 November 2005.
- (2) A construction workplace plan for construction work prepared under the repealed regulation, as in force immediately before 16 November 2005, is taken to be a construction safety plan for the construction work.
- (3) A work method statement for a high risk construction activity prepared under the repealed regulation, as in force immediately before 16 November 2005, is taken to be a work method statement for a high risk construction activity, other than a prescribed activity.

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- (4) A work method statement for a prescribed activity that is demolition work prepared under the repealed regulation, as in force immediately before 16 November 2005, is taken to be a work method statement for a high risk construction activity that is a prescribed activity.

Division 4 Transitional provisions for Workplace Health and Safety and Other Legislation Amendment Regulation (No. 1) 2007, part 2, division 2

366 Application for certificate of authority of appointment of a workplace health and safety officer—assessment made but no application made before 1 July 2007

- (1) This section applies if—
- (a) before 1 July 2007, an authorised accredited provider has, under repealed section 31, assessed a person as competent to perform the functions of a workplace health and safety officer under the Act; and
 - (b) on or after 1 July 2007 but within 3 months after the assessment is made, the person applies under the repealed regulation for, or for renewal of, a certificate of authority of appointment of a workplace health and safety officer.
- (2) Repealed section 31(2)(a) does not apply to the application.
- (3) In this section—

authorised accredited provider see repealed section 31.

repealed section 31 means section 31 of the repealed regulation as in force immediately before 1 July 2007.

[s 367]

367 Application for certificate of authority of appointment of a workplace health and safety officer—unfinished training or assessment

- (1) This section applies if—
 - (a) either—
 - (i) an authorised accredited provider started to train a person to achieve either of the following, but has not finished the training before 1 July 2007—
 - (A) competence to perform the functions of a workplace health and safety officer under the Act;
 - (B) competence to continue to perform the functions of a workplace health and safety officer under the Act; or
 - (ii) an authorised accredited provider started to assess a person's—
 - (A) competence to perform the functions of a workplace health and safety officer under the Act; or
 - (B) competence to continue to perform the functions of a workplace health and safety officer under the Act; and
 - (b) on or after 1 July 2007 the person applies for, or for renewal of, a certificate of authority of appointment of a workplace health and safety officer.
- (2) If, on or after 1 July 2007, the person is assessed by the authorised accredited provider as competent to perform those functions, repealed section 31(2)(a)(i) is taken to be satisfied for the application.
- (3) If, on or after 1 July 2007, the person is assessed by the authorised accredited provider as competent to continue to perform those functions, repealed section 31(2)(a)(ii) is taken to be satisfied for the application.
- (4) In this section—

authorised accredited provider see repealed section 31.

repealed section 31 means section 31 of the repealed regulation as in force immediately before 1 July 2007.

368 Application for certificate of authority of appointment of a workplace health and safety officer—undecided application made before 1 July 2007

- (1) This section applies to an application made before 1 July 2007 under the repealed regulation for, or for renewal of, a certificate of authority of appointment of a workplace health and safety officer.
- (2) If, before 1 July 2007, the application has not been decided, the application must be decided and otherwise dealt with under the repealed regulation as in force immediately before 1 July 2007.

Division 5 Transitional provision for Workplace Health and Safety Legislation Amendment Regulation (No. 1) 2007

369 Application for certificate of registration of mobile crane or tower crane

- (1) This section applies if—
 - (a) an application under repealed section 39I was made before 1 February 2008; and
 - (b) a certificate of registration, or a renewal of a certificate of registration, had not been granted, and a decision to refuse the application had not been made, before 1 February 2008.
- (2) Repealed section 39I continues to apply to the application.
- (3) In this section—

repealed section 39I means section 39I of the repealed regulation as in force immediately before 1 February 2008.

[s 370]

Division 6 **Transitional provisions for
Workplace Health and Safety and
Other Legislation Amendment
Regulation (No. 1) 2007, part 2,
division 3**

370 Applications for certificates to work in a prescribed occupation

- (1) This section applies to an application for a certificate to work in a prescribed occupation that—
 - (a) was made under the repealed regulation before 1 July 2008; and
 - (b) has not been decided.
- (2) The application must be decided and otherwise dealt with under the repealed regulation as in force immediately before 1 July 2008.
- (3) However, if the chief executive decides to grant the application, the chief executive must, instead of granting the certificate stated in the application, issue—
 - (a) if the proposed certificate relates to work that corresponds to the work to which an earthmoving or particular crane work occupation relates—an earthmoving or particular crane work certificate for the occupation; or
 - (b) otherwise—a licence to perform the class of high risk work, that corresponds to the work to which the proposed certificate relates.

371 Unfinalised proposed action

- (1) This section applies if proposed action stated in a show cause notice given to a person under the repealed regulation before 1 July 2008 has not been finalised.

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- (2) The chief executive must decide whether to take the proposed action, and may otherwise finalise the proposed action, under section 46B of the repealed regulation as in force immediately before 1 July 2008.

Division 7 Transitional provision for Workplace Health and Safety and Other Legislation Amendment Regulation (No. 1) 2008

372 Statement in assessment summary for unit of competency that person is competent

- (1) This section applies if—
- (a) a person holds an assessment summary, issued before the commencement, stating for the unit of competency to which the assessment summary relates that the person named in the assessment summary is competent; and
 - (b) the person has a competent assessment result in the following assessments in the unit of competency—
 - (i) written assessment;
 - (ii) practical assessment;
 - (iii) if an assignment is required to be assessed under the assessment instrument for the unit of competency, and was assessed—assignment assessment.
- (2) For sections 18(5)(c) and 25(4)(c), the person is taken to hold an assessment summary stating for the unit of competency to which the assessment summary relates that the person named in the assessment summary has a competent assessment result in the assessments mentioned in subsection (1)(b).
- (3) In this section—

[s 373]

commencement means the commencement of the *Workplace Health and Safety and Other Legislation Amendment Regulation (No.1) 2008*, section 30.

Division 8 Transitional provision for Workplace Health and Safety Regulation 2008

373 Continuation of converted certificates

- (1) This section applies if, immediately before the commencement of the section, an earthmoving or particular crane work certificate or a licence to perform a class of high risk work was in force under section 28K(2) of the repealed regulation.
- (2) The certificate or licence continues in force, unless suspended, until it ends under section 42 or 43 or is surrendered or cancelled.

374 References to repealed regulation

In subordinate legislation or another document, a reference to the repealed regulation may, if the context permits, be taken to be a reference to this regulation.

Division 9 Transitional provision for Workplace Health and Safety and Another Regulation Amendment Regulation (No. 1) 2009

375 General induction training course completed before 1 July 2009

- (1) This section applies if a person completes the accredited course 30215QLD—Course in general safety induction (construction industry) before the commencement of this section.

- (2) A general induction card that evidences the person's successful completion of the course is valid after the commencement.

Schedule 1 Fees

section 357

\$

1 Notification of building and construction work

- (1) This section sets the fee, under section 129, for the notification of building and construction work.
- (2) The fee is 0.125% of the cost of the building and construction work.

2 Registration, or renewal of certificate of registration, of registrable plant

- (1) This section sets the fee for the following—
 - (a) registration, under section 7, of registrable plant;
 - (b) renewal, under section 111, of a certificate of registration of registrable plant.
- (2) The fee is—
 - (a) subject to subsection (3), for a boiler with a heating surface of—

(i) not more than 5m ²	68.00
(ii) more than 5m ² but 10m ² or less	165.00
(iii) more than 10m ² but 60m ² or less	255.00
(iv) more than 60m ² but 500m ² or less	490.00
(v) more than 500m ² but 2000m ² or less	865.00
(vi) more than 2000m ²	1 465.00
 - (b) for an unfired pressure vessel with a capacity of—

(i) more than 0.5m ³ but 5m ³ or less	74.00
(ii) more than 5m ³ but 15m ³ or less	125.00
(iii) more than 15m ³ but 30m ³ or less	190.00
(iv) more than 30m ³	250.00

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|-----|--|------------------------------|
| (c) | for a crane or hoist, other than a vehicle hoist, building maintenance unit or elevating work platform, with a safe working load of— | |
| | (i) not more than 10t. | 135.00 |
| | (ii) more than 10t but 50t or less | 290.00 |
| | (iii) more than 50t. | 360.00 |
| (d) | for a truck-mounted concrete placing unit with boom, other than manually powered . | 135.00 |
| (e) | for a building maintenance unit | 75.00 |
| (f) | for a service lift | 52.00 |
| (g) | for a lift other than a service lift | 90.00 |
| | | plus 21.00
for each floor |
| (h) | for an escalator. | 70.00 |
| (i) | for an air-conditioning unit | 170.00 |
| (j) | for a specified amusement device classified as— | |
| | (i) a class 2 amusement device in AS 3533, part 1 as in force on 5 December 1997, other than a coin operated amusement device. | 135.00 |
| | (ii) a class 3 amusement device in that part. | 210.00 |
| | (iii) a class 4 amusement device in that part. | 290.00 |
| | (iv) a class 5 amusement device in that part. | 290.00 |
| (3) | If a boiler is heated electrically, the fee payable must be worked out on the basis that 1kW equals 0.08m ² of heating surface. | |

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3 Application for certificate of registration of registrable plant design	
The fee, under section 102, for an application for a certificate of registration of registrable plant design is	90.00
4 Certificates of authority of appointment of a workplace health and safety officer	
(1) This section sets the fee relating to a certificate of authority of appointment of a workplace health and safety officer under part 6.	
(2) The fee is—	
(a) for an assessment of qualifications or experience for the certificate.	28.50
(b) for an application, under section 57, for a certificate.	56.00
(c) for an application, under section 114, to replace a lost, damaged, destroyed or stolen certificate.	28.50
5 Earthmoving or particular crane work certificates	
(1) This section sets the fee relating to an earthmoving or particular crane work certificate.	
(2) The fee is—	
(a) for an application, under section 80, for a certificate	56.00
(b) for an application, under section 114, to replace a lost, damaged, destroyed or stolen certificate.	28.50
6 Licences to perform a class of high risk work	
(1) This section sets the fee relating to a licence to perform a class of high risk work.	
(2) The fee is—	

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|--|-------|
| (a) for an application, under section 82, for a licence to perform a class of high risk work— | |
| (i) for each licence class that is mentioned in subsection (3) and endorsed on the licence—the amount stated in subsection (4) for the licence class; or | |
| (ii) for each licence class that is endorsed on the licence and not mentioned in subsection (3) | 72.00 |
| (b) for an application, under section 82, for a variation of a licence to perform a class of high risk work to endorse another class of high risk work on the licence— | |
| (i) for each additional licence class that is mentioned in subsection (3) and endorsed on the licence—the amount stated in subsection (4) for the licence class; or | |
| (ii) for each additional licence class that is not mentioned in subsection (3) and is endorsed on the licence. | 72.00 |
| (c) for an application, under section 96, for renewal of a licence to perform a class of high risk work | 66.00 |
| (d) for an application, under section 114, to replace a lost, damaged, destroyed or stolen licence to perform a class of high risk work | 28.50 |
| (3) For subsection (2)(a)(i) and (b)(i), the licence classes are as follows— | |
| (a) basic rigger; | |
| (b) intermediate rigger; | |
| (c) advanced rigger; | |
| (d) intermediate scaffolder; | |
| (e) advanced scaffolder; | |

	\$
(f) intermediate boiler operator;	
(g) advanced boiler operator.	
(4) For subsection (2)(a)(i) or (b)(i), the amount is as follows—	
(a) for the licence class basic rigger—	
(i) if the applicant for the licence holds the licence class dogger	72.00
(ii) otherwise	144.00
(b) for the licence class intermediate rigger—	
(i) if the applicant holds the licence class basic rigger	72.00
(ii) if the applicant holds the licence class dogger but not basic rigger	144.00
(iii) if the applicant does not hold the licence class dogger or basic rigger	216.00
(c) for the licence class advanced rigger—	
(i) if the applicant holds the licence class intermediate rigger	72.00
(ii) if the applicant holds the licence class basic rigger but not intermediate rigger	144.00
(iii) if the applicant holds the licence class dogger but not basic rigger or intermediate rigger	216.00
(iv) if the applicant does not hold any of the following licence classes—	
(A) dogger;	
(B) basic rigger;	
(C) intermediate rigger	288.00
(d) for the licence class intermediate scaffolder—	
(i) if the applicant holds the licence class basic scaffolder	72.00
(ii) otherwise	144.00
(e) for the licence class advanced scaffolder—	

	\$
(i) if the applicant holds the licence class intermediate scaffolder	72.00
(ii) if the applicant holds the licence class basic scaffolder but not intermediate scaffolder	144.00
(iii) if the applicant does not hold the licence class basic scaffolder or intermediate scaffolder	216.00
(f) for the licence class intermediate boiler operator—	
(i) if the applicant holds the licence class basic boiler operator	72.00
(ii) otherwise	144.00
(g) for the licence class advanced boiler operator—	
(i) if the applicant holds the licence class intermediate boiler operator . . .	72.00
(ii) if the applicant holds the licence class basic boiler operator but not intermediate boiler operator	144.00
(iii) if the applicant does not hold the licence class basic boiler operator or intermediate boiler operator	216.00
(5) A reference in subsection (4)—	
(a) to an applicant who holds a particular licence class includes a reference to an applicant who holds a corresponding authority to the licence class; or	
(b) to an applicant who does not hold a particular licence includes a reference to an applicant who does not hold a corresponding authority to that licence class.	

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7	Conversion to renewable licence to perform a class of high risk work	
	(1) This section sets the fee for an application, under section 43, to convert a licence to perform a class of high risk work to a renewable licence.	
	(2) The fee, irrespective of the number of licences to be converted, is	66.00
8	Certificates—prescribed activities	
	(1) This section sets the fees relating to a certificate to perform a prescribed activity under part 4.	
	(2) The fee is—	
	(a) for an application, under section 47, for a certificate	56.00
	(b) for an application, under section 114, to replace a lost, damaged, destroyed or stolen certificate	28.50
9	Certificate of appointment as an accredited provider	
	(1) This section sets the fees relating to a certificate of appointment as an accredited provider under part 7.	
	(2) The fee is—	
	(a) for an application, under section 59, for a certificate	56.00
	(b) for an assessment of an application for a certificate, for each year or part of a year .	160.00
	(c) for an application, under section 114, to replace a lost, damaged, destroyed or stolen certificate	28.50
10	Bonded asbestos removal certificate	
	(1) This section sets the fee relating to a bonded asbestos removal certificate under part 5.	
	(2) The fee is—	

	\$
(a) for an application, under section 53, for a certificate	56.00
(b) for an application, under section 114, to replace a lost, damaged, destroyed or stolen certificate	28.50
11 Report about occupational health and safety performance for Workers' Compensation Act	
(1) This section sets the fee for the preparation, under part 14, division 1A of the Act, of a report about the occupational health and safety performance of a single employer or group employer for the issue or renewal of a licence to be a self-insurer under the Workers' Compensation Act, section 71 or 72.	
(2) The fee is—	
(a) for a single employer	1 020.00
(b) for a group employer	1 355.00

Schedule 2 Accredited courses

section 62

Course code	Course name
30494QLD	Course in self-erecting tower crane operation
30496QLD	Course in operating load shifting equipment
30497QLD	Course in operating crane, rigging and scaffolding equipment
30498QLD	Course in operating pressure equipment
30523QLD	Course in recertification to function as a workplace health and safety officer
30596QLD	Course in functioning as a workplace health and safety officer

Schedule 3 Registrable plant

section 106 and schedule 18, definition *registrable plant*

- 1 air-conditioning units
- 2 specified amusement devices, other than coin operated amusement devices
- 3 boilers categorised as hazard level A, B or C under the criteria mentioned in AS 4343, as in force on 1 July 2000

Editor's note—

AS 4343 (Pressure equipment—Hazard levels)

- 4 building maintenance units
- 5 cooling towers
- 6 lifts other than lifts installed in a private residence within the meaning given by AS 1735

Editor's note—

AS 1735 (Lifts, escalators and moving walks)

- 7 escalators
- 8 mobile cranes with a safe working load of more than 10t, other than those that are manually powered
- 9 pressure vessels categorised as hazard level A, B or C under the criteria mentioned in AS 4343, as in force on 1 July 2000, other than—
 - (a) refillable gas cylinders mentioned in AS 2030; and
 - (b) LP gas fuel vessels for automotive use mentioned in AS 3509; and
 - (c) serial produced vessels mentioned in AS 2971

Editor's note—

- AS 2030 (The verification, filling, inspection, testing and maintenance of cylinders for storage and transport of compressed gases)

Schedule 3

- AS 3509 (LP (liquefied petroleum) gas fuel vessels for automotive use)
 - AS 2971 (Serially produced pressure vessels)
- 10 tower cranes, other than those that are manually powered
- 11 truck-mounted concrete placing units with booms, other than those that are manually powered

Schedule 4 Registrable plant design

sections 12 and 15 and schedule 18, definition *registrable plant design*

- 1 boom-type elevating work platform
- 2 bridge crane with a safe working load of at least 10t
- 3 bridge crane or gantry crane designed to handle molten metal or dangerous goods
- 4 building maintenance unit
- 5 escalator
- 6 gantry crane with a safe working load of more than 5t
- 7 LP gas cylinder
- 8 personnel hoist
- 9 lift
- 10 mast climbing work platform
- 11 mobile crane with a safe working load of more than 10t
- 12 prefabricated scaffolding
- 13 pressure equipment with hazard level A, B, C or D, as worked out under the criteria stated in AS 4343 as in force on 1 July 2000, other than pressure piping

Editor's note—

AS 4343 (Pressure equipment—Hazard levels)

- 14 refillable gas cylinder
- 15 specified amusement device, other than—
 - (a) a coin operated amusement device; or
 - (b) a specified amusement device manufactured before 30 July 2004 and classified as a class 2, 3, 4 or 5 amusement device in AS 3533-1997 that, if it had been manufactured before 5 December 1997, would have

been classified as a class 1 amusement device in AS 3533-1988

Editor's note—

- AS 3533-1997 (Amusement rides and devices)
- AS 3533-1988 (Amusement rides and devices)

- 16 tower crane
- 17 vehicle hoist
- 18 work box

Schedule 5 Classes of high risk work and units of competency for the classes

section 17 and schedule 18, definitions *class of high risk work* and *unit of competency*

Part 1 Scaffolding work

1 Basic scaffolder

- (1) The class of work is basic scaffolder.
- (2) The unit of competency for the class is Perform basic scaffolding operations, in accredited course 30497QLD—Course in operating crane, rigging and scaffolding.

2 Intermediate scaffolder

- (1) The class of work is intermediate scaffolder.
- (2) The unit of competency for the class is Perform intermediate scaffolding operations, in accredited course 30497QLD—Course in operating crane, rigging and scaffolding.

3 Advanced scaffolder

- (1) The class of work is advanced scaffolder.
- (2) The unit of competency for the class is Perform advanced scaffolding operations, in accredited course 30497QLD—Course in operating crane, rigging and scaffolding.

Part 2 Rigging work

4 Dogger

- (1) The class of work is dogger.
- (2) The unit of competency for the class is Perform dogging operations, in accredited course 30497QLD—Course in operating crane, rigging and scaffolding.

5 Basic rigger

- (1) The class of work is basic rigger.
- (2) The unit of competency for the class is Perform basic rigging operations, in accredited course 30497QLD—Course in operating crane, rigging and scaffolding.

6 Intermediate rigger

- (1) The class of work is intermediate rigger.
- (2) The unit of competency for the class is Perform intermediate rigging operations, in accredited course 30497QLD—Course in operating crane, rigging and scaffolding.

7 Advanced rigger

- (1) The class of work is advanced rigger.
- (2) The unit of competency for the class is Perform advanced rigging operations, in accredited course 30497QLD—Course in operating crane, rigging and scaffolding.

Part 3 Crane and hoist operation

8 Tower crane

- (1) The class of work is operator of a tower crane.

-
- (2) The unit of competency for the class is Operate a tower crane, in accredited course 30497QLD—Course in operating crane, rigging and scaffolding.

9 Self-erecting tower crane

- (1) The class of work is operator of a self-erecting tower crane.
- (2) The unit of competency for the class is Operate a self-erecting tower crane, in accredited course 30494QLD—Course in self-erecting tower crane operation.

10 Derrick crane

- (1) The class of work is operator of a derrick crane.
- (2) The unit of competency for the class is Operate a derrick crane, in accredited course 30497QLD—Course in operating crane, rigging and scaffolding.

11 Portal boom crane

- (1) The class of work is operator of a portal boom crane.
- (2) The unit of competency for the class is Operate a portal boom crane, in accredited course 30497QLD—Course in operating crane, rigging and scaffolding.

12 Bridge and gantry crane (open)

- (1) The class of work is operator of a bridge and gantry crane having 3 or more powered operations.

Note—

See also sections 18(7) and 25(6), schedule 5A, section 12 (Bridge and gantry crane (open)), schedule 6, section 1 (Bridge and gantry crane (remote control only)) and schedule 7, part 2, item 1.

- (2) For subsection (1), each of the following is a single powered operation—
 - (a) raising and lowering a load;
 - (b) moving the crane along runways;

- (c) traversing the hoisting mechanism across the bridge beam;
 - (d) rotating the hoisting mechanism.
- (3) The unit of competency for the class is Operate a bridge and gantry crane, in accredited course 30497QLD—Course in operating crane, rigging and scaffolding.

13 Vehicle loading crane

- (1) The class of work is operator of a vehicle loading crane with a capacity of 10 metre tonnes or more.
- (2) The unit of competency for the class is Operate a vehicle loading crane, in accredited course 30497QLD—Course in operating crane, rigging and scaffolding.

14 Non-slewing mobile crane

- (1) The class of work is operator of a non-slewing mobile crane with a capacity of more than 3t.
- (2) The unit of competency for the class is Operate non-slewing mobile cranes (more than 3 tonnes capacity), in accredited course 30497QLD—Course in operating crane, rigging and scaffolding.

15 Slewing mobile crane with a capacity of 20t or less

- (1) The class of work is operator of a slewing mobile crane with a capacity of 20t or less.
- (2) The unit of competency for the class is Operate slewing mobile crane (up to 20 tonnes), in accredited course 30497QLD—Course in operating crane, rigging and scaffolding.

16 Slewing mobile crane with a capacity of 60t or less

- (1) The class of work is operator of a slewing mobile crane with a capacity of 60t or less.

- (2) The unit of competency for the class is Operate slewing mobile crane (up to 60 tonnes), in accredited course 30497QLD—Course in operating crane, rigging and scaffolding.

17 Slewing mobile crane with a capacity of 100t or less

- (1) The class of work is operator of a slewing mobile crane with a capacity of 100t or less.
- (2) The unit of competency for the class is Operate slewing mobile crane (up to 100 tonnes), in accredited course 30497QLD—Course in operating crane, rigging and scaffolding.

18 Slewing mobile crane with a capacity of more than 100t

- (1) The class of work is operator of a slewing mobile crane with a capacity of more than 100t.
- (2) The unit of competency for the class is Operate slewing mobile crane (open/over 100 tonnes), in accredited course 30497QLD—Course in operating crane, rigging and scaffolding.

19 Materials hoist

- (1) The class of work is operator of a materials hoist with a cantilever platform.
- (2) The unit of competency for the class is Operate material hoists (cantilever platform), in accredited course 30497QLD—Course in operating crane, rigging and scaffolding.

20 Materials or personnel hoist

- (1) The class of work is operator of a materials or personnel hoist.
- (2) The unit of competency for the class is Operate a hoist (material or personnel) in accredited course

30497QLD—Course in operating crane, rigging and scaffolding.

21 Boom-type elevating work platform

- (1) The class of work is operator of a boom-type elevating work platform with a boom length of 11m or more.
- (2) The unit of competency for the class is Operate boom type elevating work platforms (boom length 11 metres or more), in accredited course 30497QLD—Course in operating crane, rigging and scaffolding.

22 Mobile truck-mounted concrete placing boom

- (1) The class of work is operator of a mobile truck-mounted concrete placing boom with a knuckle boom capable of power operated slewing and luffing.
- (2) The unit of competency for the class is Operate concrete placing booms, in accredited course 30497QLD—Course in operating crane, rigging and scaffolding.

Part 4 Forklift operation

23 Forklift truck

- (1) The class of work is operator of a forklift truck, other than a pedestrian operated forklift truck.
- (2) The unit of competency for the class is Operate a forklift truck, in accredited course 30496QLD—Course in operating load shifting equipment.

24 Order picking forklift truck

- (1) The class of work is operator of an order picking forklift truck.

- (2) The unit of competency for the class is Operate an order picking forklift truck, in accredited course 30496QLD—Course in operating load shifting equipment.

Part 5 Pressure equipment operation

25 Basic boiler operator

- (1) The class of work is basic boiler operator.
- (2) The unit of competency for the class is Operate a boiler (basic), in accredited course 30498QLD—Course in operating pressure equipment.

26 Intermediate boiler operator

- (1) The class of work is intermediate boiler operator.
- (2) The unit of competency for the class is Operate a boiler (intermediate), in accredited course 30498QLD—Course in operating pressure equipment.

27 Advanced boiler operator

- (1) The class of work is advanced boiler operator.
- (2) The unit of competency for the class is Operate a boiler (advanced), in accredited course 30498QLD—Course in operating pressure equipment.

28 Turbine operator

- (1) The class of work is operator of a turbine.
- (2) The unit of competency for the class is Operate a turbine, in accredited course 30498QLD—Course in operating pressure equipment.

- (3) In subsection (1)—

turbine means industrial equipment in which steam acts on a turbine or rotor to cause a rotary motion, but does not include a steam turbine and expansion turbine with a power output of less than 500kW.

29 Reciprocating steam engine operator

- (1) The class of work is operator of a reciprocating steam engine with a piston diameter of more than 250mm.
- (2) The unit of competency for the class is Operate a reciprocating steam engine, in accredited course 30498QLD—Course in operating pressure equipment.

Schedule 5A Classes of high risk work and units of competency for the classes under national standard

section 17 and schedule 18, definition *class of high risk work*

Part 1 Scaffolding work

1 Basic scaffolder

- (1) The class of work is basic scaffolder.
- (2) The unit of competency for the class is CPCCLSF2001A: Licence to erect, alter and dismantle scaffolding basic level.

2 Intermediate scaffolder

- (1) The class of work is intermediate scaffolder.
- (2) The unit of competency for the class is CPCCLSF3001A: Licence to erect, alter and dismantle scaffolding intermediate level.

3 Advanced scaffolder

- (1) The class of work is advanced scaffolder.
- (2) The unit of competency for the class is CPCCLSF4001A: Licence to erect, alter and dismantle scaffolding advanced level.

Part 2 Rigging work

4 Dogger

- (1) The class of work is dogger.
- (2) The unit of competency for the class is CPCCLDG3001A:
Licence to perform dogging.

5 Basic rigger

- (1) The class of work is basic rigger.
- (2) The unit of competency for the class is CPCCLRG3001A:
Licence to perform rigging basic level.

6 Intermediate rigger

- (1) The class of work is intermediate rigger.
- (2) The unit of competency for the class is CPCCLRG3002A:
Licence to perform rigging intermediate level.

7 Advanced rigger

- (1) The class of work is advanced rigger.
- (2) The unit of competency for the class is CPCCLRG4001A:
Licence to perform rigging advanced level.

Part 3 Crane and hoist operation

8 Tower crane

- (1) The class of work is operator of a tower crane.
- (2) The unit of competency for the class is CPCCLTC4001A:
Licence to operate a tower crane.

9 Self-erecting tower crane

- (1) The class of work is operator of a self-erecting tower crane.
- (2) The unit of competency for the class is CPCCLTC4002A: Licence to operate a self-erecting tower crane.

10 Derrick crane

- (1) The class of work is operator of a derrick crane.
- (2) The unit of competency for the class is TLILIC408A: Licence to operate a derrick crane.

11 Portal boom crane

- (1) The class of work is operator of a portal boom crane.
- (2) The unit of competency for the class is TLILIC708A: Licence to operate a portal boom crane.

12 Bridge and gantry crane (open)

- (1) The class of work is operator of a bridge and gantry crane having 3 or more powered operations.

Note—

See also sections 18(7) and 25(6), schedule 5, section 12 (Bridge and gantry crane (open)), schedule 6, section 1 (Bridge and gantry crane (remote control only)) and schedule 7, part 2, item 1.

- (2) For subsection (1), each of the following is a single powered operation—
 - (a) raising and lowering a load;
 - (b) moving the crane along runways;
 - (c) traversing the hoisting mechanism across the bridge beam;
 - (d) rotating the hoisting mechanism.
- (3) The unit of competency for the class is TLILIC308A: Licence to operate a bridge and gantry crane.

13 Vehicle loading crane

- (1) The class of work is operator of a vehicle loading crane with a capacity of 10 metre tonnes or more.
- (2) The unit of competency for the class is TLILIC1208A: Licence to operate a vehicle loading crane (capacity ten metre tonnes and above).

14 Non-slewing mobile crane

- (1) The class of work is operator of a non-slewing mobile crane with a capacity of more than 3t.
- (2) The unit of competency for the class is TLILIC608A: Licence to operate a non-slewing mobile crane (greater than 3 tonnes capacity).

15 Slewing mobile crane with a capacity of 20t or less

- (1) The class of work is operator of a slewing mobile crane with a capacity of 20t or less.
- (2) The unit of competency for the class is TLILIC808A: Licence to operate a slewing mobile crane (up to 20 tonnes).

16 Slewing mobile crane with a capacity of 60t or less

- (1) The class of work is operator of a slewing mobile crane with a capacity of 60t or less.
- (2) The unit of competency for the class is TLILIC908A: Licence to operate a slewing mobile crane (up to 60 tonnes).

17 Slewing mobile crane with a capacity of 100t or less

- (1) The class of work is operator of a slewing mobile crane with a capacity of 100t or less.
- (2) The unit of competency for the class is TLILIC1008A: Licence to operate a slewing mobile crane (up to 100 tonnes).

18 Slewing mobile crane with a capacity of more than 100t

- (1) The class of work is operator of a slewing mobile crane with a capacity of more than 100t.
- (2) The unit of competency for the class is TLILIC1108A: Licence to operate a slewing mobile crane (over 100 tonnes).

19 Materials hoist

- (1) The class of work is operator of a materials hoist with a cantilever platform.
- (2) The unit of competency for the class is CPCCLHS3002A: Licence to operate a materials hoist.

20 Materials or personnel hoist

- (1) The class of work is operator of a materials or personnel hoist.
- (2) The unit of competency for the class is CPCCLHS3001A: Licence to operate a personnel and materials hoist.

21 Boom-type elevating work platform

- (1) The class of work is operator of a boom-type elevating work platform with a boom length of 11m or more.
- (2) The unit of competency for the class is TLILIC508A: Licence to operate a boom-type elevating work platform (boom length 11 metres or more).

22 Mobile truck-mounted concrete placing boom

- (1) The class of work is operator of a mobile truck-mounted concrete placing boom with a knuckle boom capable of power operated slewing and luffing.
- (2) The unit of competency for the class is CPCCLBM3001A: Licence to operate a concrete placing boom.

Part 4 Forklift operation

23 Forklift truck

- (1) The class of work is operator of a forklift truck, other than a pedestrian operated forklift truck.
- (2) The unit of competency for the class is TLILIC108A: Licence to operate a forklift truck.

24 Order picking forklift truck

- (1) The class of work is operator of an order picking forklift truck.
- (2) The unit of competency for the class is TLILIC208A: Licence to operate an order picking forklift truck.

Part 5 Pressure equipment operation

25 Turbine operator

- (1) The class of work is operator of a turbine.
- (2) The unit of competency for the class is UEPOPL001A: Licence to operate a turbine.
- (3) In subsection (1)—

turbine means industrial equipment in which steam acts on a turbine or rotor to cause a rotary motion, but does not include a steam turbine and expansion turbine with a power output of less than 500kW.

26 Reciprocating steam engine operator

- (1) The class of work is operator of a reciprocating steam engine with a piston diameter of more than 250mm.

- (2) The unit of competency for the class is UEPOPL002A:
Licence to operate a reciprocating steam engine.

Schedule 6 Earthmoving or particular crane occupations and units of competency for the occupations

section 17 and schedule 18, definitions *earthmoving or particular
crane occupation* and *unit of competency*

1 Bridge and gantry crane (remote control only)

- (1) The occupation is operator of a bridge and gantry crane, if—
 - (a) the load being lifted by remote control is more than 5t;
and
 - (b) the crane has the ability to perform 3 or less powered
operations.

Note—

See also sections 18(7) and 25(6), schedule 5, section 12 (Bridge and gantry crane (open)), schedule 5A, section 12 (Bridge and gantry crane (open)) and schedule 7, part 2, item 1.

- (2) For subsection (1), each of the following is a single powered operation—
 - (a) raising and lowering a load;
 - (b) moving the crane along runways;
 - (c) traversing the hoisting mechanism across the bridge beam;
 - (d) rotating the hoisting mechanism.
- (3) The unit of competency for the occupation is Operate a bridge or gantry crane (remote operation only), in accredited course 30496QLD—Course in operating load shifting equipment.

2 Dozer

- (1) The occupation is operator of a dozer.

-
- (2) The unit of competency for the occupation is Operate a dozer (wheeled and tracked), in accredited course 30496QLD—Course in operating load shifting equipment.

3 Excavator having an engine capacity of more than 2L

- (1) The occupation is operator of an excavator having an engine capacity of more than 2L.
- (2) The unit of competency for the occupation is Operate an excavator, in accredited course 30496QLD—Course in operating load shifting equipment.

4 Front-end loader having an engine capacity of more than 2L

- (1) The occupation is operator of a front-end loader having an engine capacity of more than 2L.
- (2) The unit of competency for the occupation is Operate a front end loader, in accredited course 30496QLD—Course in operating load shifting equipment.

5 Front-end loader or backhoe having an engine capacity of more than 2L

- (1) The occupation is operator of a front-end loader or backhoe having an engine capacity of more than 2L.
- (2) The unit of competency for the occupation is Operate a front end loader/backhoe, in accredited course 30496QLD—Course in operating load shifting equipment.

6 Grader

- (1) The occupation is operator of a grader.
- (2) The unit of competency for the occupation is Operate a grader, in accredited course 30496QLD—Course in operating load shifting equipment.

7 Road roller having an engine capacity of more than 2L

- (1) The occupation is operator of a road roller having an engine capacity of more than 2L.
- (2) The unit of competency for the occupation is Operate a roller, in accredited course 30496QLD—Course in operating load shifting equipment.

8 Skid steer loader having an engine capacity of more than 2L

- (1) The occupation is operator of a skid steer loader having an engine capacity of more than 2L.
- (2) The unit of competency for the occupation is Operate a front end loader skid steer type, in accredited course 30496QLD—Course in operating load shifting equipment.

9 Scraper

- (1) The occupation is operator of a scraper.
- (2) The unit of competency for the occupation is Operate a scraper, in accredited course 30496QLD—Course in operating load shifting equipment.

Schedule 7 Particular work encompassed in licence classes

section 128

Part 1 Work, under another licence class, encompassed in a licence class

Column 1 Licence class	Column 2 Work, under another licence class, that is encompassed in the licence class
1 basic rigger	1 work of a dogger
2 intermediate rigger	2 work of a dogger or basic rigger
3 advanced rigger	3 work of a dogger, basic rigger or intermediate rigger
4 intermediate scaffolder	4 work of a basic scaffolder
5 advanced scaffolder	5 work of a basic scaffolder or intermediate scaffolder
6 operator of a slewing mobile crane with a capacity of 20t or less	6 operator of— (a) a non-slewing mobile crane with a capacity of more than 3t; or (b) a vehicle loading crane with a capacity of 10 metre tonnes or more

Schedule 7

Column 1	Column 2
Licence class	Work, under another licence class, that is encompassed in the licence class
7 operator of a slewing mobile crane with a capacity of 60t or less	7 operator of— (a) a slewing mobile crane with a capacity of 20t or less; or (b) a non-slewing mobile crane with a capacity of more than 3t; or (c) a vehicle loading crane with a capacity of 10 metre tonnes or more
8 operator of a slewing mobile crane with a capacity of 100t or less	8 operator of— (a) a slewing mobile crane with a capacity of 20t or less; or (b) a slewing mobile crane with a capacity of 60t or less; or (c) a non-slewing mobile crane with a capacity of more than 3t; or (d) a vehicle loading crane with a capacity of 10 metre tonnes or more

Column 1	Column 2
Licence class	Work, under another licence class, that is encompassed in the licence class
9 operator of a slewing mobile crane with a capacity of more than 100t	9 operator of— (a) a slewing mobile crane with a capacity of 20t or less; or (b) a slewing mobile crane with a capacity of 60t or less; or (c) a slewing mobile crane with a capacity of 100t or less; or (d) a non-slewing mobile crane with a capacity of more than 3t; or (e) a vehicle loading crane with a capacity of 10 metre tonnes or more
10 intermediate boiler operator	10 work of a basic boiler operator
11 advanced boiler operator	11 work of a basic boiler operator or intermediate boiler operator

Part 2

Work, under earthmoving or particular crane work certificate, encompassed in licence class operator of a bridge and gantry crane

Column 1

Licence class

1 operator of a bridge and gantry crane

Column 2

Work, under an earthmoving or particular crane work certificate, that is encompassed in the licence class

- 1 operation of a bridge and gantry crane, if—
- (a) the load being lifted by remote control is more than 5t; and
 - (b) the crane has 3 or less powered operations.

Schedule 8 Hazardous substances for which health surveillance must be supplied

section 207

Column 1 Hazardous substance	Column 2 Health surveillance
4,4 Methylenebis (2-chloroaniline) (MOCA)	demographic, medical and occupational history dipstick analysis of urine for haematuria health advice urinary total MOCA urine cytology
acrylonitrile	demographic, medical and occupational history exposure record health advice physical examination if decided by the designated doctor supervising the health surveillance
asbestos	demographic, medical and occupational history exposure record health advice physical examination if decided by the designated doctor supervising the health surveillance

Column 1 Hazardous substance	Column 2 Health surveillance
benzene	baseline blood sample for haematological profile demographic, medical and occupational history exposure record health advice
cadmium	demographic, medical and occupational history exposure record health advice including counselling about the effect of smoking on cadmium exposure physical examination with emphasis on the respiratory system standard respiratory function tests including, for example, FEV ₁ , FVC and FEV ₁ /FVC standard respiratory questionnaire to be completed urinary cadmium and β ₂ -microglobulin
creosote	demographic, medical and occupational history exposure record including photosensitivity health advice including recognition of photosensitivity and skin changes

Column 1 Hazardous substance	Column 2 Health surveillance
crystalline silica	<p>physical examination with emphasis on the neurological system and skin noting any abnormal lesions and evidence of skin sensitisation</p> <p>chest X-ray, full size Pa view</p> <p>demographic, medical and occupational history</p> <p>exposure record</p> <p>health advice</p> <p>standard respiratory function test including, for example, FEV₁, FVC and FEV₁/FVC</p> <p>standard respiratory questionnaire to be completed</p>
inorganic arsenic	<p>demographic, medical and occupational history</p> <p>exposure record</p> <p>health advice</p> <p>physical examination with emphasis on the peripheral nervous system and skin</p> <p>urinary total arsenic</p>
inorganic chromium	<p>demographic, medical and occupational history</p> <p>health advice</p> <p>physical examination with emphasis on the respiratory system and skin</p> <p>weekly skin inspection of hands and forearms by a responsible person</p>

Column 1 Hazardous substance	Column 2 Health surveillance
inorganic mercury	demographic, medical and occupational history health advice physical examination with emphasis on gastrointestinal systems, neurological, renal systems and skin urinary inorganic mercury
isocyanates	demographic, medical and occupational history health advice physical examination of respiratory system and skin standard respiratory function tests including, for example, FEV ₁ , FVC and FEV ₁ /FVC standard respiratory questionnaire to be completed
organophosphate pesticides	baseline examination of red cell and plasma cholinesterase activity levels by the Ellman method demographic, medical and occupational history estimate of red cell and plasma cholinesterase activity towards the end of a working day on which organophosphate pesticides have been used health advice physical examination

Column 1 Hazardous substance	Column 2 Health surveillance
pentachlorophenol (PCP)	<p>demographic, medical and occupational history</p> <p>dipstick urinalysis for haematuria and proteinuria</p> <p>exposure record</p> <p>health advice</p> <p>physical examination with emphasis on skin noting any abnormal lesions or effects of irritancy</p> <p>urinary total pentachlorophenol</p>
polycyclic aromatic hydrocarbons (PAH)	<p>demographic, medical and occupational history</p> <p>exposure including photosensitivity record</p> <p>health advice including recognition of photosensitivity and skin changes</p> <p>physical examination if decided by the designated doctor supervising the health surveillance</p>
thallium	<p>demographic, medical and occupational history</p> <p>health advice</p> <p>physical examination if decided by the designated doctor supervising the health surveillance</p> <p>urinary thallium</p>
vinyl chloride	<p>demographic, medical and occupational history</p> <p>exposure record</p>

Column 1
Hazardous substance

Column 2
Health surveillance

health advice

physical examination if decided by
the designated doctor supervising the
health surveillance

Schedule 9 Prohibited substances, prohibited ACM and prohibited purposes

section 141

1 Amosite, crocidolite, fibrous anthophyllite, tremolite or actinolite

- (1) Amosite, crocidolite, fibrous anthophyllite, tremolite and actinolite are prohibited substances.
- (2) A thing containing amosite, crocidolite, fibrous anthophyllite, tremolite or actinolite is a prohibited ACM.
- (3) The prohibited purpose for the prohibited substances or the prohibited ACM is a purpose other than any of the following—
 - (a) analysis, research or sampling;
 - (b) maintenance;
 - (c) removal or disposal;
 - (d) encapsulation or enclosure.

2 Chrysotile

- (1) Chrysotile is a prohibited substance.
- (2) A thing, other than a product or item exempted under the national model regulations, containing chrysotile is a prohibited ACM.
- (3) The prohibited purpose for chrysotile is a purpose other than—
 - (a) analysis, research or sampling; or
 - (b) removal or disposal.
- (4) The prohibited purpose for the prohibited ACM mentioned in subsection (2) is a purpose other than any of the following—

Schedule 9

- (a) analysis, research or sampling;
- (b) removal or disposal;
- (c) display of an artefact or other thing that is, or forms part of, the prohibited ACM, or work to prepare or maintain the artefact or thing for display;

Examples of an artefact or other thing for paragraph (c)—

- a locomotive, steam engine or vehicle in a museum or historical display
- an artefact that is an ornament

- (d) use of the prohibited ACM in the position where it was installed immediately before 31 December 2003.

Examples—

- use brake shoes, containing chrysotile, installed in a car before 31 December 2003
- paint, or cut a hole in, an asbestos-cement wall panel, containing chrysotile, installed before 31 December 2003

- (5) In this section—

national model regulations means former NOHSC document entitled ‘National Model Regulations for the Control of Workplace Hazardous Substances [NOHSC:1005]’, schedule 2.

Schedule 10 Lead hazardous substances

section 221

lead acetate
lead arsenates
lead arsenites
lead azide
lead chromate
lead cyanide
lead dioxide
lead hexafluorosilicate
lead nitrate
lead perchlorate
lead peroxide
lead phosphate
lead phosphite
lead styphnate
lead sulphate
lead trinitroresorcinate
other lead compounds

Schedule 11 Principal contractors—particular amenities for construction work

section 292

Part 1 Definition for schedule 11

1 Definition

In this schedule—

construction person means a relevant person or worker who is performing construction work.

Part 2 Toilets

2 Toilets

- (1) The principal contractor for construction work must ensure that toilets complying with this part are reasonably available to each construction person.

Examples of toilets that are reasonably available—

- toilets located within the site compound boundary
- toilets located within the boundary of the workplace where the construction work is being performed

Maximum penalty—20 penalty units.

- (2) There must be at least 1 toilet for each 15, or part of 15, construction persons.

Examples—

- For 1 to 15 construction persons, there must be at least 1 toilet.

- For 20 construction persons, there must be at least 1 toilet for the first 15 construction persons plus at least 1 toilet for the other 5, making a total of at least 2 toilets.
- (3) If the workplace includes at least 4 levels of a structure that is a building (not counting ground level), a toilet is, for schedule 18, definition *reasonably available*, paragraph (a), at a location reasonably convenient to each construction person only if there is at least 1 toilet on at least each of the following levels of the building—
- (a) ground level;
 - (b) the fourth level (not counting ground level);
 - (c) each third level after that fourth level.

Example—

For a workplace that includes ground level and levels 1 to 10 of a structure that is a building, there must be at least 1 toilet on ground level, level 4, level 7 and level 10.

- (4) Subsection (3) does not limit subsection (2).

3 When toilet must be connected toilet or portable toilet

- (1) If there are less than 15 construction persons, the toilet must be a connected toilet or a portable toilet.

Editor's note—

For requirements about particular chemical toilets see the *Environmental Protection (Waste Management) Regulation 2000*, section 67.

- (2) If there are at least 15 construction persons, each toilet must be—
- (a) if a sewerage or septic connection is available—a connected toilet; or
 - (b) otherwise—a portable toilet.
- (3) However, if—
- (a) a portable toilet is made available under subsection (1); and
 - (b) a sewerage or septic connection becomes available;

the portable toilet must be replaced by a connected toilet complying with this part within 2 weeks after the first time that there are at least 15 construction persons after the connection becomes available.

- (4) Despite subsection (2)(b), if—
- (a) a portable toilet is made available under subsection (2)(b); and
 - (b) a sewerage or septic connection becomes available;
- the portable toilet must be replaced by a connected toilet complying with this part within 2 weeks after the connection becomes available.

- (5) In this section—

connected toilet means a toilet that—

- (a) is connected to a sewerage or septic system; or
- (b) is a pump-out holding tank storage type system.

portable toilet means a toilet that can be moved, and provides for tanked waste.

4 Privacy, ventilation and toilet paper

- (1) Each toilet must be located—
- (a) in a position that gives privacy; and
 - (b) in a cubicle, or room, that—
 - (i) is fitted with a door that gives privacy and is lockable from inside the cubicle or room; and
 - (ii) is constantly supplied with fresh air from openings to the outside air or from mechanical ventilation.
- (2) Each toilet made available to a female construction person must—
- (a) have facilities to dispose of sanitary items for females; and
 - (b) be separated from urinals so that no urinal can be seen by her.

Examples—

- locating a toilet for females in a separate room from urinals
 - putting a screen between urinals and a toilet for females
- (3) Each toilet may be a unisex toilet.
- (4) Each toilet must have an adequate supply of toilet paper.

Part 3 Other amenities

5 Room, or sheltered area, to eat meals in

- (1) The principal contractor for construction work must ensure that a room, or sheltered area, to eat meals and take breaks in is reasonably available to each construction person.

Maximum penalty—20 penalty units.

- (2) The room or sheltered area must—
- (a) be hygienic and separated from work activity that exposes or is likely to expose a construction person to a health or safety risk; and
 - (b) if there are at least 15 construction persons—
 - (i) have adequate space and seating for the maximum number of construction persons likely to use the room or sheltered area at the one time; and
 - (ii) have appropriate facilities for washing and storing utensils, boiling water, and storing food in a cool place.

6 Hands and face washing facilities

- (1) The principal contractor for construction work must ensure the following facilities are reasonably available to each construction person—
- (a) adequate clean water for washing the hands and face;

- (b) an appropriate facility for supplying the water.

Examples of an appropriate facility—

- a hose at a housing construction site
- a water container with a tap at a road construction site
- a washbasin included with a portable toilet or connected toilet at a high rise building construction site

Maximum penalty—20 penalty units.

- (2) However, the facilities must not be unisex facilities that are located inside a toilet block, room or cubicle (*toilets*), unless the toilets are unisex toilets.

7 Drinking water

- (1) The principal contractor for construction work must ensure that an adequate supply of potable, clean and cool drinking water is reasonably available to each construction person.

Examples of a supply of water that, for schedule 18, definition reasonably available, paragraph (a), is at a location reasonably convenient to the construction person—

- a supply located within 30m of where the construction person is working on a single level building
- a supply located on the ground level and then every second level of a high rise building being built

Maximum penalty—20 penalty units.

- (2) The supply of water must not be located in toilets.

Example of toilets—

a toilet block or a cubicle used as a toilet

- (3) If the water is made available in a container, the construction person must be able to drink the water without having to drink directly from the same container as someone else.
- (4) This section does not prevent the supply of water also being made available under section 6 for hands and face washing.

Schedule 12 Relevant persons who are employers—particular amenities for rural industry work

section 344

Part 1 Toilets for workers and relevant person

1 Toilets

- (1) A relevant person who is an employer must ensure that, to the greatest practicable extent, toilets complying with this section are reasonably available to each work person who is at a workplace and performing work in a rural industry.

Maximum penalty—20 penalty units.

- (2) Toilets located within a reasonable distance of the work person, using appropriate transport, are, for schedule 18, definition *reasonably available*, paragraph (a), at a location reasonably convenient to the work person.
- (3) There must be at least 1 toilet for each 15, or part of 15, work persons who are at the workplace and performing work in a rural industry.

Examples—

- For 1 to 15 work persons, there must be at least 1 toilet.
 - For 20 work persons, there must be at least 1 toilet for the first 15 work persons plus at least 1 toilet for the other 5, making a total of at least 2 toilets.
- (4) Each toilet made available to a female work person must have facilities to dispose of sanitary items for females.
- (5) Each toilet may be a unisex toilet.
- (6) Each toilet must have an adequate supply of toilet paper.

(7) In this section—

work person means the relevant person or a worker of the relevant person.

Part 2 Other amenities for workers

2 Application of pt 2

This part applies if a worker of a relevant person is performing work in a rural industry at a workplace.

3 Sheltered area to eat meals in

(1) The relevant person must ensure that a sheltered area to eat meals and take breaks in is reasonably available to the worker.

Examples—

- a caravan
- a tent attached to a vehicle
- a tractor cabin or harvester cabin

Maximum penalty—20 penalty units.

(2) The sheltered area must be separated from work activity that exposes or is likely to expose the worker to a health or safety risk.

4 Hands washing facilities

The relevant person must ensure the following are reasonably available to the worker—

- (a) adequate clean water, and soap or another suitable cleansing agent, for washing the worker's hands;
- (b) facilities to dry the worker's hands.

Example—

hand towels, paper towels or a mechanical hands dryer

Maximum penalty—20 penalty units.

5 Drinking water

- (1) The relevant person must ensure that an adequate supply of potable, clean drinking water is reasonably available to the worker.

Maximum penalty—20 penalty units.

- (2) The supply of water must not be located in toilets.

Example of toilets—

a toilet block or a cubicle used as a toilet

- (3) The water must not be at more than 15°C.
- (4) If the water is made available in a container, the worker must be able to drink the water without having to drink directly from the same container as someone else.
- (5) This section does not prevent the supply of water also being made available under section 4 for hands washing.

Schedule 13 Relevant persons who are employers—particular amenities for work that is not construction work or rural industry work

section 345

Part 1 Application of schedule 13

1 Application of sch 13

This schedule applies if a worker of a relevant person is performing work that is not construction work or work in a rural industry.

Part 2 Explanation of applied BCA provisions or applied QDC provisions used for part 3 or schedule 14

2 Definitions for pt 2

In this part—

applied BCA provision see section 3(4).

applied QDC provision see section 3(4).

BCA means the edition of the Building Code of Australia as current on 1 May 2004.

Editor's note—

The Building Code of Australia is a publication of the Australian Building Codes Board and the Board has consented to the use of the

code. The logo of the Australian Building Codes Board appears at the end of schedule 15. Also, the web address for the Board is <www.abcb.gov.au>.

Building Code of Australia see the *Building Act 1975*, section 12.

QDC means the Queensland Development Code as current on 23 August 2002.

Queensland Development Code see the *Building Act 1975*, section 13.

3 Purpose of applied BCA or applied QDC provisions

- (1) The BCA and QDC contain requirements, in relation to the design and construction of buildings, about—
 - (a) amenities that a building must be provided with; and
 - (b) requirements, for example, about ventilation or lighting, for a building.
- (2) Under particular provisions of part 3, the amenity that the relevant person has a duty to make reasonably available to a worker while the worker is doing particular work is the same, with some modification, as a particular amenity required under the BCA or QDC.

Editor's note—

The provisions are sections 10 (Toilets, and hands and face washing facilities), 16 (Dining facilities) and 20 (Dressing room facilities) and the example in section 22(1) (Drinking water).

- (3) Under particular provisions of schedule 14, the requirements for a building that the relevant person has a duty to ensure are complied with while the worker is doing particular work are the same, with some modification, as particular requirements for a building, under the BCA or QDC.

Editor's note—

The provisions are schedule 14, sections 2 (Ventilation), 4 (Lighting) and 5 (Floor area and air space).

- (4) For the purpose of stating those duties, BCA or modified BCA provisions (***applied BCA provisions***) or modified QDC provisions (***applied QDC provisions***) are—

- (a) applied under part 3 or schedule 14; and
- (b) set out in schedule 15 or 16.

4 Changes to the text of BCA or QDC in modified provision

- (1) In the modified BCA or QDC provisions, changes to the text of the BCA or QDC are in italics and, for this purpose, italics or underlining in the text of the BCA or QDC are not reproduced.
- (2) Each modified BCA or QDC provision with a number keeps the same number as the BCA or QDC provision it modifies.

5 Interpretation of applied BCA or applied QDC provisions

- (1) It is intended that the applied BCA provisions and applied QDC provisions form part of a self-contained scheme all of which is set out in this regulation.
- (2) So, the BCA or QDC must not be referred to for the purpose of interpreting an applied BCA provision or applied QDC provision, and those provisions must be interpreted as if they were ordinary provisions of this regulation.

Notes—

- 1 Schedule 15, part 3, section A1.1 contains definitions for applied BCA provisions.
 - 2 Schedule 16, part 2, section headed ‘Definitions’ contains definitions for applied QDC provisions.
 - 3 *Building*, and other particular words relevant to the applied BCA or applied QDC provisions, are defined in schedule 18.
 - 4 The Act, and the *Acts Interpretation Act 1954*, also define particular words relevant to the applied BCA or applied QDC provisions.
- (3) However, the following definitions in schedule 3 of the Act do not apply in relation to an applied BCA provision or applied QDC provision—
- (a) *board*;
 - (b) *lift*;
 - (c) *occupier*;

-
- (d) *owner*;
 - (e) *place*;
 - (f) *plant*;
 - (g) *vehicle*.
- (4) Also, the definition *Authority* in schedule 18 does not apply in relation to an applied BCA provision or applied QDC provision.
- (5) In an applied BCA provision or applied QDC provision relating to an amenity, a reference to workers is a reference to the relevant person's workers to whom the amenity must be available under part 3.

Part 3 If worker is at workplace where non-class 10 building is provided for workers to occupy

Division 1 Application of part 3

6 Application of pt 3

This part applies if—

- (a) a relevant person who is an employer provides a building at a workplace for the worker or any other worker of the relevant person to occupy when performing work that is not construction work or work in a rural industry; and
- (b) the building is not a class 10 building; and
- (c) the worker is at the workplace, whether or not the worker or other worker is actually occupying the building.

Examples of a building provided for the worker to occupy—

- an office building

- a building that is a walled or partly walled shed and used as a workshop
- a building, at a workplace that includes an outside storage yard, provided for the worker to occupy when not working in the yard

Example of a building not provided for the worker to occupy—

a building that the worker is in temporarily to repair equipment

Division 2 Toilets, and hands and face washing facilities

Subdivision 1 If the building is a class 1b building or relevant person's domestic premises

7 Toilets

- (1) If the building provided by the relevant person is a class 1b building or the relevant person's domestic premises, the relevant person must ensure that toilets complying with this section are reasonably available to the worker.

Maximum penalty—20 penalty units.

- (2) Each toilet must be adequate in all the circumstances, including the following—
- (a) the size and location of the workplace;
 - (b) the number of the relevant person's workers to whom a toilet must be made available under subsection (1).

Example—

The number of the workers may require more than 1 toilet to be made available.

- (3) Each toilet must be in a cubicle, or room, that gives privacy.
- (4) If the worker is female, each toilet made available to her must—

-
- (a) have facilities to dispose of sanitary items for females; and
 - (b) be separated from urinals so that no urinal can be seen by her.

Examples—

- locating a toilet for females in a separate room from urinals
 - putting a screen between urinals and a toilet for females
- (5) Each toilet may be a unisex toilet.
 - (6) Each toilet must have an adequate supply of toilet paper.

8 Hands and face washing facilities

The relevant person must ensure the following facilities are reasonably available to the worker—

- (a) adequate clean water, and soap or another suitable cleansing agent, for washing the worker's hands and face;
- (b) facilities to dry the worker's hands.

Example—

hand towels, paper towels or a mechanical hands dryer

Maximum penalty—20 penalty units.

Subdivision 2 If the building is a particular class of building and not relevant person's domestic premises

9 Application of sdiv 2

- (1) This subdivision applies if the building provided by a relevant person who is an employer is not the relevant person's domestic premises and is—
 - (a) a class 3, 5, 6 or 9 building that is not part of a school; or
 - (b) a class 7 or 8 building; or

(c) a class 9b building that is part of a school.

(2) In this section—

school see schedule 15, part 3, section A1.1.

10 Toilets, and hands and face washing facilities

(1) The relevant person must ensure that toilets complying with this subdivision are reasonably available to the worker.

Maximum penalty—20 penalty units.

(2) The relevant person must ensure that hands and face washing facilities complying with this subdivision are reasonably available to the worker.

Maximum penalty—20 penalty units.

11 Performance requirements to be complied with

(1) Schedule 15, part 1, division 1 sets out the following applied BCA provisions—

(a) FP2.1, which is a performance requirement for toilets and hands and face washing facilities;

(b) FP2.5, which is a performance requirement for toilets.

(2) Part 2 explains the purpose and interpretation of, and modification of the BCA for, applied BCA provisions used for this part.

(3) Toilets must comply with the following performance requirements in the way stated in section 12—

(a) FP2.1, in so far as it relates to toilets;

(b) FP2.5.

(4) Hands and face washing facilities must comply with performance requirement FP2.1, in so far as it relates to those facilities, in the way stated in section 12.

12 How to comply with performance requirements

- (1) This section states the way to comply with the performance requirements.
- (2) The applied BCA provision that is section A0.5 (Meeting the Performance Requirements) in schedule 15, part 1, division 2, applies to the performance requirements.
- (3) Section A0.5 allows the relevant person to comply with the performance requirements in different ways.
- (4) However, the relevant person may use an alternative solution under section A0.5, to comply with part or all of the performance requirements, only if the chief executive has given the relevant person approval under section 27(1) to use the alternative solution in the particular case.

Note—

See section 26 for how to apply for the approval.

- (5) The following applied BCA provisions, to the extent they are relevant to complying with the way chosen by the relevant person, must be applied to the performance requirements—
 - (a) the remaining provisions of schedule 15, part 1, division 2;
 - (b) the provisions in schedule 15, part 3.
- (6) However, each toilet, or hands and face washing facility need not be part of a building.

13 Location of toilet

If the toilet is not in the building provided by the relevant person, the toilet is, for schedule 18, definition *reasonably available*, paragraph (a), at a location reasonably convenient to the worker only if the toilet is—

- (a) within the boundary of the workplace containing the building provided by the relevant person; and

Example—

A toilet for a worker who is a school teacher must be within the school grounds.

- (b) not more than 100m from the workplace if the building was built after 31 December 1991.

14 Toilet paper and disposal of female sanitary items

- (1) If the worker is female, each toilet made available to her must have facilities to dispose of sanitary items for females.
- (2) Each toilet must have an adequate supply of toilet paper.

15 Hands and face washing facilities to include soap, water and hands drying facilities

Hands and face washing facilities must include—

- (a) adequate clean water, and soap or another suitable cleansing agent, for washing the worker's hands; and
- (b) facilities to dry the worker's hands.

Example—

hand towels, paper towels or a mechanical hands dryer

Division 3 Dining facilities

16 Dining facilities

- (1) The relevant person must ensure that dining facilities complying with this division are reasonably available to the worker, including for the purpose of taking breaks.

Maximum penalty—20 penalty units.

- (2) However, a dining room or dining area made available for this division is taken not to be reasonably available to the worker while it is being used for a purpose that significantly interferes with the use of the dining room or dining area for dining or taking breaks in.

17 Performance criteria to be complied with

- (1) Schedule 16, part 1, division 1 sets out the following applied QDC provisions—
 - (a) performance criteria for dining facilities;
 - (b) acceptable solutions for the performance criteria.
- (2) Part 2 explains the purpose and interpretation of, and modification of the QDC for, applied QDC provisions used for this part.
- (3) Dining facilities must comply with the performance criteria in the way stated in section 18.

18 How to comply with performance criteria mentioned in this part or sch 14

- (1) This section states how to comply with performance criteria mentioned in this part or schedule 14, section 4 or 5.
- (2) The applied QDC provision in schedule 16, part 2, headed ‘Satisfying the performance *criteria*’ applies to the performance criteria.
- (3) That provision allows the relevant person to comply with the performance criteria in different ways.
- (4) However, the relevant person may use an alternative solution under that provision, to comply with part or all of the performance criteria, only if the chief executive has given the relevant person approval under section 27(1) to use the alternative solution in the particular case.

Note—

See section 26 for how to apply for the approval.

- (5) The following applied QDC provisions, to the extent they are relevant to complying with the way chosen by the relevant person, must be applied to the performance criteria—
 - (a) the acceptable solutions for the performance criteria;
 - (b) the section headed ‘Definitions’ in schedule 16, part 2.
- (6) To remove any doubt, it is declared that—

- (a) an amenity is required, under a performance criteria mentioned in this part, only in the circumstances mentioned in the performance criteria, whether or not the acceptable solutions for the performance criteria mention those circumstances; and
 - (b) a dining room or dining area required under this part must be part of building.
- (7) A dressing room required under this part need not be part of a building.

19 If worker is able to eat in work area

- (1) This section applies if the nature of work performed by the worker allows the worker to eat in the worker's work area.
- (2) Sections 17 and 18 do not apply and dining facilities must consist of the following—
 - (a) a sink with a draining board and reticulated hot and cold water;
 - (b) cupboards for the storage of foodstuffs, free of dust and vermin;
 - (c) a chair or stool with back support;
 - (d) a refrigerator of adequate capacity for the number of the relevant person's workers to whom dining facilities must be available under this section.

Division 4 Dressing room facilities

20 Dressing room facilities

The relevant person must ensure that dressing room facilities complying with this division are reasonably available to the worker.

Maximum penalty—20 penalty units.

21 Performance criteria to be complied with

- (1) Schedule 16, part 1, division 2 sets out the following applied QDC provisions—
 - (a) performance criteria for dressing room facilities;
 - (b) acceptable solutions for the performance criteria.
- (2) Part 2 explains the purpose and interpretation of, and modification of the QDC for, applied QDC provisions used for this part.
- (3) Dressing room facilities must comply with the performance criteria in the way stated in section 18.

Division 5 Drinking water**22 Drinking water**

- (1) The relevant person must ensure that an adequate supply of potable, clean and cool drinking water is reasonably available to the worker.

Example—

complying, in the way stated in section 18, with the performance criteria for drinking water set out in schedule 16, part 1, division 3

Maximum penalty—20 penalty units.

- (2) The supply of water must not be located in toilets.

Example of toilets—

a toilet block or a cubicle used as a toilet

- (3) If the water is made available in a container, the worker must be able to drink the water without having to drink directly from the same container as someone else.
- (4) This section does not prevent the supply of water also being made available under section 24 for hands and face washing.

23 Performance criteria that may be complied with

- (1) Schedule 16, part 1, division 3 sets out the following applied QDC provisions—
 - (a) performance criteria for drinking water;
 - (b) acceptable solutions for the performance criteria.
- (2) Part 2 explains the purpose and interpretation of, and modification of the QDC for, applied QDC provisions used for this part.

Division 6 Other amenities

24 Hands and face washing facilities

The relevant person must ensure the following facilities are reasonably available to the worker—

- (a) adequate clean water, and soap or another suitable cleansing agent, for washing the worker's hands and face;
- (b) facilities to dry the worker's hands.

Example—

hand towels, paper towels or a mechanical hands dryer

Maximum penalty—20 penalty units.

25 Showers

- (1) This section applies if the worker is performing work likely to expose the worker to a health or safety risk if the worker can not shower at, or before, the end of the worker's shift.
- (2) The relevant person must ensure a shower is reasonably available to the worker to prevent the risk.
Maximum penalty—20 penalty units.
- (3) The shower may be a unisex shower only if—

- (a) it is available to not more than 10 of the relevant person's workers to whom a shower must be available under subsection (2); and
- (b) it is lockable from inside the shower; and
- (c) it gives privacy.

Division 7 Approval to use alternative solution to performance requirement or performance criteria

26 Application for approval to use alternative solution

- (1) A relevant person may apply to the chief executive in writing for approval—
 - (a) to use an alternative solution under section A0.5 in schedule 15, part 1, division 2 to comply with part or all of a performance requirement mentioned in section 11(1) or schedule 14, section 2(1) in a particular case; or
 - (b) to use an alternative solution under the provision in schedule 16, part 2 headed 'Satisfying the performance *criteria*' to comply with part or all of a performance criteria mentioned in section 17(1), 21(1) or 23(1) in a particular case.
- (2) The chief executive may give the approval if the chief executive is satisfied that the alternative solution provides at least the same level of health protection as is provided by—
 - (a) the performance requirement or the part of the performance requirement; or
 - (b) the performance criteria or the part of the performance criteria.
- (3) The chief executive may require the applicant to give the chief executive any further information the chief executive reasonably requires to decide the application.

- (4) A requirement under subsection (3) may state a reasonable period, of at least 28 days, by which the stated further information must be given to the chief executive.

27 Decision on application

- (1) If the chief executive decides to grant the application, the chief executive must issue the approval to the applicant.
- (2) If the chief executive decides to refuse the application, the chief executive must give written notice to the applicant about the decision within 10 days after making the decision.
- (3) The notice must state—
 - (a) the reasons for the refusal; and
 - (b) that the person may appeal against the decision under part 11 of the Act.

Part 4 If worker is not at workplace where non-class 10 building is provided for workers to occupy

28 Application of pt 4

- (1) This part applies if the worker is not at a workplace where the relevant person provides a building for the worker or any other worker of the relevant person to occupy when performing work that is not construction work or work in a rural industry.

Note—

See the examples in section 6(c), which are also relevant to this subsection.

- (2) In this section—
building does not include a class 10 building.

29 Toilets

- (1) The relevant person must ensure that, to the greatest practicable extent, toilets complying with this section are reasonably available to the worker.

Maximum penalty—20 penalty units.

- (2) Toilets located within a reasonable distance of the worker, using appropriate transport, are, for schedule 18, definition *reasonably available*, paragraph (a), at a location reasonably convenient to the worker.
- (3) There must be at least 1 toilet for each 15, or part of 15, of the relevant person's workers to whom a toilet must be available under subsection (1).

Examples—

- For 1 to 15 workers, there must be at least 1 toilet.
 - For 20 workers, there must be at least 1 toilet for the first 15 workers plus at least 1 toilet for the other 5, making a total of at least 2 toilets.
- (4) If the worker is female, each toilet made available to her must have facilities to dispose of sanitary items for females.
- (5) Each toilet may be a unisex toilet.
- (6) Each toilet must have an adequate supply of toilet paper.

30 Sheltered area to eat meals in

- (1) The relevant person must ensure that a sheltered area to eat meals and take breaks in is reasonably available to the worker.

Examples—

- a caravan
- a tent attached to a vehicle

Maximum penalty—20 penalty units.

- (2) A sheltered area located within a reasonable distance of the worker, using appropriate transport, is, for schedule 18, definition *reasonably available*, paragraph (a), at a location reasonably convenient to the worker.

- (3) The sheltered area must be hygienic and separated from work activity that exposes or is likely to expose the worker to a health or safety risk.

31 Drinking water

- (1) The relevant person must ensure that an adequate supply of potable, clean and cool drinking water is reasonably available to the worker.

Maximum penalty—20 penalty units.

- (2) The supply of water must not be located in toilets.

Example of toilets—

a toilet block or a cubicle used as a toilet

- (3) If the water is made available in a container, the worker must be able to drink the water without having to drink directly from the same container as someone else.
- (4) This section does not prevent the supply of water also being made available under section 32 for hands washing.

32 Hands washing facilities

The relevant person must ensure the following facilities are reasonably available to the worker—

- (a) adequate clean water, and soap or another suitable cleansing agent, for washing the worker's hands;
- (b) facilities to dry the worker's hands.

Example—

hand towels, paper towels or a mechanical hands dryer

Maximum penalty—20 penalty units.

33 Showers

- (1) This section applies if the worker is performing work likely to expose the worker to a health or safety risk if the worker can not shower at, or before, the end of the worker's shift.

- (2) The relevant person must ensure a shower is reasonably available to the worker to prevent the risk.

Maximum penalty—20 penalty units.

- (3) The shower may be a unisex shower only if—
- (a) it is available to not more than 10 of the relevant person's workers to whom a shower must be available under subsection (2); and
 - (b) it is lockable from inside the shower; and
 - (c) it gives privacy.

Schedule 14 Relevant persons who are employers—requirements for building provided for worker to occupy when performing particular work

section 347

Part 1 Application of schedule 14

1 Application of sch 14

This schedule applies if—

- (a) a worker is at a workplace and performing work that is not construction work or work in a rural industry; and
- (b) a relevant person who is an employer of the worker provides a building at the workplace for the worker to occupy when performing work that is not construction work or work in a rural industry.

Note—

See the examples in schedule 13, section 6(c), which are also relevant to this section.

Part 2 Ventilation

2 Ventilation

- (1) Schedule 15, part 2, division 1 sets out the applied BCA provisions that are performance requirements for ventilation.
- (2) Schedule 13, part 2 explains the purpose and interpretation of, and modification of the BCA for, applied BCA provisions used for this schedule.

-
- (3) The relevant person must ensure that the building—
 - (a) complies with the performance requirements in the way stated in section 3; or
 - (b) is ventilated in a way that provides ventilation at least equivalent to the ventilation required under paragraph (a).

Maximum penalty—20 penalty units.

3 How to comply with performance requirements

- (1) This section states how to comply with the performance requirements.
- (2) The applied BCA provision that is section A0.5 (Meeting the Performance Requirements) in schedule 15, part 1, division 2, applies to the performance requirements.
- (3) Section A0.5 allows the relevant person to comply with the performance requirement in different ways.
- (4) However, the relevant person may use an alternative solution under section A0.5, to comply with part or all of the performance requirements, only if the chief executive has given the relevant person approval under schedule 13, section 27(1) to use the alternative solution in the particular case.

Note—

See schedule 13, section 26 for how to apply for the approval.

- (5) The following applied BCA provisions, to the extent they are relevant to complying with the way chosen by the relevant person, must be applied to the performance requirement—
 - (a) the remaining provisions of schedule 15, part 1, division 2;
 - (b) the provisions in schedule 15, part 3.

Part 3 Lighting

4 Lighting

- (1) Schedule 16, part 1, division 4 sets out the following applied QDC provisions—
 - (a) performance criteria for lighting;
 - (b) acceptable solutions for the performance criteria.
- (2) Schedule 13, part 2 explains the purpose and interpretation of, and modification of the QDC for, applied QDC provisions used for this schedule.
- (3) The relevant person must ensure that—
 - (a) the building complies with the performance requirement in the way stated in schedule 13, section 18; or
 - (b) the building is lit by lighting at least equivalent to the lighting required under paragraph (a).

Maximum penalty—20 penalty units.

Part 4 Floor area and air space

5 Floor area and air space

- (1) Schedule 16, part 1, division 5 sets out the following applied QDC provisions—
 - (a) performance criteria for floor area and air space;
 - (b) acceptable solutions for the performance criteria.
- (2) Schedule 13, part 2 explains the purpose and interpretation of, and modification of the QDC for, applied QDC provisions used for this schedule.

- (3) The relevant person must ensure that the building complies with the performance criteria in the way stated in schedule 13, section 18.

Maximum penalty—20 penalty units.

Schedule 15 Applied BCA provisions

schedule 13, section 3(4)(b)

Part 1 Toilets, and hands and face washing facilities

Division 1 Performance requirements

FP2.1

(1) Suitable sanitary facilities for personal hygiene, *consisting of toilets, and hands and face washing facilities, that are appropriate to the following, must be made reasonably available—*

(a) *for hands and face washing facilities—the nature of the work the worker is performing;*

Examples—

- *for an office worker—a washbasin*
- *for a worker performing greasy work in a workshop—a tub*

(b) *the number and gender of the workers;*

(c) *(omitted)*

(2) *In this section—*

hands and face washing facilities means an appropriate facility for supplying water for washing the hands and face.

FP2.5

A sanitary compartment must be constructed with sufficient space or other means to permit an unconscious *worker* to be removed from the compartment.

Division 2 Particular provisions for complying with performance requirements

Note—

See also part 3 (Further provisions for complying with performance requirements—definitions, classification of buildings and adoption of standards).

A0.5 Meeting the Performance Requirements

Compliance with the Performance Requirements can only be achieved by—

- (a) complying with the Deemed-to-Satisfy Provisions; or
- (b) formulating an Alternative Solution which—
 - (i) complies with the Performance Requirements; or
 - (ii) is shown to be at least equivalent to the Deemed-to-Satisfy Provisions; or
- (c) a combination of (a) and (b).

F2.0 Deemed-to-Satisfy Provisions

- (a) Where a Building Solution is proposed to comply with the Deemed-to-Satisfy Provisions, Performance Requirements FP2.1 *and* FP2.5 are satisfied by complying with F2.3, *including table F2.3, and F2.5.*
- (b) *(omitted)*

F2.3 Facilities in Class 3 or 5 to 9 buildings

- (a) Sanitary facilities must be provided for Class 3, 5, 6, 7, 8 and 9 buildings in accordance with Table F2.3.
- (b) *(omitted)*

Table F2.3 SANITARY FACILITIES IN CLASS 3, 5, 6, 7, 8 AND 9 BUILDINGS

Class of building	User	Maximum Number Served By—								
		Closet pan(s)			Urinals			Washbasin(s)		
		1	2	Each Extra	1	2	Each Extra	1	2	Each Extra
<i>3, 5, 6 or 9 that is not part of a school</i>	Workers									
	Males	20	40	20	25	50	50	30	60	30
	Females	15	30	15				30	60	30
<i>7 or 8</i>	Workers									
	Males	20	40	20	25	50	50	20	40	20
	Females	15	30	15				20	40	20
<i>(omitted)</i>										
<i>9b that is part of a school</i>	Workers									
	Males	20	40	20	20	45	30	30	60	30
	Females	5	20	15				30	60	30
<i>(omitted)</i>										
Notes—										
1. Workers—a reference in this table, including in these notes, to workers includes a reference to the employer if the employer is at the workplace.										
2. Urinals—a urinal need not be provided if the number of male workers is less than 10.										
3. Unisex facility—instead of separate facilities for each sex, if not more than 10 persons are workers, a unisex facility comprising 1 closet pan in a cubicle, or room, fitted with a door that gives privacy and is lockable from inside the cubicle or room, and 1 washbasin may be provided.										

4. Combined facilities—if the majority of <i>workers</i> are of one sex, not more than 2 <i>workers</i> of the other sex may share toilet facilities if—
(a) <i>(omitted)</i>
(b) the facilities are separated by means of walls, partitions and doors, <i>lockable from inside the facility</i> , to afford privacy.
5. Use of public facilities—sanitary facilities for <i>workers</i> need not be separate from those required for public use in a Class 6 or 9b building <i>that is not part of a school or early childhood centre</i> .
6. <i>(omitted)</i>
7. <i>(omitted)</i>

F2.5 Construction of sanitary compartments

- (a) Other than in an early childhood centre, sanitary compartments must have doors and partitions that separate adjacent compartments and extend—
 - (i) from floor level to the ceiling in the case of a unisex facility *mentioned in table F2.3, note 3*; or
 - (ii) *(omitted)*
 - (iii) 1.8m above the floor in all other cases.
- (b) The door to a fully enclosed sanitary compartment must—
 - (i) open outwards; or
 - (ii) slide; or
 - (iii) be readily removable from the outside of the sanitary compartment;

unless there is a clear space of at least 1.2m between the closet pan within the sanitary compartment and the nearest part of the doorway.

(omitted)

F2.6 Interpretation—Urinals and washbasins

- (a) A urinal may be—
 - (i) an individual stall or wall-hung urinal; or
 - (ii) a 600mm length of a continuous urinal trough; or
 - (iii) a closet pan used in place of a urinal.
- (b) A washbasin may be—
 - (i) an individual basin; or
 - (ii) a part of a hand washing trough served by a single water tap.

Part 2 Ventilation

Division 1 Performance requirements

FP4.3

A space in *the* building, used by *the worker*, must be provided with means of ventilation with outdoor air which will maintain adequate air quality.

FP4.4

If a mechanical air-handling system *is* installed in *the* building, *the system* must control—

- (a) the circulation of objectionable odours; and
- (b) the accumulation of harmful contamination by micro-organisms, pathogens and toxins.

FP4.5

Contaminated air must be disposed of in a manner which does not unduly create a nuisance or hazard to people in the building or other property.

Division 2 Particular provisions for complying with performance requirements

Note—

See also part 3 (Further provisions for complying with performance requirements—definitions, classification of buildings and adoption of standards).

A0.5 Meeting the Performance Requirements

Compliance with the Performance Requirements can only be achieved by—

- (a) complying with the Deemed-to-Satisfy Provisions; or
- (b) formulating an Alternative Solution which—
 - (i) complies with the Performance Requirements; or
 - (ii) is shown to be at least equivalent to the Deemed-to-Satisfy Provisions; or
- (c) a combination of (a) and (b).

F4.0 Deemed-to-Satisfy Provisions

- (a) Where a Building Solution is proposed to comply with the Deemed-to-Satisfy Provisions, Performance Requirements FP4.3 to FP4.5 are satisfied by complying with F4.5 to F4.9.
- (b) *(omitted)*

F4.5 Ventilation of rooms

A habitable room, office, shop, factory, workroom, sanitary compartment, bathroom, shower room, laundry and any other room occupied by *the worker* must have—

- (a) natural ventilation complying with F4.6; or
- (b) a mechanical ventilation or air-conditioning system complying with AS 1668.2 and AS/NZS 3666.1.

(omitted)

F4.6 Natural ventilation

Natural ventilation provided in accordance with F4.5(a) must consist of permanent openings, windows, doors or other devices which can be opened—

- (a) with an aggregate opening or openable size not less than 5% of the floor area of the room required to be ventilated; and
- (b) *that are* open to—
 - (i) a suitably sized court, or space open to the sky; or
 - (ii) an open verandah, carport, or the like; or
 - (iii) an adjoining room in accordance with F4.7.

F4.7 Ventilation borrowed from adjoining room

Natural ventilation to a room may come through a window, opening, ventilating door or other device from an adjoining room (including an enclosed verandah) if both rooms are within the same sole-occupancy unit or the enclosed verandah is common property, and—

- (a) in a Class 2 building, a sole-occupancy unit of a Class 3 building or Class 4 part of a building—
 - (i) the room to be ventilated is not a sanitary compartment; and

- (ii) the window, opening, door or other device has a ventilating area of not less than 5% of the floor area of the room to be ventilated; and
 - (iii) the adjoining room has a window, opening, door or other device with a ventilating area of not less than 5% of the combined floor areas of both rooms; and
- (b) in a Class 5, 6, 7, 8 or 9 building—
- (i) the window, opening, door or other device has a ventilating area of not less than 10% of the floor area of the room to be ventilated, measured not more than 3.6m above the floor; and
 - (ii) the adjoining room has a window, opening, door or other device with a ventilating area of not less than 10% of the combined floor areas of both rooms; and
- (c) the ventilating areas specified in (a) and (b) may be reduced as appropriate if direct natural ventilation is provided from another source.

F4.8 Restriction on position of water closets and urinals

A room containing a closet pan or urinal must not open directly into—

- (a) a kitchen or pantry; or
- (b) a public dining room or restaurant; or
- (c) a dormitory in a Class 3 building; or
- (d) a room used for public assembly (which is not an early childhood centre, primary school or open spectator stand); or
- (e) a workplace normally occupied by more than one person.

F4.9 Airlocks

If a room containing a closet pan or urinal is prohibited under F4.8 from opening directly to another room—

- (a) in a sole-occupancy unit in a Class 2 or 3 building or Class 4 part of a building—
 - (i) access must be by an airlock, hallway or other room; or
 - (ii) the room containing the closet pan or urinal must be provided with mechanical exhaust ventilation; and
- (b) in a Class 5, 6, 7, 8 or 9 building (which is not an early childhood centre, primary school or open spectator stand)—
 - (i) access must be by an airlock, hallway or other room with a floor area of not less than 1.1m² and fitted with self-closing doors at all access doorways; or
 - (ii) the room containing the closet pan or urinal must be provided with mechanical exhaust ventilation and the doorway to the room adequately screened from view.

Part 3 Further provisions for complying with performance requirements—definitions, classification of buildings and adoption of standards

A1.1 Definitions

In *an applied BCA provision*, unless the contrary intention appears—

(omitted)

Aged care building means a Class 9c building for residential accommodation of aged persons who, due to varying degrees of incapacity associated with the ageing process, are provided with personal care services and 24 hour staff assistance to evacuate the building during an emergency.

(omitted)

Allotment means a separate, distinct parcel of land on which a building is to be built, or is built.

(omitted)

Alternative Solution means a Building Solution which complies with the Performance Requirements other than by reason of satisfying the Deemed-to-Satisfy Provisions.

Assembly building means a building where people may assemble for—

- (a) civic, theatrical, social, political or religious purposes; or
- (b) educational purposes in a school, early childhood centre, preschool, or the like; or
- (c) entertainment, recreational or sporting purposes; or
- (d) transit purposes.

(omitted)

Atrium means a space within a building that connects 2 or more storeys, and—

- (a) is wholly or substantially enclosed at the top by a floor or roof (including a glazed roof structure); and
- (b) includes any adjacent part of the building not separated by an appropriate barrier to fire; but
- (c) does not include a stairwell, rampwell or the space within a shaft.

Atrium well means a space in an atrium bounded by the perimeter of the openings in the floors or by the perimeter of the floors and the external walls.

(omitted)

Building Solution means a solution which complies with the Performance Requirements and is—

- (a) an Alternative Solution; or
- (b) a solution which complies with the Deemed-to-Satisfy Provisions; or
- (c) a combination of (a) and (b).

Carpark means a building that is used for the parking of motor vehicles but is neither a private garage nor used for the servicing of vehicles, other than washing, cleaning or polishing.

(omitted)

Common wall means a wall that is common to adjoining buildings.

(omitted)

Deemed-to-Satisfy Provisions means provisions which are deemed to satisfy the Performance Requirements.

(omitted)

Detention centre means a building in which persons are securely detained by means of the built structure including a prison, remand centre, juvenile detention centre, holding cells or psychiatric detention centre.

Early childhood centre means a kindergarten or child-minding centre.

(omitted)

Equivalent means equivalent to the level of health *and* safety *(words omitted)* provided by the Deemed-to-Satisfy Provisions.

(omitted)

External wall means an outer wall of a building which is not a common wall.

(omitted)

Floor area means—

(omitted)

- (c) in relation to a room—the area of the room measured within the finished surfaces of the walls, and includes the area occupied by any cupboard or other built-in furniture, fixture or fitting; and

(omitted)

Habitable room means a room used for normal domestic activities, and—

- (a) includes a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, playroom, family room and sunroom; but
- (b) excludes a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, hallway, lobby, photographic darkroom, clothes-drying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods.

Health-care building means a building whose occupants or patients undergoing medical treatment generally need physical assistance to evacuate the building during an emergency and includes—

- (a) a public or private hospital; *and*
- (b) a nursing home or similar facility for sick or disabled persons needing full-time care; *and*

- (c) a clinic, day surgery or procedure unit where the effects of the predominant treatment administered involve patients becoming non-ambulatory and requiring supervised medical care on the premises for some time after the treatment.

(omitted)

Mezzanine means an intermediate floor within a room.

(omitted)

Other property means all or any of the following—

- (a) any building on the same or an adjoining allotment; and
- (b) any adjoining allotment; and
- (c) a road.

Outdoor air means air outside the building.

(omitted)

Owner *see the Building Act 1975, schedule 2.*

(omitted)

Performance Requirement means a requirement which states the level of performance which a Building Solution must meet.

Personal care services means any of the following—

- (a) The provision of nursing care.
- (b) Assistance or supervision in—
 - (i) bathing, showering or personal hygiene; or
 - (ii) toileting or continence management; or
 - (iii) dressing or undressing; or
 - (iv) consuming food.
- (c) The provision of direct physical assistance to a person with mobility problems.
- (d) The management of medication.
- (e) The provision of substantial rehabilitation or development assistance.

(omitted)

Private garage means—

- (a) any garage associated with a Class 1 building; or
- (b) any single storey of a building of another Class capable of accommodating not more than 3 vehicles, if there is only one such storey in the building; or
- (c) any separate single storey garage associated with another building where such garage is capable of accommodating not more than 3 vehicles.

(omitted)

Required means required to satisfy a performance requirement or a Deemed-to-Satisfy Provision of the BCA as appropriate.

(omitted)

Road *see the Building Regulation 2006, schedule 4.*

(omitted)

Sanitary compartment means a room or space containing a closet pan or urinal.

(omitted)

School includes a primary or secondary school, college, university or similar educational establishment.

Self-closing, applied to a door, means equipped with a device which returns the door to the fully closed position immediately after each opening.

Service station means a garage which is not a private garage and is for the servicing of vehicles, other than only washing, cleaning or polishing.

Shaft means the walls and other parts of a building bounding—

- (a) a well, other than an atrium well; or
- (b) a vertical chute, duct or similar passage, but not a chimney or flue.

(omitted)

Sole-occupancy unit means a room or other part of a building for occupation by one or joint owner, lessee, tenant, or other occupier to the exclusion of any other owner, lessee, tenant, or other occupier and includes—

- (a) a dwelling; *and*
- (b) a room or suite of rooms in a Class 3 building which includes sleeping facilities; *and*
- (c) a room or suite of associated rooms in a Class 5, 6, 7, 8 or 9 building; *and*
- (d) a room or suite of associated rooms in a Class 9c aged care building, which includes sleeping facilities and any area for the exclusive use of a resident.

(omitted)

Storey means a space within a building which is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but not—

- (a) a space that contains only—
 - (i) a lift shaft, stairway or meter room; or
 - (ii) a bathroom, shower room, laundry, water closet, or other sanitary compartment; or
 - (iii) accommodation intended for not more than 3 vehicles; or
 - (iv) a combination of the above; or
- (b) a mezzanine.

(omitted)

Swimming pool means any excavation or structure containing water and used primarily for swimming, wading, paddling, or the like, including a bathing or wading pool, or spa.

(omitted)

Window includes a roof light, glass panel, glass block or brick, glass louvre, glazed sash, glazed door, or other device

which transmits natural light directly from outside a building to the room concerned when in the closed position.

A1.2 Adoption of standards and other reference

Where a Deemed-to-Satisfy Provision adopts a Standard, rule, specification or provision included in any document issued by Standards Australia or other body, that adoption does not include a provision—

- (a) specifying or defining the respective rights, responsibilities or obligations as between themselves or any manufacturer, supplier or purchaser; or
- (b) specifying the responsibilities of any trades person or other building operative, architect, engineer, authority, or other person or body; or
- (c) requiring the submission for approval of any material, building component, form or method of construction, to any person, authority or body other than a person or body empowered under State or Territory legislation to give that approval; or
- (d) specifying that a material, building component, form or method of construction must be submitted to Standards Australia or a committee of Standards Australia for expression of opinion; or
- (e) permitting a departure from the code, rule, specification or provision at the sole discretion of the manufacturer or purchaser, or by arrangement or agreement between the manufacturer and purchaser.

A1.3 Referenced Standards, etc

- (a) A reference in a Deemed-to-Satisfy Provision to a document under A1.2 refers to the edition or issue, together with any amendment, listed in Specification A1.3 and only so much as is relevant in the context in which the document is quoted.
- (b) Any—

- (i) reference in a document listed in Specification A1.3 (primary document) to another document (secondary document); and
- (ii) subsequent references to other documents in secondary documents and those other documents;

is a reference to the secondary and other documents as they existed at the time of publication of the primary document listed in Specification A1.3.

A1.4 Differences between referenced documents and *applied BCA provisions*

An *applied BCA provision* overrules in any difference arising between it and any Standard, rule, specification or provision in a document listed in Specification A1.3.

SPECIFICATION DOCUMENTS ADOPTED BY
A1.3 REFERENCE

1.

Schedule of referenced documents

(omitted)

Table 1: SCHEDULE OF REFERENCED DOCUMENTS

	No.	Date	Title	BCA Clause(s)
<i>(omitted)</i>				
	AS 1668		The use of mechanical ventilation and air-conditioning in buildings	

	No.	Date	Title	BCA Clause(s)
	Part 2	1991	Mechanical ventilation for acceptable indoor-air quality	F4.5 (<i>omitted</i>)
	(<i>omitted</i>)			
	AS/NZS 3666		Air-handling and water systems of buildings—Microbial control	
Amdt No. 11	Part 1	2002	Design, installation and commissioning	(<i>omitted</i>) F4.5
(<i>omitted</i>)				

A3.2 Classifications

Buildings are classified as follows—

Class 1—one or more buildings which in association constitute—

- (a) **Class 1a**—a single dwelling being—
 - (i) a detached house; or
 - (ii) one or more attached dwellings, each being a building, separated by a *wall that is fire resistant*, including a row house, terrace house, town house or villa unit; or
- (b) **Class 1b**—a boarding house, guest house, hostel or the like with a total floor area not exceeding 300m² and in which not more than 12 persons would ordinarily be resident;

which is not located above or below another dwelling or another Class of building other than a private garage.

Class 2—a building containing 2 or more sole-occupancy units each being a separate dwelling.

Class 3—a residential building, other than a building of Class 1 or 2, which is a common place of long term or transient living for a number of unrelated persons, including—

- (a) a boarding-house, guest house, hostel, lodging-house or backpackers accommodation; or
- (b) a residential part of a hotel or motel; or
- (c) a residential part of a school; or
- (d) accommodation for the aged, children or people with disabilities; or
- (e) a residential part of a health-care building which accommodates members of staff; or
- (f) a residential part of a detention centre.

Class 4—a dwelling in a building that is Class 5, 6, 7, 8 or 9 if it is the only dwelling in the building.

Class 5—an office building used for professional or commercial purposes, excluding buildings of Class 6, 7, 8 or 9.

Class 6—a shop or other building for the sale of goods by retail or the supply of services direct to the public, including—

- (a) an eating room, cafe, restaurant, milk or soft-drink bar; or
- (b) a dining room, bar, shop or kiosk part of a hotel or motel; or
- (c) a hairdresser's or barber's shop, public laundry, or undertaker's establishment; or
- (d) market or sale room, showroom, or service station.

Class 7—a building which is—

- (a) **Class 7a**—a carpark; or
- (b) **Class 7b**—for storage, or display of goods or produce for sale by wholesale.

Class 8—a laboratory, or a building in which a handicraft or process for the production, assembling, altering, repairing, packing, finishing, or cleaning of goods or produce is carried on for trade, sale, or gain.

Class 9

(words omitted) **Class 9—**

a building of a public nature—

- (a) **Class 9a**—a health-care building, including those parts of the building set aside as a laboratory; or
- (b) **Class 9b**—an assembly building, including a trade workshop, laboratory or the like in a primary or secondary school, but excluding any other parts of the building that are of another Class; or
- (c) **Class 9c**—an aged care building.

Class 10—a non-habitable building or structure—

- (a) **Class 10a**—a non-habitable building being a private garage, carport, shed, or the like; or
- (b) **Class 10b**—a structure being a fence, mast, antenna, retaining or free-standing wall, swimming pool, or the like.

A3.3 Multiple classification

Each part of a building must be classified separately, and—

- (a) (i) where parts have different purposes—if not more than 10% of the floor area of a storey, being the minor use, is used for a purpose which is a different classification, the classification applying to the major use may apply to the whole storey; and
- (ii) the provisions of (i) do not apply when the minor use is a laboratory or Class 2, 3 or 4 part *of a building*; and
- (b) Classes 1a, 1b, 7a, 7b, 9a, 9b, 9c, 10a and 10b are separate classifications; and

- (c) a reference to—
 - (i) Class 1—is to Class 1a and 1b; and
 - (ii) Class 7—is to Class 7a and 7b; and
 - (iii) Class 9—is to Class 9a, 9b and 9c; and
 - (iv) Class 10—is to Class 10a and 10b; and
- (d) A plant room, machinery room, lift motor room, boiler room or the like must have the same classification as the part of the building in which it is situated.

A3.4 Parts with more than one classification

- (a) Notwithstanding A3.3, a building or part of a building may have more than one classification applying to the whole building or to the whole of that part of the building.
- (b) If a building or part of a building has more than one classification applying to the whole building or part in accordance with (a), that building or part must comply with all the relevant provisions of the *applied BCA provisions* for each classification.

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Schedule 16 Applied QDC provisions

schedule 13, section 3(4)(b)

Part 1 Performance criteria and acceptable solutions

Division 1 Dining facilities

PERFORMANCE CRITERIA

Dining Facilities

P6 Where the nature of work performed does not allow *the worker* to eat in *the worker's* work area, suitable dining facilities must be *made reasonably available* in safe and hygienic conditions.

ACCEPTABLE SOLUTIONS

- A6** (a) A dining room is *made reasonably available*, except where there are five or less *workers*, a dining area may be *made reasonably available*; or
- (b) for shops situated in a shopping complex—
- (i) one dining room is used to satisfy the requirements of all the shops in the complex; and
 - (ii) the dining room area is based on the total *persons, to whom a dining room must be available under performance requirement P6*, of all the shops in the complex.

PERFORMANCE CRITERIA	ACCEPTABLE SOLUTIONS
<p>P7 A dining room <i>or dining area</i> must provide adequate facilities for eating, washing and cleaning of utensils, storage of food and utensils. Stored food and utensils must be kept free from contamination by dust and vermin.</p>	<p>A7 A dining room <i>or dining area</i> has the following facilities—</p> <ul style="list-style-type: none"> (a) a sink with a draining board and reticulated hot and cold water; and (b) cupboards for the storage of foodstuffs, free of dust and vermin; and (c) tables providing 600mm table length per <i>worker and a chair or stool with back support</i>; and (d) a refrigerator <i>of adequate capacity for the number of workers</i>.
<p>P8 Dining rooms must be of an adequate area to provide a safe and comfortable environment, appropriate to the number of <i>workers</i> using it at any one time.</p>	<p>A8 (a) The minimum floor area of a dining room is—</p> <ul style="list-style-type: none"> (i) for 6-12 <i>workers</i>—11m²; and (ii) for additional <i>workers</i> up to 25—an additional 0.92m² for each <i>worker</i>; and (iii) for additional <i>workers</i> thereafter—an additional 0.75m² for each <i>worker</i>.

Division 2**Dressing room facilities****PERFORMANCE
CRITERIA****Dressing Room Facilities**

P9 *(words omitted)* Where the nature of work requires *the worker* to change in and out of apparel, dressing rooms of adequate area, containing sufficient facilities *and that* provide adequate privacy *must be made reasonably available*.

ACCEPTABLE SOLUTIONS

- A9** (a) The minimum unencumbered floor area of a dressing room is 1.8m² per *worker*; and
- (b) an additional unencumbered area is provided in the dressing room, dependant on the occupation of each *worker* as follows—
- (i) For sedentary or semi-sedentary occupations—0.37m² per *worker*;
 - (ii) For light to medium and clean occupations—0.46m² per *worker*;
 - (iii) For heavy, hot or dirty occupations—0.65m² per *worker*; and
- (c) *the dressing room is provided with lockers that* are not less than 300mm wide and 450mm deep and 900mm in height; and
- (d) passage widths between facing lockers are—
- (i) at least 1500mm; or
 - (ii) with lockers on one side only—at least 900mm; and
- (e) a dressing room is provided for each sex; and
- (f) dressing rooms are set apart from workrooms *(words omitted)*; and
- (g) *(omitted)*

**PERFORMANCE
CRITERIA**

ACCEPTABLE SOLUTIONS

- (h) for fifteen or less *workers*, all of the same sex, a dining room may be combined with a dressing room; and
- (i) where a dressing room is combined with a dining room—
 - (i) the combined dining room and dressing room complies with A7, A8 and A9; and
 - (ii) the dining room is provided with—
 - (A) a locker for each *worker*; and
 - (B) protective hanging space for clothing; and
 - (C) *(omitted)*
 - (D) mirrors and shelving; and
 - (E) *(omitted)*

Division 3 Drinking water

**PERFORMANCE
CRITERIA**

ACCEPTABLE SOLUTIONS

Drinking water

- P10** An adequate supply of **A10** (a) Drinking water is *made clean, cool and potable* drinking water must be *made reasonably available*.

(omitted)

**PERFORMANCE
CRITERIA****ACCEPTABLE SOLUTIONS**

- (d) where there are more than *10 workers*, drinking fountains are provided in the following numbers—
- (i) 11 to 40 *workers*—1 drinking fountain; and
 - (ii) for each additional 40 *workers* (or part thereof)—1 additional drinking fountain.

Division 4 Lighting**PERFORMANCE
CRITERIA****ACCEPTABLE SOLUTIONS****Lighting**

- P4** Adequate lighting from natural and/or artificial sources must be provided to ensure healthy (*words omitted*) working conditions for *the worker*, appropriate to—
- (a) the nature of the work; and
 - (b) the location of the work; and
 - (c) the times at which the work is performed.
- A4** Lighting complies with AS 1680 (Interior lighting).

Division 5 Floor area and air space

PERFORMANCE CRITERIA

Work Areas

P5 Adequate work areas and air space must be *made reasonably available* to allow suitable standards of health and safety for *the worker*.

ACCEPTABLE SOLUTIONS

A5 A workplace has a minimum unencumbered floor area of 2.3m² for each *worker*.

Part 2 Other provisions for complying with performance criteria

Satisfying the performance *criteria*

(words omitted)

Compliance with the performance criteria can only be achieved by—

- (a) complying with the acceptable solutions; or
- (b) formulating an alternative solution that satisfies the performance criteria or is shown to be at least equivalent to the acceptable solutions; or
- (c) a combination of (a) and (b).

(omitted)

Definitions

(omitted)

Dining area—*a sheltered* area where workers may have lunch or take other breaks.

Dining room—a room or sheltered place where workers may have lunch or take other breaks.

Dressing room—a room used for changing clothes.

Floor area—excludes the area of any item positioned on the floor.

(omitted)

Heavy, hot or dirty occupations—*work* in foundries, steel fabrication, sand blasting, spray painting and the like.

(omitted)

Light to medium and clean occupations—*work* in offices, retail stores, and the like.

(omitted)

Sedentary occupations—work requiring a sitting position.

Semi-sedentary occupations—work requiring a sitting or standing position eg retail store workers.

(omitted)

Unencumbered—clear circulation space with no fixtures or fittings intruding within the space.

(omitted)

Workrooms—means any part of a workplace contained in a building partitioned off by any means or set aside in which a worker is required to work.

Schedule 18 Dictionary

section 3

accredited course means a course accredited under the *Vocational Education, Training and Employment Act 2000*.

ACM means asbestos containing material.

ADAS has the meaning given by the *Petroleum (Submerged Lands) (Diving Safety) Regulations 2002* (Cwlth).

ADAS diving certificate means an occupational diver certificate of competency or a commercial diver certificate that, on its face, is issued under ADAS.

address of a workplace means—

- (a) a street or similar address; or
- (b) another description of the location of the workplace enabling the location to be identified.

ADG Code means the Australian Code for the Transport of Dangerous Goods by Road and Rail.

Editor's note—

The ADG Code is approved by the Australian Transport Council.

advanced boiler operator means a person who—

- (a) performs the work of an intermediate boiler operator; and
- (b) operates a boiler with multiple fuel types that may be fired simultaneously during normal operation, other than boilers changing fuel types during the start sequence.

advanced rigger means a person who performs—

- (a) the work of an intermediate rigger; and
- (b) rigging work associated with—
 - (i) gin poles and shearlegs; or

- (ii) flying foxes and cable ways; or
- (iii) guyed derricks and structures; or
- (iv) suspended scaffolds and fabricated hung scaffolds.

advanced scaffolder means a person who performs—

- (a) the work of an intermediate scaffolder; and
- (b) scaffolding work, using scaffolding from which a person or object may fall more than 4m, associated with—
 - (i) hung scaffolds, including scaffolds hanging from tubes, wire ropes and chains; or
 - (ii) suspended scaffolds.

agreement, for part 28, division 2, see section 360.

an 8 hour equivalent continuous A-weighted sound pressure level of 85dB(A) means the actual energy of varying noise levels experienced over a period that is equivalent to an 8 hour continuous steady A-weighted sound pressure level of 85dB(A).

anchorage point, for part 20, see section 258.

application for training and assessment approval means an application under section 70.

applied BCA provision see schedule 13, section 2.

applied QDC provision see schedule 13, section 2.

approved criteria, for sections 188 and 221, means the criteria stated in former NOHSC document entitled ‘Approved Criteria for Classifying Hazardous Substances [NOHSC:1008 (1999)]’.

AS means a standard published by Standards Australia.

asbestos management code, for part 13, see section 140.

asbestos removal code, for part 13, see section 140.

AS/NZS means a standard published jointly by Standards Australia and Standards New Zealand.

assessment means the process of collecting evidence and making judgments on whether competency has been achieved

to decide whether a person can perform to the standard expected in the workplace.

assessment instrument, for a unit of competency for a class of high risk work or for a unit of competency for an earthmoving or particular crane occupation, see section 16.

assessment summary means a document that records the result of an assessment.

atmospheric monitoring means determining the concentration of lead in the atmosphere.

Australian Qualifications Framework has the same meaning as AQF has under the *Vocational Education, Training and Employment Act 2000*, schedule 3.

authorised accredited provider, other than for section 52, 60 or 61, means an accredited provider whose functions stated under section 178(2) of the Act include assessing a person's satisfaction of the approved criteria.

Authority see the *Building and Construction Industry (Portable Long Service Leave) Act 1991*.

A-weighted means a standardised frequency response (in dB(A)) used in sound measuring instruments and corresponding approximately to the human ear response.

barricade, for part 20, see section 258.

basic boiler operator means a person who operates a boiler with—

- (a) a single fixed combustion air supply; and
- (b) a non-modulating single heat source; and
- (c) a fixed firing rate.

basic rigger means a person who performs—

- (a) the work of a dogger; and
- (b) rigging work associated with—
 - (i) the movement of plant and equipment; or
 - (ii) the placement of precast concrete; or

-
- (iii) hoists other than hoists with jibs and self-climbing hoists; or
 - (iv) steel erection; or
 - (v) safety nets and static lines; or
 - (vi) mast climbers; or
 - (vii) perimeter safety screens and shutters; or
 - (viii) cantilevered crane loading platforms.

basic scaffolder means a person who performs scaffolding work, using scaffolding from which a person or object may fall more than 4m, associated with—

- (a) prefabricated scaffolds; or
- (b) cantilevered materials hoists with a maximum working load of 500kg; or
- (c) ropes; or
- (d) gin wheels; or
- (e) safety nets and static lines; or
- (f) bracket scaffolds.

BCA see schedule 13, section 2.

biological monitoring means—

- (a) for a hazardous substance—testing for the presence of a hazardous substance, its metabolites or a biochemical change in a person's body tissue, exhaled air or fluid; or
- (b) for lead—
 - (i) testing for the presence of lead in a person's tissue or fluid; or
 - (ii) testing for a biochemical change in a person's tissue or fluid.

blood lead level means the concentration of lead in capillary or venous whole blood.

boiler—

- (a) means a vessel or arrangement of vessels and interconnecting parts in which—
 - (i) steam or other vapour is generated; or
 - (ii) water or other liquid is heated at a pressure above that of the atmosphere;by the application of fire, the products of combustion, electrical power, or similar high temperature means; and
- (b) includes superheaters, reheaters, economisers, boiler piping, supports, mountings, valves, gauges, fittings, controls, the boiler setting and directly associated equipment; and
- (c) does not include a fully flooded or pressurised system where water or other liquid is heated to a temperature lower than the normal atmospheric boiling temperature of the liquid.

boom-type elevating work platform means a telescoping, hinged or articulated device, or a combination of 2 or more devices of those types, used to support a lifting platform.

bottom mix means a gas mix that can be breathed at the deepest point of the dive.

bottom time means the time between a diver leaving the surface at the start of a dive and starting the final ascent.

bridge crane means a crane comprising a bridge beam, mounted at each end to an end carriage, capable of travelling along elevated runways and having 1 or more hoisting mechanisms arranged to traverse across the bridge beam.

BS means a standard published by British Standards.

building, for part 22, part 28, division 2 and schedules 13, 14, 15 and 16, see the *Building Act 1975*, schedule 2.

building and construction industry means—

- (a) that part of industry involved in the construction, erection, installation, addition to, alteration, repair, maintenance, cleaning, painting, renewal, removal,

dismantling or demolition of a building or other structure; or

- (b) the digging or filling of a structure; or
- (c) concreting, bricklaying or tiling; or
- (d) any part of industry involved in activities normally regarded as building or construction.

building and construction work see the *Building and Construction Industry (Portable Long Service Leave) Act 1991*.

Building Code of Australia see schedule 13, section 2.

building contractor, for part 20, division 6, see section 342.

building maintenance unit means a power operated suspended platform, and associated equipment on a building, designed to provide permanent access to the faces of the building for maintenance.

caisson, for part 20, see section 258.

catch platform, for part 20, see section 258.

certificate—

- (a) for part 8, other than division 3, see section 78; or
- (b) for part 8, division 3, see section 110.

certificate of medical fitness to dive means a certificate that—

- (a) on its face is issued by a medical practitioner with training in underwater medicine that complies with the training criteria stated in AS/NZS 2299 (Occupational diving operations), part 1 (Standard operational practice), appendix M (Guidance for medical practitioners), paragraph M4 (Fitness criteria); and
- (b) contains the information required under section 150.

certificate of registration of a mobile crane or tower crane see section 107.

chemical name of a hazardous substance or lead means its scientific or technical name.

civil construction work, for part 20, see section 258.

class, in relation to a building, means the class of the building under schedule 15, part 3, sections A3.2, A3.3 and A3.4.

class of high risk work means a class of work stated in schedule 5 or 5A.

cofferdam, for part 20, see section 258.

common plant, for part 20, see section 258.

community services industry means an industry involved in any of the following—

- (a) health or welfare services;
- (b) education services;
- (c) library services;
- (d) scientific research services;
- (e) meteorological services;
- (f) employment services;
- (g) prison services;
- (h) operating a museum;
- (i) nonprofit organisations that promote community or sectional aims.

competency means the ability to perform tasks or duties to the standard expected in employment.

competent person—

- (a) for construction diving work, see section 152; or
- (b) for underwater diving work other than construction diving work, see section 153; or
- (c) for performing an inspection or other task for a control measure, means a person who has acquired, through training, qualifications or experience, the knowledge and skills to do the task in a safe way, including knowledge of—
 - (i) relevant Australian Standards; and

- (ii) relevant codes of practice; and
- (iii) other relevant legislation; or
- (d) for part 8, division 2, subdivision 4, see section 107; or
- (e) for part 20, division 3, subdivision 9, see section 310.

confined space means an enclosed or partially enclosed space that—

- (a) is at atmospheric pressure when anyone is in the space; and
- (b) is not intended or designed primarily as a workplace; and
- (c) could have restricted entry to, or exit from, the place; and
- (d) is, or is likely to be, entered by a person to work; and
- (e) at any time, contains, or is likely to contain, any of the following—
 - (i) an atmosphere that has potentially harmful levels of a contaminant;
 - (ii) an atmosphere that does not have a safe oxygen level;
 - (iii) anything that could cause engulfment.

Examples of a confined space—

- 1 storage tanks, tank cars, process vessels, pressure vessels, boilers, silos and other tank-like compartments
- 2 pits and degreasers
- 3 pipes, sewers, sewer pump stations including wet or dry wells, shafts and ducts
- 4 shipboard spaces entered through small hatchways or access points, cargo tanks, cellular double bottom tanks, duct keels, ballast or oil tanks and void spaces

confirmed blood lead level means the concentration of lead in venous whole blood.

construction diving work, for part 14, see section 148.

construction person, for schedule 11, see schedule 11, section 1.

construction safety plan, for part 20, see section 258.

construction work, for part 20, division 3, see section 300.

consumer package means—

- (a) a single packaged item, holding less than 30kg or 30L, intended for retail sale; or
- (b) a package containing only identical packaged items mentioned in paragraph (a).

container means a thing, other than a bulk container, or tank, defined in the ADG Code, in which a hazardous substance or lead is, or has been, completely or partly cased, contained, covered, enclosed or packed, but does not include an enclosed system.

contaminant means anything that may be harmful to health or safety.

control measure means a measure to prevent, or minimise the level of, exposure to a risk.

corresponding authority—

- (a) to an earthmoving or particular crane work certificate—means a document (however described), issued by a recognised official, authorising work in an occupation that is the same or substantially the same as the earthmoving or particular crane occupation to which the certificate relates; or
- (b) to a licence or licence class—means a document (however described), issued by a recognised official, authorising the performance of a class of work that is the same or substantially the same as the class of high risk work to which the licence or licence class relates.

corresponding law means a law of the Commonwealth or another State about workplace health and safety.

cost, of building and construction work, see the *Building and Construction Industry (Portable Long Service Leave) Act 1991*, section 73(1) and (2).

crane means a machine for raising or lowering a load and moving it horizontally, including any supporting structure or foundation, but does not include—

- (a) an industrial lift truck, specified amusement device, tractor, industrial robot, conveyor, building maintenance unit, suspended scaffold or lift; or
- (b) a backhoe, excavator, front-end loader, drag line, or other machine primarily designed for earthmoving purposes.

C-weighted means a standardised frequency response (in dB(C)) used in sound measuring instruments and corresponding approximately to the human ear response.

dangerous goods has the meaning given by the ADG Code.

dB(A) means A-weighted decibels.

dB(C) means C-weighted decibels.

decompression diving means diving that requires a diver to take a planned stop during the final ascent to decompress.

designated doctor means a doctor—

- (a) who is a specialist health practitioner in the specialty of occupational and environmental medicine; or
- (b) who has satisfactorily completed a health surveillance training program supplied by the chief executive.

designated hazardous substance means a substance, listed as a designated hazardous substance in former NOHSC document entitled ‘List of Designated Hazardous Substances [NOHSC:10005 (1999)]’.

design verification statement see section 102(a).

design verifier, for part 8, division 2, subdivision 3, see section 101.

directly supervise, a trainee or a worker who is undergoing an assessment, conducted by the worker’s employer, to decide the worker’s suitability to perform high risk work, means overseeing the work of the trainee or worker for the purposes of—

- (a) directing, demonstrating, monitoring and checking the trainee's or worker's performance in a way that is appropriate to the trainee's or worker's competency level; and
- (b) ensuring a capacity to respond in an emergency situation.

dive supervisor means—

- (a) for part 14, division 3—see section 171; or
- (b) for part 14, division 4—a person who holds a current qualification in diving operations leadership from a recreational scuba or dive training organisation.

dive time means the time between a diver leaving the surface at the start of a dive and surfacing at the end of the dive.

dogger means a person who—

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

domestic house means a house that is a separate single domestic dwelling.

EANx means a mixture of oxygen and nitrogen in which the volume of oxygen in the mixture is at least 22%.

earthmoving or particular crane occupation means an occupation, or part of an occupation, stated in schedule 6.

earthmoving or particular crane work certificate means a certificate to work in a single earthmoving or particular crane occupation.

edge protection, for part 20, see section 258.

electricity, gas and water industry means that part of industry involved in any of the following—

- (a) the generation, transmission or distribution of electricity;

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- (b) the manufacture of town gas from coal or petroleum or coal and petroleum;
 - (c) the distribution of town gas, natural gas or liquefied gas through a mains reticulation system;
 - (d) the storage, purification or supply of water;
 - (e) the operation of sewerage or stormwater drainage systems, including sewage treatment plants.

enclosed system includes a pipe or piping system and a process or reactor vessel.

engineer, in relation to the performance of a task, means a person who—

- (a) is a registered professional engineer under the *Professional Engineers Act 2002*; and
- (b) is competent to perform the task.

engineering principles, for part 8, division 2, subdivision 3, see section 101.

excavation, for part 20, see section 258.

excavation work, for part 20, see section 258.

excessive noise, for part 12, see section 138.

exempt tractor, for part 19, see section 251.

exposed—

- (a) for a hazardous substance—see section 187; or
- (b) for lead—see section 220; or
- (c) for an electrical installation—see section 259(2).

fall-arrest harness system, for part 20, see section 258.

fall arresting platform, for part 20, see section 258.

fall protection cover, for part 20, see section 258.

financial, property and business services industry means an industry involved in any of the following—

- (a) providing financial services;

- (b) investing in predominantly financial securities, including, for example, mortgages, patents and copyrights;
- (c) providing insurance services;
- (d) managing or valuing real estate, other than agricultural or pastoral properties;
- (e) selling, leasing or developing real estate;
- (f) providing architectural, surveying, legal, accountancy, or other professional services;
- (g) advertising, market research, management consultancy, data processing or other office services;
- (h) credit assessing or reporting;
- (i) cleaning, pest control or caretaking services;
- (j) security services;
- (k) packing of goods, other than agricultural produce, food, beverages and tobacco, or crating or packing goods for transport;
- (l) leasing or hiring machinery, plant or equipment, other than transport equipment.

fired heater means a pressure vessel in which—

- (a) a liquid is heated below its atmospheric boiling temperature; or
- (b) a process fluid is heated in tubes above or below its atmospheric boiling temperature;

by the application of fire, the products of combustion, electrical power, or similar high temperature means.

formal training means training involving theory and practical demonstration.

formerly complying amenity, for part 28, division 2, see section 360.

formerly complying dressing room, for part 28, division 2, see section 360.

formerly complying lunch room, for part 28, division 2, see section 360.

formerly complying toilet, for part 28, division 2, see section 360.

former NOHSC means the National Occupational Health and Safety Commission under the repealed *National Occupational Health and Safety Commission Act 1985* (Cwlth).

gantry, for part 20, see section 258.

gantry crane means a crane, comprising a bridge beam that is supported at 1 or both ends by legs mounted to end carriages, capable of travelling along runways and having 1 or more hoisting mechanisms.

general induction card means a document in the form of a card issued by a registered training organisation evidencing a person's successful completion of the general induction training course and that includes—

- (a) the national provider code for the registered training organisation issued by the department that administers the *Vocational Education, Training and Employment Act 2000*; and
- (b) the name, date of birth and signature of the person to whom the card was issued; and
- (c) the date the card was issued.

general induction evidence, for a person, means—

- (a) a statement of attainment for the general induction training course issued to the person by a registered training organisation under the *Vocational Education, Training and Employment Act 2000* that was issued within the last 14 days; or
- (b) a general induction card issued to the person.

general induction training course means training in the unit of competency CPCCOHS1001A Work safely in the construction industry.

generic name means the name of a chemical category or group, including, for example, ‘azo dyes’ and ‘halogenated aromatic amines’.

geo-technical engineer, for part 20, see section 258.

GHS see section 187A.

hazardous substance—

- (a) for part 16, other than division 4—see section 188; or
- (b) for part 16, division 4—see section 198.

health surveillance means the monitoring, including biological monitoring and medical assessment, of a person to identify changes in the person’s health because of exposure to a hazardous substance or lead.

health surveillance report—

- (a) for a hazardous substance—see section 207; or
- (b) for lead—see section 237.

high risk construction activity, for part 20, see section 258.

high risk work means work included in a class of high risk work.

historical activity, for part 19, see section 251.

hoarding, for part 20, see section 258.

hold, in relation to a licence class, means to hold a licence endorsed with the licence class.

holder of a certificate means the person in whose name the certificate is granted.

housing construction work, for part 20, see section 258.

impurity means any fumes, dust, smoke, gas, vapour or other thing that may endanger the workplace health or safety of a worker.

informal learning means workplace experience.

ingredient means a component, including an impurity, of a substance.

intermediate boiler operator means a person who performs—

- (a) the work of a basic boiler operator; and
- (b) operates a boiler with—
 - (i) a modulating combustion air supply; or
 - (ii) a modulating heat source; or
 - (iii) a superheater; or
 - (iv) an economiser.

intermediate rigger means a person who performs—

- (a) the work of a basic rigger; and
- (b) rigging work associated with—
 - (i) hoists; or
 - (ii) cranes, conveyors, dredges and excavators; or
 - (iii) tilt slabs; or
 - (iv) demolition work; or
 - (v) dual lifts.

intermediate scaffolder means a person who performs—

- (a) the work of a basic scaffolder; and
- (b) scaffolding work, using scaffolding from which a person or object may fall more than 4m, associated with—
 - (i) cantilevered crane loading platforms; or
 - (ii) cantilevered and spurred scaffolds; or
 - (iii) barrow ramps and sloping platforms; or
 - (iv) perimeter safety screens and shutters; or
 - (v) mast climbers; or
 - (vi) tube and coupler scaffolds, including tube and coupler covered ways and gantries.

ISO means a standard published by the International Organization for Standardization.

ladder, for part 20, division 3, subdivision 10, see section 316.

lead means—

- (a) a lead metal; or
- (b) a mixture of 2 or more metals containing more than 0.5% lead by weight (**lead alloy**); or
- (c) a lead salt of an organic acid; or
- (d) a lead hazardous substance.

Example of a lead salt of organic acids—

lead acetate

lead compound means a substance, other than an organometallic compound of lead, in which lead is found in the substance's molecular structure.

lead hazardous substance see section 221.

lead process means any of the following carried out at a workplace—

- (a) work that exposes a person to lead dust, or lead fume, arising from the manufacture or handling of dry lead compounds;
- (b) work connected with the manufacture, assembly, handling or repair of electrical accumulators (batteries), or parts of electrical accumulators, that involves manipulating dry lead compounds, pasting, casting or soldering of lead;
- (c) breaking up, or dismantling, lead accumulators and the sorting, packing and handling of plates, or other parts of accumulators, that contain lead;
- (d) spraying molten lead, or alloys containing more than 5% by weight of lead;
- (e) melting or casting lead alloys containing more than 5% by weight of lead in which the temperature of the molten material is more than 450°C;
- (f) recovering lead from ore, oxides or other compounds by thermal reduction process;
- (g) using a power tool to dry grind, disc, buff, or cut lead or alloys containing more than 5% by weight of lead;

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- (h) using a power tool to sand or buff surfaces coated with a substance containing more than 1% by dry weight of lead;
 - (i) any process by which arc, oxyacetylene, oxy gas, plasma arc or a flame is applied, for the purposes of welding, cutting or cleaning, to—
 - (i) lead; or
 - (ii) metal coated with lead; or
 - (iii) a thing coated with paint containing more than 1% by dry weight of lead;
 - (j) radiator repairs that generate lead dust or lead fume;
 - (k) fire assay in which lead is used;
 - (l) foundry work using alloys containing more than 2% by dry weight of lead;
 - (m) spray painting with lead paint containing more than 1% by dry weight of lead.

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

lead-risk job means a job in which—

- (a) a person may be exposed to lead; and
- (b) a person's blood lead level does, or may reasonably be expected to, equal or exceed—
 - (i) for a female who is pregnant or breast feeding— $0.72\mu\text{mol/L}$ ($15\mu\text{g/dL}$); and
 - (ii) for a female with a reproductive capacity— $0.97\mu\text{mol/L}$ ($20\mu\text{g/dL}$); and
 - (iii) for anyone else— $1.45\mu\text{mol/L}$ ($30\mu\text{g/dL}$).

licence, for part 8, see section 78.

licence class means a class of high risk work endorsed on a licence to perform a class of high risk work.

licence to perform a class of high risk work means a licence authorising the holder of the licence to perform 1 or more classes of high risk work.

light work, for part 20, see section 258.

manufacturing industry means that part of industry involved in any of the following—

- (a) the physical or chemical transformation of materials or components into new products, whether the work is performed by power driven machinery or by hand;
- (b) the manufacturing of food, beverages, tobacco, textiles, clothing, footwear, wood, wood products, furniture, paper, paper products, printing and publishing materials, non-metallic mineral products, basic metal products, fabricated metal products, transport equipment and other machinery products and equipment.

mast climbing work platform means a hoist with a working platform used for temporary purposes to lift personnel or materials using a drive system mounted on an extendable mast that may be tied to a building.

master, of a boat, means the person having command or charge of the boat.

maximum operating depth, for a gas, means the maximum safe depth at which the gas can be used.

medical record, of a person, means personal medical results or clinical findings obtained from health surveillance of the person.

mesh, for part 20, division 2, subdivision 11, see section 282.

minimum operating depth, of a bottom mix, means the minimum safe depth at which the gas can be used.

mixed gas means an underwater breathing mixture other than compressed air or EANx.

mobile crane means a crane that—

- (a) is capable of travelling over a supporting surface without the need for fixed runways, including railway tracks; and

- (b) relies only on gravity for stability, that is, with no vertical restraining connection between itself and the supporting surface and no horizontal restraining connection, other than frictional forces at supporting surface level, that may act as an aid to stability.

monitoring, in relation to a hazardous substance, means regularly checking, other than by biological monitoring—

- (a) a person's risk from, or level of exposure to, a hazardous substance; and
- (b) the effectiveness of hazardous substance control measures at a person's workplace.

MSDS, for a hazardous substance or lead, means a material safety data sheet for the substance or lead given to the person by the substance's or lead's supplier.

national exposure standard, for asbestos, a contaminant, a hazardous substance or lead, means the exposure standard for the asbestos, contaminant, hazardous substance or lead stated in the Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational Environment contained in former NOHSC document entitled 'Exposure Standards for Atmospheric Contaminants in the Occupational Environment'.

national standard means the National Standard For Licensing Persons Performing High Risk Work declared under the *Australian Workplace Safety Standards Act 2005* (Cwlth).

Editor's note—

The national standard is available from the Safework Australia website at <www.safeworkaustralia.gov.au>.

NICNAS summary report means a summary report under the *Industrial Chemicals (Notification and Assessment) Act 1989* (Cwlth).

Editor's note—

NICNAS summary reports are available from the NICNAS website, <www.nicnas.gov.au>.

notice of refusal see section 92(1).

object, for part 20, see section 258.

OECD means a standard published by the Organisation for Economic Co-operation and Development.

open circuit scuba means self-contained underwater breathing apparatus that does not recirculate, or partially recirculate, the breathing gas.

overhead platform, for part 20, see section 258.

perform work includes use plant.

perimeter containment screening, for part 20, see section 258.

permitted work, for part 20, see section 258.

personnel hoist means an appliance for lifting a person on a platform that can be raised more than 2m, but does not include a lift or building maintenance unit.

powered operation, in relation to a bridge and gantry crane, means—

- (a) raising and lowering a load; or
- (b) moving the crane along runways; or
- (c) traversing the crane's hoisting mechanism across a bridge beam; or
- (d) rotating the crane's hoisting mechanism.

prefabricated scaffolding means an integrated system of scaffolding components manufactured in a way that the assembled shape of the scaffolding is predetermined.

prescribed information, for part 20, see section 258.

pressure piping—

- (a) means an assembly of pipes, pipe fittings, valves and pipe accessories subject to internal or external pressure and used to contain or convey fluid or to transmit fluid pressure; and
- (b) includes distribution headers, bolting, gaskets, pipe supports and pressure retaining accessories; and
- (c) does not include a boiler, pressure vessel or a pipeline.

pressure vessel—

- (a) means a vessel subject to internal or external pressure; and
- (b) includes—
 - (i) interconnected parts and components, valves, gauges and other fittings up to the first point of connection to connecting piping; and
 - (ii) a fired heater; and
 - (iii) a refillable gas cylinder; and
- (c) does not include a boiler or pressure piping.

process, for part 14, division 3, subdivision 3, see section 160(2).

product name, of a hazardous substance or lead, means the brand name, code name, trade name or code number given to the substance or lead by its manufacturer, importer or supplier.

proposed action see section 117(1).

public administration industry means any of the following—

- (a) the Queensland Fire Service;
- (b) the Queensland Police Service;
- (c) judicial bodies;
- (d) political parties;
- (e) state or local governments.

QDC see schedule 13, section 2.

Queensland Development Code see schedule 13, section 2.

reasonably available, to a person, for schedules 11, 12, 13, 15 and 16 in relation to an amenity, means—

- (a) available at a location reasonably convenient to the person; and
- (b) the person's use of the amenity is not unreasonably restricted.

rebreather means a semi-closed or closed circuit self-contained underwater breathing apparatus.

recognised official means a person who may issue a document (however described, including a certificate or licence) under a law of the Commonwealth, or another State, about occupational health and safety.

recreational diving means any of the following underwater diving for recreation using compressed air, other than diving in a swimming pool or decompression diving—

- (a) resort diving;
- (b) diving by a person undertaking training in diving for recreation, whether or not the person is being photographed, filmed or videoed while diving;
- (c) diving for recreation by a person with a qualification in underwater diving, whether or not the person is being photographed, filmed or videoed while diving.

recreational scuba or dive training association means an organisation engaged in the certification of recreational divers through documented training procedures that substantially comply with AS 4005.1, part 1, sections 2 and 3.

Editor's note—

AS 4005.1 (Training and certification of recreational divers, part 1 (Minimum entry-level SCUBA diving))

recreational services, personal services and other services industry means an industry involved in any of the following—

- (a) entertainment services;
- (b) recreational or sporting services;
- (c) accommodation services;
- (d) catering services;
- (e) personal services, including, for example, babysitting, burial, gardening and photography.

recreational snorkelling does not include snorkelling in a swimming pool.

recreational technical diving means underwater diving for recreation, other than in a swimming pool—

- (a) using EANx or mixed gas; or
- (b) that is decompression diving using compressed air or other gas.

refillable gas cylinder means a rigid pressure vessel that—

- (a) has a water capacity of more than 0.1L but not more than 3000L; and
- (b) has no openings, or integral attachments, on the shell of the vessel other than at the ends of the vessel; and
- (c) is for the storage and transport of gas under pressure.

register means—

- (a) for part 16—the register mentioned in section 209; or
- (b) for part 17—the register mentioned in section 231.

registered means registered under this regulation.

registered training organisation see the *Vocational Education, Training and Employment Act 2000*, schedule 3.

registrable plant means the plant stated in schedule 3.

registrable plant design means the design of plant mentioned in schedule 4.

relevant information, for part 20, division 6, see section 342.

relevant person see section 28(1) of the Act.

repealed miscellaneous regulation, for part 28, division 2, see section 360.

repealed regulation means the repealed *Workplace Health and Safety Regulation 1997*.

repetitive dive group means a letter of the alphabet, given by dive tables, that represents an estimate of the amount of residual nitrogen in a diver's tissues immediately on surfacing at the end of a dive.

Editor's note—

Some dive tables refer to 'pressure group' instead of repetitive dive group.

repetitive factor means a letter of the alphabet, given by dive tables, that represents an estimate of the amount of residual nitrogen in a diver's tissues as decided by the repetitive dive group and the surface interval.

representative of a worker includes a co-worker elected by workers at the worker's workplace to represent the worker on workplace health and safety issues.

reproductive capacity means being physiologically capable of becoming pregnant.

Example—

A female using a contraceptive pill is of reproductive capacity if she would be physiologically capable of becoming pregnant were she not using the pill.

residential construction work, for part 20, division 6, see section 342.

residual nitrogen means nitrogen, in excess of the amount normally present in a person's tissues, that is dissolved in the person's tissues.

resort diving means an introductory scuba experience, or introductory educational diving program, conducted according to a recreational scuba training organisation's program, or a recreational technical scuba training organisation's program, whether or not the person is being photographed, filmed or videoed while diving.

retail and wholesale trade industry means an industry involved in selling new or used goods.

retail warehouse operator means an operator of a warehouse where unopened packaged goods, intended for retail sale, are stored.

retraining means—

- (a) in relation to an earthmoving or particular crane work certificate—retraining in part or all of the unit of

competency for the earthmoving or particular crane occupation to which the certificate relates; or

- (b) in relation to a licence or licence class—retraining in part or all of the unit of competency for the class of high risk work to which the licence or licence class relates.

rigging work means using mechanical load shifting equipment and associated gear—

- (a) to move, place or secure a load; or
- (b) to set up or dismantle a crane or hoist.

risk assessment means a risk assessment made under—

- (a) for part 16—section 203; or
- (b) for part 17—section 233.

risk phrase, for a hazardous substance or lead, means a phrase stated in former NOHSC document entitled ‘National Code of Practice for the Labelling of Workplace Substances, or a phrase stated in the GHS,’ that gives information about the substance’s or lead’s hazards.

road—

- (a) for schedule 15, part 3, section A1.1, definition *other property*—see that section; or
- (b) otherwise, includes—
 - (i) a road within the meaning of the *Transport Operations (Road Use Management) Act 1995*; and
 - (ii) a road related area.

road related area means—

- (a) an area that divides a road; or
- (b) a footpath or nature strip adjacent to a road; or
- (c) an area that is not a road and that is open to the public and designated for use by pedestrians, cyclists or animals; or

- (d) an area that is not a road and that is open to or used by the public for driving, riding or parking vehicles.

roll-over protective structure, for part 19, see section 251.

rural industry means an industry in which persons are engaged primarily in work—

- (a) in the cultivation of any agricultural crop or product whether grown for food or not; or
- (b) in the rearing and management of livestock; or
- (c) in the classing, scouring, sorting or pressing of wool; or
- (d) in aquaculture; or
- (e) in flower or vegetable market gardens; or
- (f) at clearing, fencing, trenching, draining or otherwise preparing land for any purpose stated in paragraph (a), (b), (d) or (e).

SAE means a standard published by SAE International.

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

- (a) is equal to or more than 19.5% by volume (equivalent to a partial pressure of oxygen of 19.8kPa); and
- (b) is equal to or less than 23.5% by volume (equivalent to a partial pressure of oxygen of 23.9kPa).

safety phrase, for a hazardous substance or lead, means a phrase stated in former NOHSC document entitled ‘National Code of Practice for the Labelling of Workplace Substances, or a phrase stated in the GHS,’ that gives information about—

- (a) the safe use of the substance or lead; or
- (b) the personal protective equipment for the substance or lead.

scaffolding means a temporary structure, not including a trestle ladder, supporting a platform used to perform work.

scaffolding work means the erection, alteration or dismantling of scaffolding.

scope of registration see the *Vocational Education, Training and Employment Act 2000*, schedule 3.

scuba means self-contained underwater breathing apparatus.

self-erecting tower crane means a tower crane that—

- (a) has a tower structure with a boom or jib that ordinarily remains fully assembled and part of the crane while being transported from one place to another; and
- (b) has erection and dismantling processes that are an inherent part of the crane's function.

show cause notice see section 117(1).

site-specific induction, for part 20, see section 258.

specialist health practitioner, in a specialty, means a person registered under the Health Practitioner Regulation National Law to practise in the medical profession as a specialist registrant in the specialty.

specified amusement device means a device classified as a class 2, 3, 4 or 5 amusement device in AS 3533, part 1 as in force on 5 December 1997.

Editor's note—

AS 3533 (Amusement rides and devices), part 1 (Design and construction)

spray painting means—

- (a) the process in which either of the following are sprayed onto a surface to produce a film of required thickness and texture—
 - (i) a liquid coating substance that is converted into an aerosol or mist;
 - (ii) a powder coating substance; or
- (b) an activity directly related to the process mentioned in paragraph (a), whether carried out before, during or after the process.

Examples of paragraph (b)—

paint mixing, paint matching and cleaning a spray gun

spray painting booth means a room or enclosure designed solely for the purpose of spray painting.

SSBA means underwater breathing apparatus supplying the wearer with compressed breathing gas through a hose from a compressor or storage cylinder at the surface or from a submersible work chamber or habitat.

stand-by diver, for part 14, division 3, see section 172.

statement of attainment see the *Vocational Education, Training and Employment Act 2000*, schedule 3.

static line, for part 20, see section 258.

substance does not include a thing, other than a fluid or particle—

- (a) formed during production to a predetermined design or shape or to have a predetermined surface; and
- (b) used for a purpose depending completely or partly on its design, shape or surface; and
- (c) keeping its chemical composition and physical state during use.

surface interval means the time a diver spends on the surface between 2 successive dives.

technical standard, for part 8, division 2, subdivision 3, see section 101.

time in means the time a diver leaves the surface at the start of a dive.

time out means the time a diver surfaces at the end of a dive.

tower crane means a crane with a boom that is mounted on a tower structure.

tractor, for part 19, see section 251.

trainee see section 31.

training and assessment approval means an approval granted under section 72.

transport and storage industry means an industry involved in any of the following—

- (a) passenger or freight transport;
- (b) providing terminal facilities for passengers or freight;
- (c) operating airports;
- (d) selling or leasing aircraft or ships;
- (e) motor vehicle parking;
- (f) motor vehicle rental;
- (g) stevedoring;
- (h) harbour or navigation services;
- (i) booking, forwarding, crating, storage or custom agency services;
- (j) operating oil or gas pipelines.

travel restraint system, for part 20, see section 258.

trench, for part 20, see section 258.

truck-mounted concrete placing unit with boom means plant that—

- (a) is used to place concrete by way of pumping concrete through a pipeline attached to or forming part of the boom; and
- (b) is capable of travelling over a supporting surface without the need for fixed runways, including railway tracks; and
- (c) relies on gravity for stability, that is, with no vertical restraining connection between itself and the supporting surface and no horizontal restraining connection, other than frictional forces at supporting surface level, that may act as an aid to stability.

type 1 ingredient, of a substance, means an ingredient present in the substance in a concentration more than the ingredient's concentration cut-off level stated in the approved criteria and—

- (a) described in the approved criteria as—
 - (i) carcinogenic, corrosive, mutagenic, teratogenic, toxic or very toxic; or
 - (ii) a respiratory or skin sensitiser; or
 - (iii) a harmful substance capable of causing a person an irreversible adverse health effect after acute exposure; or
 - (iv) a harmful substance capable of causing serious damage to a person's health after repeated or prolonged exposure; or
- (b) listed, and having an exposure standard stated, in the Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational Environment contained in former NOHSC document entitled 'Exposure Standards for Atmospheric Contaminants in the Occupational Environment'.

type 2 ingredient, of a substance, means an ingredient, other than an ingredient mentioned in the definition *type 1 ingredient*, paragraph (a), present in the substance—

- (a) in a concentration more than the ingredient's concentration cut-off level stated in the approved criteria; and
- (b) described in the approved criteria as a harmful substance.

type 3 ingredient, of a substance, means an ingredient, other than a type 1 or type 2 ingredient, present in the substance.

underground service, for part 20, see section 258.

underwater diving does not include snorkelling or breath-hold diving.

underwater diving work, for part 14, see section 147.

unit of competency, for a class of high risk work or for an earthmoving or particular crane occupation, see section 17.

use, of a hazardous substance or lead, includes handling, production, storage, movement and disposal of the substance

or lead, but does not include the carriage of a substance covered by the ADG Code or the International Maritime Dangerous Goods Code.

Editor's note—

The International Maritime Dangerous Goods Code is prepared by the International Maritime Organization, whose address is 4 Albert Embankment, London, SE1 7SR, United Kingdom. At the commencement of this definition, the internet address of the organisation is <www.imo.org>.

variation of a licence, for part 8, see section 78.

vehicle hoist means a vehicle hoisting device designed to give convenient under chassis access for work or examination.

work box means a device designed to be suspended from a crane to provide a working area for a person.

Workers' Compensation Act means the *Workers' Compensation and Rehabilitation Act 2003*.

work method statement, for part 20, see section 258.

work requiring a decompression stop means diving, at a depth and for a time, that would require a decompression stop if the Standard Air Decompression Table (Decompression in the Water) as published in AS/NZS 2299, part 1, appendix F, Table F1(A) or F1(B) were being used for the dive.

Editor's note—

AS/NZS 2299 (Occupational diving operations), part 1 (Standard operational practice)

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 27 August 2010. Future amendments of the Workplace Health and Safety Regulation 2008 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	1 September 2008	
1A	none	1 November 2008	provs exp 31 October 2008
1B	2008 SL No. 429	12 December 2008	
1C	2008 SL No. 427 2008 SL No. 429	1 January 2009	
1D	2009 SL No. 128	1 July 2009	
2	2009 SL No. 128	1 September 2009	
2A	2009 Act No. 38	26 October 2009	
2B	2010 Act No. 19	23 May 2010	
2C	2010 SL No. 153	25 June 2010	
2D	2010 SL No. 108 2010 SL No. 155	1 July 2010	
2E	2010 SL No. 228	27 August 2010	

5 Tables in earlier reprints

Name of table	Reprint No.
Corrected minor errors	1

6 List of legislation

Workplace Health and Safety Regulation 2008 SL No. 283

made by the Governor in Council on 28 August 2008

notfd gaz 29 August 2008 pp 2831–5

ss 1–2 commenced on date of notification

remaining provisions commenced 1 September 2008 (see s 2)

exp 1 September 2018 (see SIA s 54)

Notes—(1) The expiry date may have changed since this reprint was published.
See the latest reprint of the SIR for any change.

(2) Two regulatory impact statements and an explanatory note were prepared.

amending legislation—

Transport Operations (Road Use Management—Dangerous Goods) Regulation 2008 SL No. 427 ss 1–2, 253 sch 3

notfd gaz 12 December 2008 pp 2044–53

ss 1–2 commenced on date of notification

remaining provisions commenced 1 January 2009 (see s 2)

Workplace Health and Safety Amendment Regulation (No. 1) 2008 SL No. 429

notfd gaz 12 December 2008 pp 2044–53

ss 1–2 commenced on date of notification

ss 4, 11 and 12 commenced 1 January 2009 (see s 2)

remaining provisions commenced on date of notification

Workplace Health and Safety and Another Regulation Amendment Regulation (No. 1) 2009 SL No. 128 pts 1–2

notfd gaz 26 June 2009 pp 831–7

ss 1–2 commenced on date of notification

s 21 commenced 1 September 2009 (see s 2(1))

remaining provisions commenced 1 July 2009 (see s 2(2))

Note—An explanatory note was prepared.

Electrical Safety and Other Legislation Amendment Act 2009 No. 38 ss 1, 2(2), pt 18

date of assent 22 September 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 26 October 2009 (2009 SL No. 233)

Transport and Other Legislation Amendment Act (No. 2) 2010 No. 19 s 1, ch 2 pt 30

date of assent 23 May 2010

commenced on date of assent

Health and Other Legislation Amendment Regulation (No. 1) 2010 SL No. 108 pts 1, 19

notfd gaz 11 June 2010 pp 459–61
 ss 1–2 commenced on date of notification
 remaining provisions commenced 1 July 2010 (see s 2)

Workplace Health and Safety and Another Regulation Amendment Regulation (No. 1) 2010 SL No. 153 pts 1, 3

notfd gaz 25 June 2010 pp 823–30
 ss 1–2 commenced on date of notification
 ss 9, 12 commence 1 September 2010 (see s 2)
 remaining provisions commenced on date of notification
 Note—An explanatory note was prepared.

Justice Legislation (Fees) Amendment Regulation (No. 1) 2010 SL No. 155

notfd gaz 25 June 2010 pp 823–30
 ss 1–2 commenced on date of notification
 remaining provisions commenced 1 July 2010 (see s 2)

Workplace Health and Safety Amendment Regulation (No. 1) 2010 SL No. 228

notfd gaz 27 August 2010 pp 1520–4
 commenced on date of notification
 Note—An explanatory note was prepared.

7 List of annotations

Meaning of “assessment instrument”

s 16 amd 2009 SL No. 128 s 4; 2010 SL No. 153 s 10

Meaning of “unit of competency”

s 17 amd 2009 SL No. 128 s 5; 2010 SL No. 153 s 11

Authority to perform high risk work

s 18 amd 2009 SL No. 128 s 6

Authority to perform work in an earthmoving or particular crane occupation

s 25 amd 2009 SL No. 128 s 7

Supervision of performance of prescribed activity by competent person

prov hdg amd 2009 SL No. 128 s 8(1)

s 50 amd 2009 SL No. 128 s 8(2)–(3)

Registered training organisation’s duty for assessing competency

s 62 amd 2009 SL No. 128 s 9

Other duties of registered training organisation

s 66 amd 2009 SL No. 128 s 10

Chief executive to decide application for training and assessment approval within 28 days

prov hdg amd 2009 SL No. 128 s 11(1)
s 71 amd 2009 SL No. 128 s 11(2)

Grant of approval

s 72 amd 2009 SL No. 128 s 12

Notice of refusal of application

s 73 amd 2009 SL No. 128 s 13

Division 5—Suspension and cancellation of training and assessment approval

div hdg amd 2009 SL No. 128 s 14

Grounds for suspension or cancellation of approval

s 74 amd 2009 SL No. 128 s 15

Procedure for suspension or cancellation

s 75 amd 2009 SL No. 128 s 16

Immediate suspension of approval

s 76 amd 2009 SL No. 128 s 17

When immediate suspension has effect until

s 77 amd 2009 SL No. 128 s 18

How to apply for a certificate, other than an earthmoving or particular crane work certificate

s 79 amd 2008 SL No. 429 s 4

Chief executive to decide application within 28 days

s 90 amd 2008 SL No. 429 s 5

Application under s 108 if engineer can not inspect because of unforeseeable circumstances

s 109 exp 31 January 2011 (see s 109(3))

Removing ACM

s 146 amd 2009 SL No. 128 s 19

Meaning of “competent person” for other underwater diving work

s 153 (1)(e) and (3) exp 31 October 2008 (see s 153(3))
amd 2010 SL No. 228 s 3

Competent person for s 153—holder of certification under Australian Qualifications Framework

s 155 amd 2008 SL No. 429 s 6

Competent person for s 153—holder of certificate for AS 4005.2 subject areas

s 156 amd 2008 SL No. 429 s 6

Competent person for s 153—person doing underwater diving work on no more than 28 days in the last 6 months

s 157 amd 2008 SL No. 429 s 7

Competent person for s 153—person who is not an Australian citizen or permanent resident doing underwater diving work for a relevant organisation

s 158 prev s 158 exp 31 October 2008 (see prev s 158(2))
pres s 158 ins 2010 SL No. 228 s 4

Subdivision 2A—Prohibition relating to competent persons under section 158
div 2A (s 159A) ins 2010 SL No. 228 s 5**Recompression chamber and qualified operator**

s 173 amd 2010 SL No. 228 s 6

Count of all persons on board to be made and recorded

s 178 amd 2010 SL No. 228 s 7

Meaning of “GHS”

s 187A ins 2010 SL No. 153 s 13

Meaning of “hazardous substance”

s 188 amd 2010 SL No. 153 s 14

Preparing, amending and reviewing MSDS

s 190 amd 2010 SL No. 153 s 15

Labelling containers

s 196 amd 2010 SL No. 153 s 16

Manufacturing or importing a spray painting booth

s 213 amd 2008 SL No. 429 s 8

Maintaining a spray painting booth

s 218 amd 2008 SL No. 429 s 9

Using a confined space

s 250 amd 2008 SL No. 429 s 10

Meaning of “work method statement” for high risk construction activity that is prescribed activity

s 261 amd 2008 SL No. 429 s 11

Amount of workplace health and safety contribution

s 352 amd 2009 Act No. 38 s 72

Rural industry exemption

s 353 amd 2008 SL No. 429 s 12

sub 2010 SL No. 153 s 17

amd 2010 SL No. 228 s 8

Division 9—Transitional provision for Workplace Health and Safety and Another Regulation Amendment Regulation (No. 1) 2009

div hdg ins 2009 SL No. 128 s 20

General induction training course completed before 1 July 2009

s 375 prev s 375 om R1 (see RA s 40)

pres s 375 ins 2009 SL No. 128 s 20

Endnotes

**PART 29—AMENDMENT OF STATE PENALTIES ENFORCEMENT
REGULATION 2000**

pt hdg om R1 (see RA s 7(1)(k))

Amendment of sch 5 (Other legislation)

s 376 om R1 (see RA s 40)

PART 30—CONSEQUENTIAL AMENDMENTS OF REGULATIONS

pt 30 (s 377) om R1 (see RA ss 7(1)(k) and 40)

SCHEDULE 1—FEES

sch hdg sub 2009 SL No. 128 s 21; 2010 SL No. 155 s 3 sch

Notification of building and construction work

s 1 sub 2009 SL No. 128 s 21; 2010 SL No. 155 s 3 sch

Registration, or renewal of certificate of registration, of registrable plant

s 2 sub 2009 SL No. 128 s 21; 2010 SL No. 155 s 3 sch

Application for certificate of registration of registrable plant design

s 3 sub 2009 SL No. 128 s 21; 2010 SL No. 155 s 3 sch

Certificates of authority of appointment of a workplace health and safety officer

s 4 sub 2009 SL No. 128 s 21; 2010 SL No. 155 s 3 sch

Earthmoving or particular crane work certificates

s 5 sub 2009 SL No. 128 s 21; 2010 SL No. 155 s 3 sch

Licences to perform a class of high risk work

s 6 amd 2008 SL No. 429 s 13
sub 2009 SL No. 128 s 21; 2010 SL No. 155 s 3 sch

Conversion to renewable licence to perform a class of high risk work

s 7 sub 2009 SL No. 128 s 21; 2010 SL No. 155 s 3 sch

Certificates—prescribed activities

s 8 sub 2009 SL No. 128 s 21; 2010 SL No. 155 s 3 sch

Certificate of appointment as an accredited provider

s 9 sub 2009 SL No. 128 s 21; 2010 SL No. 155 s 3 sch

Bonded asbestos removal certificate

s 10 sub 2009 SL No. 128 s 21; 2010 SL No. 155 s 3 sch

**Report about occupational health and safety performance for Workers'
Compensation Act**

s 11 sub 2009 SL No. 128 s 21; 2010 SL No. 155 s 3 sch

SCHEDULE 2—ACCREDITED COURSES

amd 2009 SL No. 128 s 22

**SCHEDULE 5—CLASSES OF HIGH RISK WORK AND UNITS OF
COMPETENCY FOR THE CLASSES**

Bridge and gantry crane (open)

s 12 amd 2008 SL No. 429 s 14; 2009 SL No. 128 s 23(1)

Non-slewing mobile crane

s 14 amd 2009 SL No. 128 s 23(2)

Mobile truck-mounted concrete placing boom

s 22 amd 2010 SL No. 153 s 18

Turbine operator

s 28 amd 2009 SL No. 128 s 23(3)–(4)

SCHEDULE 5A—CLASSES OF HIGH RISK WORK AND UNITS OF COMPETENCY FOR THE CLASSES UNDER NATIONAL STANDARD

sch 5A ins 2009 SL No. 128 s 24

PART 1—SCAFFOLDING WORK

pt 1 (ss 1–3) ins 2009 SL No. 128 s 24

PART 2—RIGGING WORK

pt 2 (ss 4–7) ins 2009 SL No. 128 s 24

PART 3—CRANE AND HOIST OPERATION

pt 3 (ss 8–22) ins 2009 SL No. 128 s 24

PART 4—FORKLIFT OPERATION

pt 4 (ss 23–24) ins 2009 SL No. 128 s 24

PART 5—PRESSURE EQUIPMENT OPERATION

pt 5 (ss 25–26) ins 2009 SL No. 128 s 24

SCHEDULE 6—EARTHMOVING OR PARTICULAR CRANE OCCUPATIONS AND UNITS OF COMPETENCY FOR THE OCCUPATIONS**Bridge and gantry crane (remote control only)**

s 1 amd 2008 SL No. 429 s 14; 2009 SL No. 128 s 25

SCHEDULE 17—CONSEQUENTIAL AMENDMENTS

om R1 (see RA s 40)

SCHEDULE 18—DICTIONARYdef “**ADAS**” ins 2008 SL No. 429 s 15(1)def “**ADAS diving certificate**” amd 2008 SL No. 429 s 15(2)def “**ADG Code**” amd 2008 SL No. 427 s 253 sch 3def “**application for training approval**” om 2010 SL No. 153 s 19(1)def “**application for training and assessment approval**” ins 2010 SL No. 153 s 19(2)def “**class of high risk work**” amd 2009 SL No. 128 s 26(3)def “**designated doctor**” amd 2010 SL No. 108 s 73(2)def “**general induction card**” sub 2009 SL No. 128 s 26(1)–(2)def “**general induction evidence**” amd 2009 SL No. 128 s 26(4)def “**general induction training course**” sub 2009 SL No. 128 s 26(1)–(2)def “**GHS**” ins 2010 SL No. 153 s 19(2)def “**hold**” ins 2008 SL No. 429 s 15(1)def “**national standard**” ins 2009 SL No. 128 s 26(2)def “**process**” amd 2010 SL No. 153 s 19(3)def “**relevant authority**” om 2010 Act No. 19 s 162

Endnotes

def **“risk phrase”** amd 2010 SL No. 153 s 19(4)
def **“safety phrase”** amd 2010 SL No. 153 s 19(5)
def **“specialist health practitioner”** ins 2010 SL No. 108 s 73(1)
def **“training and assessment approval”** ins 2009 SL No. 128 s 26(2)
def **“training approval”** om 2009 SL No. 128 s 26(1)

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