



Queensland

# Workers' Compensation and Rehabilitation and Other Legislation Amendment Regulation (No. 1) 2005

## Subordinate Legislation 2005 No. 308

made under the

*Electrical Safety Act 2002*

*Queensland Building Services Authority Act 1991*

*State Penalties Enforcement Act 1999*

*Workers' Compensation and Rehabilitation Act 2003*

*Workplace Health and Safety Act 1995*

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## **Part 1 Preliminary**

### **1 Short title**

This regulation may be cited as the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Regulation (No. 1) 2005*.

### **2 Commencement**

- (1) The following provisions commence on 1 January 2006—
- section 4(2) (to the extent it inserts definition *high risk industry*)
  - sections 7 and 8
  - section 13 and 14
  - section 16
  - part 3, other than sections 17, 54, 56 (to the extent it inserts part 23, division 5, heading and section 242), 57, 59, 60 and 63(1)
  - parts 5 and 6
  - schedule, amendment of *Workplace Health and Safety Regulation 1997*, other than items 7 to 10, 13, 20, 23, 27, 28, 40, 44, 52 and 53.
- (2) Section 57 commences on 1 February 2006.

## **Part 2 Amendment of Workers' Compensation and Rehabilitation Regulation 2003**

### **3 Regulation amended in pt 2 and schedule**

This part and the schedule amend the *Workers' Compensation and Rehabilitation Regulation 2003*.

#### **4 Amendment of s 3 (Definitions)**

- (1) Section 3, definitions *hearing loss tables* and *ophthalmologists guide*—

*omit.*

- (2) Section 3—

*insert—*

***'hearing loss tables'*** means 'Report No. 118—Improved Procedure for Determining Percentage Loss of Hearing' (1988) published by National Acoustic Laboratories.

***high risk industry*** means an industry stated in schedule 5A.

***ophthalmologists guide*** means the publication 'Percentage Incapacity—A Guide for Members' published by the Royal Australian College of Ophthalmologists.

***structural loss***, for schedule 2, means anatomical loss.

*Example—*

an amputation of a finger'.

- (3) Section 3, definition *AMA guide*, before 'published'—

*insert—*

'(4th edition)'.

- (4) Section 3, definition *binaural tables*, 'Hearing Australia'—

*omit, insert—*

'National Acoustic Laboratories'.

#### **5 Insertion of new pt 4, divs 3B and 3C**

After section 75L—

*insert—*

**'Division 3B Self-insurers who become non-scheme employers'**

**'Subdivision 1 Preliminary'**

**'75M Purpose of div 3B**

'This division sets out the process for the calculation of an amount for a non-scheme employer's liability for section 105I<sup>1</sup> of the Act.

**'75N Definition for div 3B**

'In this division—

*continued licence*, of a non-scheme employer, see section 105B(2)<sup>2</sup> of the Act.

**'Subdivision 2 Calculation**

**'75O Appointment of actuary for calculation**

'WorkCover and the non-scheme employer must each appoint an actuary to calculate an amount for the non-scheme employer's liability.

**'75P Calculation**

'(1) The calculation must—

- (a) be prepared under the actuarial standard; and
- (b) apply a central estimate of the liability; and
- (c) as far as practicable, be based on the non-scheme employer's claims experience; and
- (d) apply the risk free rate of return; and
- (e) include claims administration expenses of 7% of the liability; and
- (f) not include a prudential margin.

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1 Section 105I (Assessing liability after cancellation) of the Act

2 Section 105B (Non-scheme employer continues to be self-insurer for 12 months) of the Act



- '(2) The calculation must be based on data as at the last day (the *assessment day*) of the financial quarter immediately before the day the non-scheme employer's continued licence is cancelled under section 105E<sup>3</sup> (the *cancellation day*) of the Act.
- '(3) The data may only relate to the period before the exit date.

**'75Q Non-scheme employer to give actuaries information**

'The non-scheme employer must give the actuaries, in the form approved by the Authority, the information necessary to enable the actuaries to complete the calculation within the time mentioned in section 75R(3).

**'75R Actuarial report**

- '(1) After completing the calculation, each actuary must prepare an actuarial report on the calculation the actuary made.
- '(2) The report must—
- (a) be prepared under the actuarial standard; and
  - (b) clearly state the key assumptions made for the calculation and how the assumptions have been derived, including—
    - (i) the average amount of claims for compensation against the non-scheme employer; and
    - (ii) the average amount of claims for damages against the non-scheme employer; and
    - (iii) claims anticipated to have been incurred by the non-scheme employer for which no formal claim has been lodged; and
    - (iv) the frequency of claims for compensation against the non-scheme employer; and
    - (v) the frequency of claims for damages against the non-scheme employer; and

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3 Section 105E (Cancellation of continued licence) of the Act

- (vi) the net amount of the claims after allowing for future inflation (*inflated value*); and
  - (vii) the net present value of the inflated value after allowing for income from assets set aside by the non-scheme employer to pay the liability; and
  - (viii) the rate of inflation used; and
- (c) state the following about the data used in the calculation—
- (i) the nature of the data;
  - (ii) the actuary's assessment of its accuracy;
  - (iii) how the actuary interpreted the data; and
- (d) state the actuarial model used in the calculation; and
- (e) state the results of the calculation; and
- (f) state the actuary's confidence in the results of the calculation.
- '(3) The actuaries must complete the calculations and the reports within 35 days after the cancellation day.

### **'75S Summary report**

- '(1) The actuaries must jointly prepare a summary report that—
- (a) includes the individual actuarial reports; and
  - (b) states how the individual reports agree or differ.
- '(2) The actuaries must give a copy of the completed summary report to the Authority, WorkCover and the non-scheme employer within 2 months after the cancellation day.

### **'75T Agreement**

'WorkCover and the non-scheme employer may agree on the calculation having regard to the summary report.

### **'75U Reference to actuarial arbiter if no agreement**

'If WorkCover and the non-scheme employer can not agree on the calculation, the Authority must refer the summary report to the arbiter for decision within 14 days after the Authority is given the summary report.

### **'75V Arbiter's costs**

'The arbiter's costs in deciding on the calculation are to be paid by WorkCover and the non-scheme employer in equal amounts.

### **'75W Payment of amount for liability**

- '(1) The amount the non-scheme employer must pay WorkCover for the liability is the amount agreed to by WorkCover and the non-scheme employer (the *agreed amount*) or, if there is no agreement, the amount decided by the arbiter (the *decided amount*).
- '(2) The agreed amount or decided amount paid to WorkCover must be adjusted by the non-scheme employer's actuary to take into account—
- (a) compensation and damages payments made between the assessment day and the cancellation day; and
  - (b) claims lodged against the non-scheme employer between the assessment day and the cancellation day.

## **'Subdivision 3 Recalculation**

### **'75X Purpose of sdiv 3**

'This subdivision sets out the process for the finalisation under section 105I(5)<sup>4</sup> of the Act of an amount for a non-scheme employer's liability.

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4 Section 105I (Assessing liability after cancellation) of the Act

### **'75Y Appointment of actuary for recalculation**

'At the end of 4 years after the non-scheme employer's continued licence is cancelled under section 105E of the Act, WorkCover and the non-scheme employer must each appoint an actuary to recalculate an amount for the non-scheme employer's liability under section 105I of the Act.

### **'75Z Recalculation**

- '(1) The recalculation must—
- (a) be prepared under the actuarial standard; and
  - (b) apply a central estimate of the liability; and
  - (c) as far as practicable, be based on the self-insurer's claims experience; and
  - (d) apply the same risk free rate of return that was used in the calculation of an amount for the liability under subdivision 2; and
  - (e) include claims administration expenses of 7% of the liability; and
  - (f) not include a prudential margin; and
  - (g) have regard to compensation and damages payments made in relation to the liability between the day WorkCover became liable for compensation and damages for the non-scheme employer's liability and the end of 4 years after that day.
- '(2) The recalculation must be based on data as at the last day of the last financial quarter for which data is available at the end of 4 years after the day WorkCover became liable for compensation and damages for the non-scheme employer's outstanding liability.
- '(3) The data may only relate to the period before the exit date.

### **'75ZA WorkCover to give actuaries information**

'WorkCover must give the actuaries the information necessary to enable the actuaries to complete the recalculation within the time mentioned in section 75ZB(3).

### **'75ZB Actuarial report**

- '(1) After completing the recalculation, each actuary must prepare an actuarial report on the calculation the actuary made.
- '(2) The report must—
  - (a) be prepared under the actuarial standard; and
  - (b) clearly state the key assumptions made for the recalculation and how the assumptions have been derived, including—
    - (i) the average amount of claims for compensation against the non-scheme employer; and
    - (ii) the average amount of claims for damages against the non-scheme employer; and
    - (iii) claims anticipated to have been incurred by the non-scheme employer for which no formal claim has been lodged; and
    - (iv) the frequency of claims for compensation against the non-scheme employer; and
    - (v) the frequency of claims for damages against the non-scheme employer; and
    - (vi) the net amount of the claims after allowing for future inflation (*inflated value*); and
    - (vii) the net present value of the inflated value as calculated at the same risk free rate of return that was used in the calculation of an amount for the liability under subdivision 2; and
    - (viii) the rate of inflation used; and
  - (c) state the following about the data used in the recalculation—
    - (i) the nature of the data;

- (ii) the actuary's assessment of its accuracy;
  - (iii) how the actuary interpreted the data; and
  - (d) state the actuarial model used in the recalculation; and
  - (e) state the results of the recalculation; and
  - (f) state the actuary's confidence in the results of the recalculation.
- '(3) The actuaries must complete the recalculations and the reports within 35 days after the end of 4 years after the day WorkCover became liable for compensation and damages for the non-scheme employer's liability.

#### **'75ZC Summary report**

- '(1) The actuaries must jointly prepare a summary report that—
- (a) includes the individual actuarial reports; and
  - (b) states how the individual reports agree or differ.
- '(2) The actuaries must give a copy of the completed summary report to the Authority, WorkCover and the non-scheme employer within 2 months after the end of 4 years after the day WorkCover became liable for compensation and damages for the non-scheme employer's liability.

#### **'75ZD Agreement on recalculation**

'WorkCover and the non-scheme employer may agree on the recalculation having regard to the summary report.

#### **'75ZE Reference to arbiter if no agreement**

'If WorkCover and the non-scheme employer can not agree on the recalculation, the Authority must refer the summary report to the arbiter for decision within 14 days after the Authority is given a copy of the summary report.

### **'75ZF Arbiter's costs**

'The arbiter's costs in deciding on the recalculation are to be paid by WorkCover and the non-scheme employer in equal amounts.

### **'75ZG Payment of amount for recalculation**

- (1) If the amount agreed to by WorkCover and the non-scheme employer (the *agreed amount*) or, if there is no agreement, the amount decided by the arbiter (the *decided amount*), for the recalculation is more than the amount calculated under subdivision 2—
- (a) the amount the non-scheme employer must pay WorkCover for the non-scheme employer's liability is the agreed amount or decided amount; and
  - (b) the non-scheme employer must pay WorkCover—
    - (i) the difference between the amount of the payment made under section 75W (*interim payment*) and the agreed amount or decided amount for the non-scheme employer's liability; and
    - (ii) interest on the difference, from the day the whole of the interim payment was paid, at the same risk free rate of return that was used in the calculation of an amount for the liability under subdivision 2.
- (2) If the agreed amount or decided amount is less than the interim payment—
- (a) the amount the non-scheme employer must pay WorkCover for the non-scheme employer's liability is the agreed amount or decided amount; and
  - (b) WorkCover must pay the non-scheme employer—
    - (i) the difference between the interim payment and the agreed amount or decided amount for the liability; and
    - (ii) interest on the difference, from the day the whole of the interim payment was paid, at the same risk

free rate of return that was used in the calculation of an amount for the liability under subdivision 2.

- ‘(3) WorkCover or the non-scheme employer must pay the amount of the difference within 28 days after—
  - (a) WorkCover and the non-scheme employer agree on the recalculation; or
  - (b) if there is no agreement, WorkCover or the non-scheme employer receives the statement of the arbiter’s decision about the recalculation.
- ‘(4) On payment of the amount—
  - (a) the non-scheme employer’s liability is finalised for section 105I(5) of the Act; and
  - (b) no further amount is payable for the liability.

### **‘Division 3C            Total liability—member of a group who becomes non-scheme employer**

#### **‘75ZH Purpose of div 3C**

‘This division sets out the process for the calculation of an amount for total liability for section 105O<sup>5</sup> of the Act because a member of a group employer that is a self-insurer becomes a non-scheme employer (*non-scheme member*).

#### **‘75ZI Appointment of actuary**

- ‘(1) The self-insurer of which the non-scheme member was a member (the *old insurer*) and WorkCover must each appoint an actuary to calculate an amount for the total liability.
- ‘(2) The actuary appointed by the old insurer must be approved by the non-scheme member.

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5 Section 105O (Consequences of member becoming non-scheme member) of the Act



### **'75ZJ Calculation**

- '(1) The calculation must—
  - (a) be prepared under the actuarial standard; and
  - (b) apply a central estimate of the total liability; and
  - (c) as far as practicable, be based on the claims experience of the non-scheme member; and
  - (d) apply the risk free rate of return; and
  - (e) include claims administration expenses of 7% of the total or residual liability; and
  - (f) not include a prudential margin.
- '(2) The calculation must be based on data as at the last day (the *assessment day*) of the financial quarter immediately before the day the non-scheme member stops being a member of the old insurer under section 105M<sup>6</sup> of the Act (*final day*).
- '(3) The data may only relate to the period before the exit date.

### **'75ZK Parties to give actuaries information**

'The old insurer and WorkCover must give the actuaries, in the form approved by the Authority, the information necessary to enable the actuaries to complete the calculation within the time mentioned in section 75ZL(3).

### **'75ZL Actuarial report**

- '(1) After completing the calculation, each actuary must prepare an actuarial report on the calculation the actuary made.
- '(2) The report must—
  - (a) be prepared under the actuarial standard; and
  - (b) clearly state the key assumptions made for the calculation and how the assumptions have been derived, including—

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6 Section 105M (Non-scheme member continues as member of self-insurer for 12 months) of the Act

- (i) the average amount of claims for compensation against the non-scheme member; and
  - (ii) the average amount of claims for damages against the non-scheme member; and
  - (iii) claims anticipated to have been incurred by the non-scheme member for which no formal claim has been lodged; and
  - (iv) the frequency of claims for compensation against the non-scheme member; and
  - (v) the frequency of claims for damages against the non-scheme member; and
  - (vi) the net amount of the claims after allowing for future inflation (*inflated value*); and
  - (vii) the net present value of the inflated value after allowing for income from assets set aside by the non-scheme member to pay the total liability; and
  - (viii) the rate of inflation used; and
- (c) state the following about the data used in the calculation—
- (i) the nature of the data;
  - (ii) the actuary's assessment of its accuracy;
  - (iii) how the actuary interpreted the data; and
- (d) state the actuarial model used in the calculation; and
- (e) state the results of the calculation; and
- (f) state the actuary's confidence in the results of the calculation.
- '(3) The actuaries must complete the calculations and the reports within 35 days after the final day.

### **'75ZM Summary report**

- '(1) The actuaries must jointly prepare a summary report that—
- (a) includes the individual actuarial reports; and

- (b) states how the individual reports agree or differ.
- ‘(2) The actuaries must give a copy of the completed summary report to the old insurer, WorkCover and the Authority within 2 months after the final day.

#### **‘75ZN Agreement on calculation**

‘The old insurer and WorkCover may agree on the calculation having regard to the summary report.

#### **‘75ZO Reference to arbiter if no agreement**

‘If the old insurer and WorkCover can not agree on the calculation, the Authority must refer the summary report to the arbiter for decision within 14 days after the Authority is given the summary report.

#### **‘75ZP Arbiter’s costs**

‘The arbiter’s costs in deciding on the calculation are to be paid by the old insurer and WorkCover in equal amounts.

#### **‘75ZQ Payment of amount for total liability**

- ‘(1) The amount the old insurer must pay WorkCover for the non-scheme member’s total liability is the amount agreed to by them (the *agreed amount*) or, if there is no agreement, the amount decided by the arbiter (the *decided amount*).
- ‘(2) The old insurer must pay the agreed amount or decided amount—
- (a) within 3 months after the final day; or
- (b) on a later day agreed to by the old insurer and WorkCover.
- ‘(3) The agreed amount or decided amount paid to WorkCover must be adjusted by the actuary of the old insurer to take into account—
- (a) compensation and damages payments made between the assessment day and the final day; and

- (b) claims lodged against the non-scheme member between the assessment day and the final day.
- ‘(4) The old insurer must advise the Authority of the following no later than the day total liability is paid—
- (a) the amount of the total liability;
  - (b) the day WorkCover assumes liability;
  - (c) details of the old insurer and the non-scheme member.

### **‘75ZR Transfer of claims information**

‘The old insurer must give WorkCover claims information in relation to the liability no later than the day the agreed or decided amount is paid.’.

## **6 Insertion of new s 95A**

After section 95—

*insert—*

### **‘95A Additional lump sum compensation—workers with latent onset injuries that are terminal conditions—Act, s 128B**

‘The additional lump sum compensation payable for workers with latent onset injuries that are terminal conditions is set out in schedule 2A.’.

## **7 Insertion of new pt 6, div 1A**

After section 99—

*insert—*

## **'Division 1A            Rehabilitation and return to work coordinators**

### **'99A    Criteria for becoming rehabilitation and return to work coordinator—Act, s 41(a)**

'A person meets the criteria for becoming a rehabilitation and return to work coordinator by satisfactorily completing a workplace rehabilitation course approved or conducted by the Authority.

### **'99B    Functions of rehabilitation and return to work coordinator—Act, s 41(b)**

'The functions of a rehabilitation and return to work coordinator include the following—

- (a) initiating early communication with an injured worker to clarify the nature and severity of the worker's injury and to compile initial notification information;
- (b) providing overall coordination of the worker's return to work;
- (c) developing the suitable duties program component of a rehabilitation and return to work plan, if a plan is required, in consultation with the worker and the worker's employer and ensuring the program is consistent with the current medical certificate or report for the worker's injury;
- (d) liaising with—
  - (i) any person engaged by the employer to help in the worker's rehabilitation and return to work; and
  - (ii) the insurer about the worker's progress and indicating, as early as possible, if there is a need for the insurer to assist or intervene.

**'99C Employer's obligation to appoint rehabilitation and return to work coordinator—Act, s 226(1)**

- '(1) An employer meets the criteria for being required to appoint a rehabilitation and return to work coordinator if—
  - (a) the employer employs 30 or more workers at a workplace in a high risk industry; or
  - (b) the wages of the employer in Queensland for the preceding financial year were more than \$4.9 million.
- '(2) If QOTE varies, the amount mentioned in subsection (1)(b) must be varied proportionately.
- '(3) The amount as varied is to be rounded up to the nearest \$1000.
- '(4) The Authority must notify the variation of the amount mentioned in subsection (1)(b) by industrial gazette notice.
- '(5) An employer may appoint 1 rehabilitation and return to work coordinator for more than 1 workplace if the person can reasonably perform the person's functions as a rehabilitation and return to work coordinator for each workplace.'

**8 Insertion of new s 99D**

Part 6, division 2, before section 100—

*insert—*

**'99D Employer's obligation to have workplace rehabilitation policy and procedures—Act s 227(1)**

- '(1) An employer meets the criteria for being required to have workplace rehabilitation policy and procedures if—
  - (a) the employer employs 30 or more workers at a workplace in a high risk industry; or
  - (b) the wages of the employer in Queensland for the preceding financial year were more than \$4.9 million.
- '(2) If QOTE varies, the amount mentioned in subsection (1)(b) must be varied proportionately.
- '(3) The amount as varied is to be rounded up to the nearest \$1000.
- '(4) The Authority must notify the variation of the amount mentioned in subsection (1)(b) by industrial gazette notice.

- '(5) An employer may have 1 workplace rehabilitation policy and procedures document for all workplaces of the employer.'

## **9 Replacement of s 104 (Doctor's approval)**

Section 104—

*omit, insert—*

### **'104 Doctor's approval**

'Approval of a worker's treating doctor must be obtained and documented for a rehabilitation and return to work plan if the doctor does not give sufficient information in the doctor's medical certificate or report on which to base the development of the plan.'

## **10 Replacement of s 106 (Rehabilitation plan)**

Section 106—

*omit, insert—*

### **'106 Rehabilitation and return to work plan**

- '(1) A rehabilitation and return to work plan must be developed for each worker undertaking rehabilitation.
- '(2) The plan must be consistent with the worker's needs and with the current medical certificate or report for the worker's injury.
- '(3) The plan must be developed in consultation with the insurer, the worker, the worker's employer, the worker's treating registered persons and any person engaged by the worker's employer to help in the worker's rehabilitation and return to work.
- '(4) Any amendment of the plan must comply with subsections (2) and (3).
- '(5) The plan must contain at least the following matters—
- (a) clear and appropriate objectives with ways of achieving the objectives;
  - (b) details of rehabilitation required to meet the objectives;

- (c) the time frames for rehabilitation;
- (d) review mechanisms and dates for review;
- (e) progress to date;
- (f) if it is practicable to provide the worker with suitable duties, a suitable duties program.

#### **'106A Suitable duties program**

- '(1) An employer must develop a suitable duties program for a worker undertaking rehabilitation.
- '(2) The employer must develop the program in consultation with the worker.
- '(3) The program and any amendments to the program must be consistent with the current medical certificate or report for the worker's injury.
- '(4) The program must document what are suitable duties for the worker.
- '(5) Suitable duties assigned to a worker must be meaningful and have regard to the objective of the worker's rehabilitation.
- '(6) The employer must give the insurer a copy of the suitable duties program.
- '(7) The employer must review a worker's suitable duties on a regular basis and progressively upgrade the program consistent with the worker's recovery.'

#### **11 Amendment of s 107 (Case notes)**

Section 107(2)(a)—

*omit, insert—*

- '(a) all communications between the worker, the insurer, the worker's employer, the worker's treating registered persons, the rehabilitation and return to work coordinator and any person engaged by the employer to help in the worker's rehabilitation and return to work; and'



## **12 Amendment of s 109 (Rehabilitation)**

- (1) Section 109(1)(b), 'rehabilitation plan'—  
*omit, insert—*  
'rehabilitation and return to work plan'.
- (2) Section 109(2), 'by the rehabilitation coordinator'—  
*omit.*
- (3) Section 109(3) to (5)—  
*omit.*
- (4) Section 109(6), 'rehabilitation coordinator'—  
*omit, insert—*  
'worker's employer'.
- (5) Section 109(6) and (7)—  
*renumber* as section 109(3) and (4).

## **13 Insertion of new pt 8A**

After section 118—

*insert—*

# **'Part 8A Medical assessment tribunals**

## **'118A Medical assessment tribunals**

- '(1) Each of the following medical assessment tribunals is a tribunal continued in existence under section 635<sup>7</sup> of the Act—
  - (a) a General Medical Assessment Tribunal;
  - (b) the following specialty medical assessment tribunals—
    - (i) Cardiac Assessment Tribunal;
    - (ii) Orthopaedic Assessment Tribunal;

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<sup>7</sup> Section 635 (Medical assessment tribunal) of the Act

- (iii) Dermatology Assessment Tribunal;
  - (iv) Ear, Nose and Throat Assessment Tribunal;
  - (v) Neurology/Neurosurgical Assessment Tribunal;
  - (vi) Ophthalmology Assessment Tribunal;
  - (vii) Disfigurement Assessment Tribunal.
- ‘(2) Also, a composite medical assessment tribunal (*composite tribunal*) is to be maintained for section 492<sup>8</sup> of the Act to assess workers with an injury or injuries who may require assessment by a number of different specialists.

#### **‘118B Constitution of General Medical Assessment Tribunal**

- ‘(1) For deciding a matter referred to it, the General Medical Assessment Tribunal is constituted by—
- (a) its chairperson; and
  - (b) 2 appointees to the panel of doctors for the Tribunal, designated by the chairperson.
- ‘(2) In designating a member of the panel to the Tribunal, the chairperson must have regard to the branch of medicine that is a speciality under the *Medical Practitioners Registration Act 2001* that is relevant to the matters referred to the tribunal for decision.

#### **‘118C Chairperson and deputy chairperson of General Medical Assessment Tribunal**

- ‘(1) The chairperson must preside over meetings of the General Medical Assessment Tribunal.
- ‘(2) If the chairperson is not available to attend to the business of the General Medical Assessment Tribunal, a deputy chairperson must act as its chairperson.
- ‘(3) A deputy chairperson may act as a member of the General Medical Assessment Tribunal only if the chairperson has designated the member for the purpose.

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<sup>8</sup> Section 492 (Medical assessment tribunals to be maintained) of the Act

#### **'118D Constitution of specialty medical assessment tribunal**

- '(1) For deciding a matter referred to it, a specialty medical assessment tribunal is constituted by—
  - (a) its chairperson; and
  - (b) 2 appointees to the panel of doctors for the tribunal, including persons appointed to the panel as deputy chairpersons, designated by the chairperson.
- '(2) In designating a member of the panel to a specialty medical assessment tribunal, the chairperson must have regard to the branch of medicine that is a speciality under the *Medical Practitioners Registration Act 2001* that is relevant to the matters referred to the tribunal for decision.

#### **'118E Chairperson and deputy chairperson of specialty medical assessment tribunal**

- '(1) The chairperson must preside over meetings of a specialty medical assessment tribunal.
- '(2) If the chairperson is not available to attend to the business of a specialty medical assessment tribunal—
  - (a) if there is only 1 deputy chairperson of the tribunal—the deputy chairperson must act as its chairperson; or
  - (b) if there is more than 1 deputy chairperson of the tribunal—a deputy chairperson designated by the chairperson must act as its chairperson.

#### **'118F Constitution of composite tribunals**

- '(1) The constitution of a composite tribunal is to be decided by—
  - (a) the chairperson of the composite tribunal; and
  - (b) the chairperson of each specialty medical assessment tribunal relevant to the matters to be decided; and
  - (c) if the chairperson of the composite tribunal is not the chairperson of the General Medical Assessment Tribunal—the chairperson of the General Medical Assessment Tribunal.

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- '(2) The chairpersons must consult with the secretary of the composite tribunal about the constitution of the composite tribunal.
- '(3) In deciding the constitution of the composite tribunal, the chairpersons must have regard to the branch of medicine that is a speciality under the *Medical Practitioners Registration Act 2001* that is relevant to the matter referred to the composite tribunal for decision.
- '(4) For deciding a matter referred to it, a composite tribunal is constituted by—
  - (a) its chairperson; and
  - (b) at least 2 but not more than 4 appointees to the panel of doctors for the composite tribunal designated by the chairperson.
- '(5) The composite tribunal must consist of at least 1 specialist for each type of injury that is a subject of the reference to the tribunal.
- '(6) However, the number of specialists for each type of injury must be equal.

*Example—*

A worker has a post-traumatic stress disorder and a fractured arm, leg, and ribs. The tribunal would consist of—

- (a) 1 psychiatrist and 1 orthopaedic surgeon; or
  - (b) 2 psychiatrists and 2 orthopaedic surgeons.
- '(7) If, because of subsection (5), there would be an even number of members on the composite tribunal, the chairperson must also designate a physician to be a member of the tribunal.

*Example—*

A worker has 3 different types of injuries. The tribunal would consist of the chairperson and 3 specialists. A physician is also to be a member of the tribunal.

**'118G Chairperson and deputy chairperson of composite tribunal**

- '(1) The chairperson must preside over meetings of a composite tribunal.
- '(2) If the chairperson is not available to attend to the business of a composite tribunal—
  - (a) if there is only 1 deputy chairperson of the tribunal—the deputy chairperson must act as its chairperson; or
  - (b) if there is more than 1 deputy chairperson of the tribunal—a deputy chairperson designated by the chairperson must act as its chairperson.'

**14 Amendment of s 120 (Reasons for decision must address certain matters—Act, s 540(4))**

- (1) Section 120, heading, 's 540(4)'—  
*omit, insert—*  
'ss 540(4) and 546(3AA)'.
- (2) Section 120(1), 'section 540(4)'—  
*omit, insert—*  
'sections 540(4) and 546(3AA)'.

**15 Replacement of schs 2–4**

Schedules 2 to 4—  
*omit, insert—*

**'Schedule 2 Table of injuries**

section 92

**'Part 1 Upper extremity injuries**

**'Division 1 Preliminary**

## **'1 Application of pt 1**

- '(1) This part deals with upper extremity injuries.
- '(2) The maximum lump sum compensation payable for an upper extremity injury is \$160000.
- '(3) To decide a worker's entitlement from injury, division 2 shows—
  - (a) the maximum degree of permanent impairment that may result from the injury; and
  - (b) the maximum lump sum compensation payable for the injury; and
  - (c) the maximum WRI.

## **'2 How to use this part of the table**

- '(1) Division 2 lists particular upper extremity injuries.
- '(2) Injuries are stated in column 1, the maximum degree of permanent impairment resulting from the injury is stated in column 2, the maximum lump sum compensation for the injury is stated in column 3, and the maximum WRI is stated in column 4.
- '(3) The maximum degree of permanent impairment resulting from an injury is stated as a degree of permanent impairment of the upper extremity.
- '(4) Some injuries mentioned in division 2 are marked with an asterisk (\*).
- '(5) These injuries may result in the same degree of maximum permanent impairment as other injuries mentioned in the division, but, for historical reasons, give rise to different amounts of maximum lump sum compensation.
- '(6) For more information on how to use the table of injuries, see sections 92 and 93 of the regulation.

### **'3 Interaction between this part and the AMA guide**

- '(1) The degree of permanent impairment resulting from an injury to an upper extremity is expressed in division 2 as a degree of permanent impairment of the upper extremity.
- '(2) Even though an injury is not precisely described under division 2, a similar injury often will be.
- '(3) If the injury is more severe than a particular similar injury, but less severe than another similar injury, the degree of permanent impairment must always be more than the less severe injury, but not as much as the more severe injury.
- '(4) If an injury to an upper extremity results in permanent impairment and the injury is not mentioned in division 2, the degree of permanent impairment must be assessed under the AMA guide.
- '(5) The processes that may be used under the AMA guide can not result in an injury giving rise to a greater degree of permanent impairment from the injury than that specified under division 2.
- '(6) The degree of permanent impairment resulting from the injury assessed under the AMA guide must be expressed as a degree of permanent impairment of the upper extremity.
- '(7) The degree of permanent impairment so expressed is taken to be the degree of permanent impairment of the upper extremity for this part.
- '(8) For section 92 of the regulation, the relevant provision of the AMA guide is chapter 3.

### **'4 Formulas to be used for deciding lump sum compensation for permanent impairment**

- '(1) The following formula must be used to work out the amount of lump sum compensation payable for single or multiple injuries to the upper extremity—

$$\frac{\text{DPI} \times \text{MLSC}}{100}$$

‘(2) However, for a single injury (other than an injury involving sensory loss) to the index, ring or little finger, the following formula must be used—

$$\frac{\text{DPI} \times \text{LSC}}{\text{MDPI}}$$

‘(3) Also, for multiple injuries where at least 1 injury (other than sensory loss) is to the index, ring or little finger, the amount of lump sum compensation payable for the injuries is the sum of the amounts worked out for each injury under subsections (1) and (2).

‘(4) In this section—

*DPI* means the degree of permanent impairment of the upper extremity assessed by a registered person as resulting from the injury or, for multiple injuries, the injuries.

*LSC* means the lump sum compensation payable for the maximum degree of permanent impairment for the injury set out in column 3 of the table of injuries.

*MDPI* means the maximum degree of permanent impairment resulting from the injury or another relevant injury set out in column 2 of the table of injuries.

*MLSC* means the maximum lump sum compensation specified in section 1(2).

## ‘Division 2                      Upper extremity injuries

Column 1 Injury	Column 2 Maximum degree of permanent impairment	Column 3 Maximum lump sum compensation \$	Column 4 Maximum WRI %
<b>Fingers and hand</b>			
Sensory loss on either side of thumb . . . . .	8	12 800	6.4
*Structural loss of index finger . . .	18	32 580	16.29



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<b>Column 1 Injury</b>	<b>Column 2 Maximum degree of permanent impairment</b>	<b>Column 3 Maximum lump sum compensation \$</b>	<b>Column 4 Maximum WRI %</b>
*Structural loss of 2 joints of index finger . . . . .	13	24 400	12.22
*Structural loss of distal joint to index finger . . . . .	8	16 280	8.14
Sensory loss to palmar surface of index finger . . . . .	8	12 800	6.4
Structural loss of 2 joints of middle finger . . . . .	13	20 800	10.4
Sensory loss to palmar surface of middle finger . . . . .	8	12 800	6.4
*Structural loss of ring finger . . . .	8	16 280	8.14
*Structural loss of 2 joints of ring finger . . . . .	6	16 280	8.14
*Structural loss of distal joint of ring finger . . . . .	5	9 780	4.89
*Structural loss of little finger . . . .	8	16 280	8.14
*Structural loss of 2 joints of little finger . . . . .	6	16 280	8.14
*Structural loss of distal joint of little finger . . . . .	5	9 780	4.89
Structural loss of hand or arm below the elbow . . . . .	90	144 000	72
Crush injury to hand with multiple fractures (healed with no deformities) but resulting in mild loss of motion of all fingers with extensive scarring and soft tissue damage. . . . .	40	64 000	32

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<b>Column 1 Injury</b>	<b>Column 2 Maximum degree of permanent impairment</b>	<b>Column 3 Maximum lump sum compensation \$</b>	<b>Column 4 Maximum WRI %</b>
<b>Wrist</b>			
Carpal tunnel syndrome, whether operated or non-operated, with residual subjective symptoms or signs e.g. dysaesthesia or muscle wasting. . . . .	2	3 200	1.6
Fractured scaphoid, operated. . . . .	5	8 000	4
Fracture of radius or ulna or carpus bones with moderate limitation of wrist movements and mild limitation of elbow movements . . .	16	25 600	12.8
<b>Elbow</b>			
Medial or lateral epicondylitis of elbow, whether operated or non-operated, with residual subjective symptoms or signs e.g. pain and tenderness . . . . .	2	3 200	1.6
Injury to elbow region resulting in moderate loss of all movements. . .	31	49 600	24.8
<b>Shoulder and arm</b>			
Injury to shoulder region resulting in mild loss of all movements. . . . .	6	9 600	4.8
Injury to shoulder region resulting in moderate loss of all movements. . . . .	16	25 600	12.8

## **'Part 2 Lower extremity injuries**

### **'Division 1 Preliminary**

#### **'1 Application of pt 2**

- '(1) This part deals with lower extremity injuries.
- '(2) The maximum lump sum compensation payable for a lower extremity injury is \$150000.
- '(3) To decide a worker's entitlement from injury, division 2 shows—
  - (a) the maximum degree of permanent impairment that may result from the injury; and
  - (b) the maximum lump sum compensation payable for the injury; and
  - (c) the maximum WRI.

#### **'2 How to use this part of the table**

- '(1) Division 2 lists particular lower extremity injuries.
- '(2) Injuries are stated in column 1, the maximum degree of permanent impairment resulting from the injury is stated in column 2, the maximum lump sum compensation for the injury is stated in column 3, and the maximum WRI is stated in column 4.
- '(3) The maximum degree of permanent impairment resulting from an injury is stated as a degree of permanent impairment of the lower extremity.
- '(4) Some injuries mentioned in division 2 are marked with an asterisk (\*).
- '(5) These injuries may result in the same degree of maximum permanent impairment as other injuries mentioned in the division, but, for historical reasons, give rise to different amounts of maximum lump sum compensation.

- ‘(6) For more information on how to use the table of injuries, see sections 92 and 93 of the regulation.

### ‘3 Interaction between this part and the AMA guide

- ‘(1) The degree of permanent impairment resulting from an injury to a lower extremity is expressed in division 2 as a degree of permanent impairment of the lower extremity.
- ‘(2) Even though an injury is not precisely described under division 2, a similar injury often will be.
- ‘(3) If the injury is more severe than a particular similar injury, but less severe than another similar injury, the degree of permanent impairment must always be more than the less severe injury, but not as much as the more severe injury.
- ‘(4) If an injury to a lower extremity results in permanent impairment and the injury is not mentioned in division 2, the degree of permanent impairment must be assessed under the AMA guide.
- ‘(5) The processes that may be used under the AMA guide can not result in an injury giving rise to a greater degree of permanent impairment from the injury than that specified under division 2.
- ‘(6) The degree of permanent impairment resulting from the injury assessed under the AMA guide must be expressed as a degree of permanent impairment of the lower extremity.
- ‘(7) The degree of permanent impairment so expressed is taken to be the degree of permanent impairment of the lower extremity for this part.
- ‘(8) For section 92 of the regulation, the relevant provision of the AMA guide is chapter 3.

**‘4 Formulas to be used for deciding lump sum compensation for permanent impairment**

- ‘(1) The following formula must be used to work out the amount of lump sum compensation payable for single or multiple injuries to the lower extremity—

$$\frac{\text{DPI} \times \text{MLSC}}{100}$$

- ‘(2) However, for a single injury to a toe, the following formula must be used—

$$\frac{\text{DPI} \times \text{LSC}}{\text{MDPI}}$$

- ‘(3) Also, for multiple injuries where at least 1 injury (but not all injuries) is to the toes, the amount of lump sum compensation payable for the injuries is the sum of the amounts worked out for each injury under subsections (1) and (2).
- ‘(4) Also, for multiple toe injuries, the formula in subsection (2) must be used, but the value of LSC is as specified in division 2.
- ‘(5) In this section—

*DPI* means the degree of permanent impairment of the lower extremity assessed by a registered person as resulting from the injury or, for multiple injuries, the injuries.

*LSC* means the lump sum compensation payable for the maximum degree of permanent impairment for the injury set out in column 3 of the table of injuries.

*MDPI* means the maximum degree of permanent impairment resulting from the injury or another relevant injury set out in column 2 of the table of injuries.

*MLSC* means the maximum lump sum compensation specified in section 1(2).

## 'Division 2                      Lower extremity injuries

Column 1 Injury	Column 2 Maximum degree of permanent impairment	Column 3 Maximum lump sum compensation \$	Column 4 Maximum WRI %
<b>Toes and foot</b>			
*Structural loss of any toe (other than great toe) . . . . .	2	16 280	8.14
*Structural loss of great toe . . . . .	12	32 580	16.29
*Structural loss of joint of great toe	5	16 280	8.14
Fracture of any metatarsal, worst possible outcome e.g. pain or loss of weight transfer. . . . .	10	15 000	7.5
Structural loss of a foot . . . . .	63	94 500	47.25
*Structural loss of two toes (other than great toe) of a foot . . . . .	4	20 000	10
*Structural loss of three toes (other than great toe) of a foot . . . . .	6	23 500	11.75
*Structural loss of four toes (other than great toe) of a foot . . . . .	8	27 000	13.5
*Structural loss of great toe and one other toe of a foot . . . . .	14	40 000	20
*Structural loss of great toe and two other toes of a foot . . . . .	16	50 000	25
*Structural loss of great toe and three other toes of a foot . . . . .	18	60 000	30
*Structural loss of joint of great toe and one other toe of a foot . . . . .	7	20 000	10
*Structural loss of joint of great toe and two other toes of a foot . . . . .	9	23 500	11.75
*Structural loss of joint of great toe and three other toes of a foot . . . . .	11	27 000	13.5
*Structural loss of joint of great toe and four other toes of a foot . . . . .	13	30 500	15.25
*Structural loss of all toes of a foot	20	67 500	33.75

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<b>Column 1 Injury</b>	<b>Column 2 Maximum degree of permanent impairment</b>	<b>Column 3 Maximum lump sum compensation \$</b>	<b>Column 4 Maximum WRI %</b>
<b>Ankle</b>			
Fracture of os calcis, worst possible outcome . . . . .	25	37 500	18.75
<b>Knee</b>			
Chondromalacia patellae, non-operated . . . . .	0	0	0
Chondromalacia patellae, operated	2	3 000	1.5
Patellar fracture, whether operated or non-operated . . . . .	12	18 000	9
Mild aggravation of pre-existing degenerative disease in knee with subjective symptoms, but no significant clinical findings other than degenerative changes on X-ray	0	0	0
Moderate to severe aggravation or acceleration of pre-existing disease in knee with subjective symptoms, but no significant clinical findings other than degenerative changes on X-ray . . . . .	7	10 500	5.25
Total knee replacement . . . . .	50	75 000	37.5
<b>Hip joint and leg</b>			
Mild aggravation of pre-existing degenerative disease in hip joint with subjective symptoms, but no significant clinical findings other than degenerative changes on X-ray	0	0	0

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<b>Column 1 Injury</b>	<b>Column 2 Maximum degree of permanent impairment</b>	<b>Column 3 Maximum lump sum compensation \$</b>	<b>Column 4 Maximum WRI %</b>
Moderate to severe aggravation or acceleration of pre-existing disease in hip joint with subjective symptoms, but no significant clinical findings other than degenerative changes on X-ray . . . . .	7	10 500	5.25
Injury to hip region resulting in mild loss of all movements . . . . .	12	18 000	9
Injury to hip region resulting in moderate loss of all movements. . .	25	37 500	18.75
Fracture of femoral neck . . . . .	50	75 000	37.5
Total hip replacement . . . . .	45	67 500	33.75

## **'Part 3                      Special provision injuries**

### **'Division 1                Preliminary**

#### **'1                      Application of pt 3**

- '(1) This part deals with vision and hearing injuries and injury involving loss of a breast.
- '(2) The maximum lump sum compensation payable for a vision injury under this part is \$200000.
- '(3) The maximum lump sum compensation payable for a hearing injury under this part is \$81460.
- '(4) The maximum lump sum compensation payable for loss of a breast under this part is \$60000.



## **'2 How to use this part of the table**

- '(1) Division 2 lists particular vision and hearing injuries and injury involving loss of a breast.
- '(2) Vision and hearing injuries and injury involving loss of a breast are stated in column 1, the maximum lump sum compensation for the injury is stated in column 2, and the maximum WRI is stated in column 3.
- '(3) Some injuries mentioned in division 2 are marked with an asterisk (\*).
- '(4) For historical reasons, the maximum lump sum compensation payable for these injuries may be higher relative to other injuries mentioned in this division.
- '(5) For more information on how to use the table of injuries, see section 92 of the regulation.

## **'3 Interaction between this part and the assessment guides**

- '(1) The lump sum compensation payable for a vision or hearing injury mentioned in division 2 is the maximum lump sum compensation payable for the injury.
- '(2) If a vision or hearing injury results in permanent impairment of vision or hearing and the injury is not mentioned in division 2, the degree of permanent impairment resulting from the injury must be assessed under the relevant assessment guide.
- '(3) The degree of permanent impairment must be expressed as a degree of total vision or hearing loss—
  - (a) for each eye or ear; or
  - (b) if the injury is to both eyes or both ears—of both eyes or both ears.
- '(4) In this section—

***relevant assessment guide*** means—

  - (a) for a vision injury—the ophthalmologists guide; or
  - (b) for a hearing injury—the hearing loss tables.

**‘4 Formula to be used for deciding lump sum compensation for permanent impairment**

‘(1) The following formula must be used to work out the amount of lump sum compensation payable for a vision or hearing injury—

$$\frac{\text{DPI} \times \text{LSC}}{100}$$

‘(2) However, for multiple injuries involving at least 1 of an injury to vision, hearing or a breast, the amount of lump sum compensation payable for the injuries is the sum of the amounts worked out for each injury under subsection (1).

‘(3) In this section—

*DPI* means—

- (a) for hearing loss from industrial deafness—the assessed degree of permanent impairment resulting from the injury less 5%;<sup>9</sup> and
- (b) for another injury under this part—the assessed degree of permanent impairment resulting from the injury.

*LSC* means the lump sum compensation payable under this part for the injury.

**‘Division 2 Special provision injuries**

<b>Column 1 Injury</b>	<b>Column 2 Maximum lump sum compensation \$</b>	<b>Column 3 Maximum WRI %</b>
<b>Vision</b>		
*Loss of vision in 1 eye (corrected vision) . . .	65 160	32.58
*Total loss of vision in 1 eye resulting from loss of an eyeball . . . . .	73 300	36.65

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9 For more information about the 5% reduction, see section 125 (Entitlements for industrial deafness) of the Act.

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<b>Column 1 Injury</b>	<b>Column 2 Maximum lump sum compensation \$</b>	<b>Column 3 Maximum WRI %</b>
Total loss of vision of 1 eye with serious diminution of vision in the other eye (less than 10% vision remaining) . . . . .	170 000	85
<b>Hearing</b>		
Loss of hearing in 1 ear . . . . .	40 000	20
*Binaural hearing loss . . . . .	81 460	40.73
<b>Injury to breast</b>		
*Structural loss of breast . . . . .	60 000	30

## **'Part 4                      Other injuries**

### **'Division 1                Preliminary**

#### **'1            Application of pt 4**

- '(1) This part deals with the following injuries (*system injuries*)—
- (a) injuries to the musculo-skeletal system;
  - (b) injuries to the nervous system;
  - (c) injuries to the respiratory system;
  - (d) injuries to the cardiovascular system;
  - (e) injuries to the alimentary system;
  - (f) injuries to the urinary or reproductive system;
  - (g) injuries to the skin.
- '(2) The maximum lump sum compensation payable for an injury under this part is \$200000.
- '(3) To decide a worker's entitlement from injury, division 2 shows—

- (a) the maximum degree of permanent impairment that may result from the injury; and
- (b) the maximum lump sum compensation payable for the injury; and
- (c) the maximum WRI.

## **'2 How to use this part of the table**

- '(1) Division 2 lists particular system injuries.
- '(2) Injuries are stated in column 1, the maximum degree of permanent impairment resulting from the injury is stated in column 2, the maximum lump sum compensation for the injury is stated in column 3, and the maximum WRI is stated in column 4.
- '(3) The maximum degree of permanent impairment resulting from an injury is stated as a degree of permanent impairment of the whole person.
- '(4) Some injuries mentioned in division 2 are marked with an asterisk (\*).
- '(5) These injuries may result in the same degree of permanent impairment as other injuries mentioned in the division, but, for historical reasons, give rise to different amounts of maximum lump sum compensation.
- '(6) For more information on how to use the table of injuries, see sections 92 and 93 of the regulation.

## **'3 Interaction between this part and the AMA guide**

- '(1) The degree of permanent impairment resulting from a system injury is expressed in division 2 as a degree of permanent impairment of the whole person.
- '(2) Even though an injury is not precisely described under division 2, a similar injury often will be.
- '(3) If the injury is more severe than a particular similar injury, but less severe than another similar injury, the degree of permanent impairment must always be more than the less severe injury, but not as much as the more severe injury.

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- '(4) If a system injury results in permanent impairment and the injury is not mentioned in division 2, the degree of permanent impairment must be assessed under the AMA guide.
- '(5) The processes that may be used under the AMA guide can not result in a system injury giving rise to a greater degree of permanent impairment from the injury than that specified under division 2.
- '(6) The degree of permanent impairment resulting from the injury assessed under the AMA guide must be expressed as a degree of permanent impairment of the whole person.
- '(7) The degree of permanent impairment so expressed is taken to be the degree of permanent impairment of the whole person for this part.
- '(8) For section 92 of the regulation, the relevant provisions of the AMA guide are—
  - (a) for injuries to the cervicothoracic, thoracolumbar or lumbosacral spine—chapter 3; and
  - (b) for injuries to the pelvis—chapter 3; and
  - (c) for injuries to the brain and cranial nerves—chapters 4 and 9; and
  - (d) for spinal cord injuries—chapters 3 and 4; and
  - (e) for respiratory system injuries—chapter 5; and
  - (f) for cardiovascular system injuries—chapter 6; and
  - (g) for alimentary system injuries—chapter 10; and
  - (h) for urinary or reproductive system injuries—chapter 11; and
  - (i) for skin injuries—chapter 13.

**‘4 Formulas to be used for deciding lump sum compensation for permanent impairment**

- ‘(1) The following formula must be used to work out the amount of lump sum compensation payable for single or multiple system injuries—

$$\frac{\mathbf{DPI} \times \mathbf{MLSC}}{\mathbf{100}}$$

- ‘(2) However, for loss of smell, taste or speech, a cervical cord injury (with or without fracture) or complete paraplegia, the following formula must be used—

$$\frac{\mathbf{DPI} \times \mathbf{LSC}}{\mathbf{MDPI}}$$

- ‘(3) Also, for multiple injuries involving at least 1 injury that is loss of smell, taste or speech, a cervical cord injury or paraplegia, the amount of lump sum compensation payable for the injuries is the sum of the amounts worked out for each injury under subsections (1) and (2).

- ‘(4) In this section—

***DPI*** means the degree of permanent impairment of the whole person assessed by a registered person as resulting from the injury or, for multiple injuries, the injuries.

***LSC*** means the lump sum compensation payable for the maximum degree of permanent impairment for the injury set out in column 3 of the table of injuries.

***MDPI*** means the maximum degree of permanent impairment resulting from the injury or another relevant injury set out in column 2 of the table of injuries.

***MLSC*** means the maximum lump sum compensation specified in section 1(2).

## 'Division 2                    System injuries

Column 1 Injury	Column 2 Maximum degree of permanent impairment	Column 3 Maximum lump sum compensation \$	Column 4 Maximum WRI %
<b>Musculo-skeletal system</b>			
<b>Cervicothoracic spine</b>			
Prolapsed intervertebral disc in cervical spine with referred pain, non-operated with resolution of subjective symptoms, and no loss of range of movements . . . . .	10	20 000	10
Prolapsed intervertebral disc in cervical spine with referred pain, treated surgically by discectomy and fusion with resolution of referred pain. Persisting neck pain with moderate loss of range of movements . . . . .	15	30 000	15
<b>Thoracolumbar spine</b>			
Major compression fracture of vertebral body(s) in thoracic spine, healed with subjective symptoms, but no physical signs . . . . .	10	20 000	10
<b>Lumbosacral spine</b>			
Mild aggravation of pre-existing degenerative disease in lumbosacral spine with subjective symptoms, but no significant clinical findings other than degenerative changes on X-ray . .	0	0	0

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<b>Column 1 Injury</b>	<b>Column 2 Maximum degree of permanent impairment</b>	<b>Column 3 Maximum lump sum compensation \$</b>	<b>Column 4 Maximum WRI %</b>
Moderate to severe aggravation of pre-existing spondylolisthesis, treated surgically by discectomy or fusion with resolution of symptoms. . . . .	10	20 000	10
Major compression fracture of vertebral body(s) in lumbar region, healed with subjective symptoms, but no physical signs .	10	20 000	10
Prolapsed intervertebral disc in lumbosacral spine with referred pain, treated surgically by discectomy or fusion with resolution of referred pain, but persisting low back pain. Mild loss of range of movements . . . . .	15	30 000	15
Prolapsed intervertebral disc in lumbosacral spine with referred pain, treated surgically by discectomy or fusion, but with persisting referred pain and low back pain. Moderate loss of range of movements. . . . .	25	50 000	25
<b>Pelvis</b>			
Healed fracture of pelvis with displacement in any region (other than acetabulum, coccyx and sacrum) with subjective symptoms, but no significant signs	5	10 000	5
Fracture or dislocation of symphysis or sacro-iliac joint . . .	10	20 000	10



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Column 1 Injury	Column 2 Maximum degree of permanent impairment	Column 3 Maximum lump sum compensation \$	Column 4 Maximum WRI %
<b>Nervous system</b>			
<b>Brain and cranial nerves</b>			
Severe vertigo with subjective symptoms and signs and totally dependent. . . . .	70	140 000	70
*Loss of smell . . . . .	3	24 440	12.22
*Loss of smell and taste. . . . .	6	40 720	20.36
*Loss of speech . . . . .	35	114 040	57.02
Fracture of the mid third of the face with permanent nerve involvement . . . . .	24	48 000	24
<b>Spinal cord injuries</b>			
*Cervical cord injury with or without fracture . . . . .	75	180 000	90
Thoracic cord injury with or without fracture . . . . .	60	120 000	60
*Complete paraplegia . . . . .	75	180 000	90
<b>Cardiovascular system</b>			
<b>Coronary artery disease</b>			
A history of myocardial infarction, with no post infarction angina, on optimal medical treatment. . . . .	15	30 000	15
<b>Alimentary system</b>			
Splenectomy . . . . .	5	10 000	5
Subjective symptoms (e.g.local pain or dysaesthesia) following hernia repair(s), but no significant signs. . . . .	0	0	0

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<b>Column 1 Injury</b>	<b>Column 2 Maximum degree of permanent impairment</b>	<b>Column 3 Maximum lump sum compensation \$</b>	<b>Column 4 Maximum WRI %</b>
Subjective symptoms and signs (e.g. pain or dysaesthesia, tenderness) following hernia repair(s) . . . . .	2	4 000	2
Primary or recurrent hernia when surgery is an absolute contraindication . . . . .	10	20 000	10
Viral hepatitis—			
• mild . . . . .	25	50 000	25
• moderate . . . . .	50	100 000	50
• severe . . . . .	100	200 000	100
<b>Urinary and reproductive systems</b>			
Loss of both kidneys or only functioning kidney . . . . .	100	200 000	100
Loss of fertility . . . . .	15	30 000	15
Impotence . . . . .	15	30 000	15
Loss of sexual function (both impotence and infertility) . . . . .	30	60 000	30
Loss of genital organs . . . . .	50	100 000	50
<b>Skin</b>			
Chronic contact dermatitis. Signs and subjective symptoms persist intermittently on removal from exposure to the primary irritant. Intermittent treatment required . .	10	20 000	10
Chronic contact dermatitis. Signs and subjective symptoms persist almost continuously on removal from exposure to the primary irritant. Intermittent to constant treatment required . . . . .	20	40 000	20

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Column 1 Injury	Column 2 Maximum degree of permanent impairment	Column 3 Maximum lump sum compensation \$	Column 4 Maximum WRI %
Solar induced skin disease that is malignant . . . . .	25	50 000	25
Persistent neurodermatitis secondary to occupational contact irritant dermatitis. Signs and subjective symptoms persist continuously on removal from exposure to the primary irritant and are exacerbated by exposure to secondary irritants. Constant treatment required . . . . .	30	60 000	30

## **'Part 5 Prescribed disfigurement**

### **'Division 1 Preliminary**

#### **'1 Application of pt 5**

- '(1) This part deals with prescribed disfigurement.
- '(2) The maximum lump sum compensation payable for prescribed disfigurement is \$100000.
- '(3) To decide a worker's entitlement from injury, division 2 shows—
  - (a) the maximum degree of permanent impairment that may result from the injury; and
  - (b) the maximum lump sum compensation payable for the injury; and
  - (c) the maximum WRI.

#### **'2 How to use this part of the table**

- '(1) Division 2 lists prescribed disfigurements.

(2) Prescribed disfigurements resulting from injury are stated in column 1, the maximum percentage of permanent impairment resulting from the disfigurement is stated in column 2,<sup>10</sup> the maximum lump sum compensation for the disfigurement is stated in column 3, and the maximum WRI is stated in column 4.

**‘Division 2 Prescribed disfigurement**

<b>Column 1 Injury</b>	<b>Column 2 Maximum degree of permanent impairment</b>	<b>Column 3 Maximum lump sum compensation \$</b>	<b>Column 4 Maximum WRI %</b>
<b>Prescribed disfigurement</b>			
Mild almost invisible linear scarring following surgery or trauma in lines of election to any part(s) of the body with minimal discolouration, normal texture and elevation . . . . .	0	0	0
Moderate linear scarring following surgery or trauma crossing lines of election to any part(s) of the body with minimal discolouration, normal texture and elevation . . . . .	2	2 000	1
Moderate to severe linear scarring following surgery or trauma in or crossing lines of election to any part(s) of the body. Discoloured, indurated, atrophic or hypertrophic . . . . .	10	10 000	5

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10 The actual percentage of permanent impairment resulting from the prescribed disfigurement must be assessed having regard to the severity of the prescribed disfigurement—see section 128(3) (Entitlements of worker who sustains prescribed disfigurement) of the Act.

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<b>Column 1 Injury</b>	<b>Column 2 Maximum degree of permanent impairment</b>	<b>Column 3 Maximum lump sum compensation \$</b>	<b>Column 4 Maximum WRI %</b>
Area scarring to any part(s) of the body following surgery or trauma. Atrophic or hypertrophic, markedly discoloured. . . . .	20	20 000	10
Depressed cheek, nasal or frontal bones following trauma . . . . .	35	35 000	17.5
Loss, or severe deformity, of outer ear . . . . .	40	40 000	20
Severe, bilateral gross facial deformity following burns or other trauma. . . . .	50	50 000	25
Loss of entire nose. . . . .	50	50 000	25
Gross scarring following burns to multiple body areas. Some areas healing spontaneously and some requiring grafting. Gross scarring at the burn and donor sites. Outcome resulting in fragile, dry, cracking skin at graft sites necessitating the need for wearing of special garments. Severe cases resulting in loss of sweat glands and lack of sweating leading to the necessity to be in a continuous air conditioned environment . . . . .	100	100 000	50

## **'Part 6                      Psychiatric or psychological injuries**

### **'1                      Application of pt 6**

'(1) This part deals with psychiatric or psychological injuries.

- '(2) The maximum lump sum compensation payable for a psychiatric or psychological injury is \$200000.
- '(3) However, most injuries will entitle an injured worker to a lesser amount.

## '2 Interaction between this part and the AMA guide

- '(1) Permanent impairment resulting from a psychiatric or psychological injury must be assessed under the AMA guide.
- '(2) Permanent impairment resulting from an injury must be expressed as a degree of permanent impairment of the whole person.
- '(3) The degree of permanent impairment so expressed is taken to be the maximum degree of permanent impairment for this part.
- '(4) For section 92 of the regulation, the relevant provision of the AMA guide is chapter 14.

## '3 Formula to be used for deciding lump sum compensation for permanent impairment

- '(1) The following formula must be used to work out the amount of lump sum compensation payable for psychiatric or psychological injuries—

$$\frac{\text{DPI} \times \text{MLSC}}{100}$$

- '(2) In this section—

*DPI* means the degree of permanent impairment assessed by a registered person as resulting from the injury.

*MLSC* means the maximum lump sum compensation specified in section 1(2).

## **'Schedule 2A Graduated scale for additional compensation for workers with terminal latent onset injuries**

section 95A

### **'1 Graduated scale**

- '(1) This schedule contains the graduated scale for additional compensation for a worker who has a terminal condition that is a latent onset injury.
- '(2) The maximum amount of lump sum compensation payable under this schedule is \$200000.

### **'2 How to use this graduated scale**

- '(1) The age of the worker when the worker lodges the worker's application for compensation is shown in column 1.
- '(2) The worker's additional lump sum compensation entitlement is shown for the corresponding entry in column 2.

### **Graduated scale**

<b>Column 1—Worker's age</b>	<b>Column 2—Additional lump sum compensation \$</b>
70 years or under . . . . .	200 000
71 years . . . . .	180 000
72 years . . . . .	160 000
73 years . . . . .	140 000
74 years . . . . .	120 000
75 years . . . . .	100 000
76 years . . . . .	80 000
77 years . . . . .	60 000

<b>Column 1—Worker's age</b>	<b>Column 2—Additional lump sum compensation \$</b>
78 years .....	40 000
79 years .....	20 000
80 years or over .....	Nil

## **‘Schedule 3      Graduated scale of additional compensation for certain workers**

section 96

### **‘1      Graduated scale**

- ‘(1) This schedule contains the graduated scale for additional compensation for a worker who sustains an injury that results in a WRI of 50% or more.
- ‘(2) The maximum amount of lump sum compensation payable under this schedule is \$182620.

### **‘2      How to use the graduated scale**

- ‘(1) The WRI calculated under section 183<sup>11</sup> of the Act is shown in column 1.
- ‘(2) A worker who sustains a WRI shown in column 1 is entitled to additional lump sum compensation in the amount shown for the corresponding entry in column 2.

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11 Section 183 (Calculation of WRI) of the Act



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### Graduated scale

Column 1—WRI %	Column 2—Additional lump sum compensation \$
50.....	7 060
51.....	14 075
52.....	21 100
53.....	28 115
54.....	35 150
55.....	42 165
56.....	49 190
57.....	56 220
58.....	63 230
59.....	70 255
60.....	77 270
61.....	84 305
62.....	91 320
63.....	98 360
64.....	105 375
65.....	112 410
66.....	119 425
67.....	126 450
68.....	133 465
69.....	140 490
70.....	147 520
71.....	154 530
72.....	161 570
73.....	168 580
74.....	175 610
75–100.....	182 620

## **'Schedule 4      Graduated scale for additional compensation for gratuitous care**

section 97

### **'1      Graduated scale**

- '(1) This schedule contains the graduated scale for additional compensation for gratuitous care.
- '(2) The maximum amount of lump sum compensation payable under this schedule is \$226555.

### **'2      How to use this graduated scale**

- '(1) The WRI calculated under section 183<sup>12</sup> of the Act is shown in column 1.
- '(2) The range of dependency assessed under the modified barthel index is shown in column 2.
- '(3) In column 2—
  - moderate is a modified barthel index total score of 50–74
  - severe is a modified barthel index total score of 25–49
  - total is a modified barthel index total score of 0–24.
- '(4) The worker's additional lump sum compensation entitlement is shown for the corresponding entry in column 3.

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12 Section 183 (Calculation of WRI) of the Act

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### Graduated scale

<b>Column 1 WRI %</b>	<b>Column 2 Range of dependency (modified barthel index)</b>	<b>Column 3 Additional lump sum compensation \$</b>
15–39	Moderate Severe Total	1 835 3 665 5 490
40–49	Moderate Severe Total	3 415 6 950 10 360
50–59	Moderate Severe Total	15 120 30 225 45 330
60–69	Moderate Severe Total	37 785 67 985 90 640
70–79	Moderate Severe Total	52 875 98 195 135 945
80–89	Moderate Severe Total	60 425 122 130 181 250
90–94	Moderate Severe Total	67 985 135 945 211 450
95–100	Moderate Severe Total	75 525 151 070 226 555

### 16 Insertion of new sch 5A

After schedule 5—

*insert—*

## **'Schedule 5A High risk industries**

section 3, definition *high risk industry*

### **'1 Categorisation of industries**

- '(1) Industries are categorised in this schedule using a system known as the Australian and New Zealand Industrial Classification (ANZSIC).
- '(2) An industry stated in column 2 has the ANZSIC class stated in column 1.

**Column  
1—ANZSIC  
class**

**Column 2—Industry**

#### **Agriculture, forestry and fishing**

- 01 Agriculture  
02 Services to agriculture; hunting and trapping  
03 Forestry and logging  
04 Commercial fishing

#### **Mining**

- 11 Coal mining  
12 Oil and gas extraction  
13 Metal ore mining  
14 Other mining  
15 Services to mining

#### **Manufacturing**

- 21 Food, beverage and tobacco manufacturing  
22 Textile, clothing, footwear and leather manufacturing  
23 Wood and paper product manufacturing  
24 Printing, publishing and recorded media  
25 Petroleum, coal, chemical and associated prodppuct manufacturing  
26 Non-metallic mineral product manufacturing

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<b>Column 1—ANZSIC class</b>	<b>Column 2—Industry</b>
27	Metal product manufacturing
28	Machinery and equipment manufacturing
29	Other manufacturing
	<b>Construction</b>
41	General construction
42	Construction trade services
	<b>Transport and storage</b>
61	Road transport
62	Rail transport
63	Water transport
64	Air and space transport
65	Other transport
66	Services to transport
67	Storage
	<b>Health and community services</b>
86	Health services
87	Community services
	<b>Personal and other services—public order and safety services</b>
9631	Police services
9632	Corrective centres
9633	Fire brigade services
9634	Waste disposal services'.

## Part 3

# **Amendment of Workplace Health And Safety Regulation 1997**

### **17 Regulation amended in pt 3 and schedule**

This part and the schedule amend the *Workplace Health and Safety Regulation 1997*.

### **18 Amendment of s 3A (References to standards)**

Section 3A, '1 April 2003'—

*omit, insert—*

'1 January 2006'.

### **19 Amendment of s17 (Authority to perform work in prescribed occupation)**

(1) Section 17(1)—

*omit.*

(2) Section 17(2) and (3), penalty, '20'—

*omit, insert—*

'40'.

(3) Section 17(4)(c)—

*omit.*

(4) Section 17(4)(d)—

*renumber* as section 17(4)(c).

(5) Section 17(2) to (4)—

*renumber* as section 17(1) to (3).

### **20 Amendment of s 19 (Application for certificate to work in prescribed occupation)**

(1) Section 19(2) to (4)—

*omit, insert—*

‘(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 appropriate competency standard, as competent to perform work in the prescribed occupation.’.

(2) Section 19(5), footnote—

*omit.*

(3) Section 19(6), definition *competency standard*, paragraph (a), ‘department’—

*omit, insert—*

‘chief executive’.

(4) Section 19(5) and (6)—

*renumber* as section 19(3) and (4).

**21 Omission of s 23 (Principal contractor’s duty for training in prescribed occupation)**

Section 23—

*omit.*

**22 Omission of pt 3, div 3**

Part 3, division 3—

*omit.*

**23 Replacement of s 29B (Certificate to perform prescribed activity)**

Section 29B—

*omit, insert—*

**‘29B 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) otherwise—the relevant person holds a certificate to perform the activity issued by the chief executive.

Maximum penalty—40 penalty units.’.

**24 Amendment of s 29C (Application for certificate to perform prescribed activity)**

- (1) Section 29C(2) and (3)—

*omit, insert—*

- ‘(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.’.

- (2) Section 29C(4), footnote—

*omit.*

- (3) Section 29C(5), definition *approved criteria*, paragraphs (a) and (b), ‘department’—

*omit, insert—*

‘chief executive’.

- (4) Section 29C(5), definition *approved criteria*, paragraph (b), ‘for asbestos removal’—

*omit, insert—*

‘for asbestos removal work’.

- (5) Section 29C(4) and (5)—

*renumber* as section 29C(3) and (4).



**25 Amendment of s 29F (Supervision of performance of prescribed activity)**

- (1) Section 29F(2), definition *competent person*, paragraphs (a) and (b), 'department'—

*omit, insert—*

'chief executive'.

- (2) Section 29F(2), definition *competent person*, paragraph (b), 'for asbestos removal'—

*omit, insert—*

'for asbestos removal work'.

**26 Omission of pt 3A, div 4**

Part 3A, division 4—

*omit.*

**27 Replacement of pt 4, hdg and pt 4, div 1, hdg**

Part 4, heading and part 4, division 1, heading—

*omit, insert—*

**'Part 4 Workplace health and safety officers'.**

**28 Amendment of s 30 (Workplaces requiring a workplace health and safety officer—Act, s 93)**

Section 30, '(other than construction workplaces)'—

*omit, insert—*

'(other than workplaces where construction work is performed and a principal contractor has not been appointed for the work)'.

**29 Amendment of s 31 (Grant certificate of authority)**

- (1) Section 31, heading—

*omit, insert—*

**'31 Application for certificate of authority of appointment'.**

(2) Section 31(2)—

*omit, insert—*

'(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—an authorised accredited provider or 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 renewal of an application for a certificate—an authorised accredited provider or 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.

'(2A) 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.'

(3) Section 31(4), definition *approved workplace health and safety officer course*—

*omit, insert—*

**'approved workplace health and safety officer course** means a course approved by the chief executive under section 32(1)(a).

*approved workplace health and safety officer recertification course* means a course approved by the chief executive under section 32(1)(b).<sup>1</sup>.

**30 Replacement of pt 4, div 2, hdg**

Part 4, division 2, heading—

*omit, insert—*

**‘Part 4A Accredited providers and registered training organisations’.**

**31 Amendment of s 33 (Application for appointment as an accredited provider)**

After section 33(2)—

*insert—*

*‘Note—*

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

**32 Insertion of new ss 33A and 33B**

Part 4A, after section 33—

*insert—*

**‘33A Registered training organisation’s duty for assessing competency**

‘A registered training organisation must ensure that each person who trains or assesses the competency of an applicant for part 3, 3A or 4<sup>13</sup> complies with the requirements of—

- (a) the *Vocational Education, Training and Employment Act 2000* in relation to the training or assessment; and

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13 Part 3 (Prescribed occupations), 3A (Prescribed activities), or 4 (Workplace health and safety officers)

- (b) any agreement entered into by the registered training organisation for the training or the assessment in the courses accredited under the *Vocational Education, Training and Employment Act 2000* that are listed in schedule 2.

Maximum penalty—40 penalty units.

**'33B Record of assessment**

- '(1) This section applies if an authorised accredited provider or registered training organisation has assessed an applicant's competency for part 3, 3A or 4.
- '(2) The authorised accredited provider or registered training organisation must, after carrying out the assessment, promptly—
- (a) make a record of the assessment; and
- (b) give a copy of it to the applicant.

Maximum penalty—20 penalty units.'

**33 Replacement of pt 5, div 1 hdg**

Part 5, division 1, heading—  
*omit, insert—*

**'Division 1 Interpretation'.**

**34 Amendment of s 34 (Definition)**

- (1) Section 34, heading—  
*omit, insert—*

**'34 Definition for pt 5'.**

- (2) Section 34, 'division'—  
*omit, insert—*  
'part'.

**35 Insertion of new pt 5, div 1A hdg and sdiv 1 hdg**

After section 34—

*insert—*

**'Division 1A Applications for certificates**

**'Subdivision 1 Certificates generally'.**

**36 Amendment of s 35 (How to apply)**

Section 35(2) and (3)—

*omit.*

**37 Omission of ss 35A–35C**

Sections 35A to 35C—

*omit.*

**38 Insertion of new s 36A**

After section 36—

*insert—*

**'36A When chief executive must refuse application**

'(1) The chief executive must refuse an application for a certificate if—

- (a) the applicant had previously been granted the same type of certificate; and
- (b) the chief executive had cancelled the certificate within the last 2 years.

'(2) In this section—

*certificate* does not include—

- (a) a certificate of registration of registrable plant; and
- (b) a certificate of registration of registrable plant design.'

### **39 Insertion of new pt 5, div 1A, sdivs 2 and 3**

After section 39—

*insert—*

#### **'Subdivision 2 Provisions about certificates of registration of registrable plant design**

##### **'39A Application of sdiv 2**

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

##### **'39B Definitions for sdiv 2**

'In this subdivision—

***design verifier***, for a 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 a 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)

### **'39C 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 stating (a *design verification statement*)—
  - (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.

### **'39D 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.

**'39E 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—
- (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.

**'39F 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 39E(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 3 Provisions about certificates of registration of registrable plant that is mobile crane or tower crane**

#### **'39G Application of sdiv 3**

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

#### **'39H Definition for sdiv 3**

'In this subdivision—

*competent person*—

- (a) for an inspection on or after 1 February 2007 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.

**'391 Application for certificate of registration of mobile crane or tower crane**

'An application for a certificate of registration 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 6 months 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
- (c) state the name, address, contact details and qualifications of the competent person; and
- (d) state the date the competent person inspected the crane.'

**40 Amendment of s 43 (Div 1 applies to application for renewal)**

- (1) Section 43, heading and subsection (1), '1'—  
*omit, insert—*  
'1A'.

- (2) Section 43(2)—  
*omit.*
- (3) Section 43(3), 'Also'—  
*omit, insert—*  
'However'.
- (4) Section 43(3)—  
*renumber* as section 43(2).

#### **41 Insertion of new pt 5, div 4**

After section 46—

*insert—*

### **'Division 4                      Suspension and cancellation of certificates**

#### **'46A Grounds for suspension or cancellation**

- '(1) The chief executive may—
  - (a) suspend or cancel a certificate; or
  - (b) for a certificate to work in a prescribed occupation—recommend to a recognised official that the official suspend or cancel a certificate to work in a prescribed occupation granted or issued by the official;  
on any of the grounds mentioned in subsection (2).
- '(2) The grounds are as follows—
  - (a) the holder of the certificate has contravened the Act or this regulation;
  - (b) the certificate was—
    - (i) issued in error or because of a document or representation that is false, misleading or omits a material particular; or
    - (ii) obtained or made in another improper way;

- (c) the holder has not complied with a condition of the certificate;
- (d) the holder has not taken reasonable precautions or exercised proper diligence in performing the occupation, activity or function for which the certificate was granted;
- (e) for a certificate to work in a prescribed occupation or a certificate to perform a prescribed activity—the holder is medically unfit to perform work in the prescribed occupation or to perform the prescribed activity.

#### **46B Procedure for suspension or cancellation**

- ‘(1) Before taking the action mentioned in section 46A(1) (the *proposed action*), the chief executive must give the holder of the certificate 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 suspension of the certificate or a recommendation that a recognised official suspend the certificate—states the proposed suspension term; and
  - (e) invites the holder to show, within a stated time of at least 28 days, why the proposed action should not be taken.
- ‘(2) If, after considering all representations made within the stated time, the chief executive still considers grounds to take the proposed action exist, the chief executive may—
  - (a) if the certificate was granted by the chief executive and the show cause notice stated a proposal to suspend the certificate for a stated period—suspend the certificate for a period no longer than the stated period; or
  - (b) if the certificate was granted by the chief executive and the show cause notice stated a proposal to cancel the certificate—
    - (i) cancel the certificate; or

- (ii) suspend the certificate; or
  - (c) if the certificate was granted by a recognised official—recommend to the official that the official suspend or cancel the certificate 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 10 days after the chief executive makes the decision.
- '(5) If the chief executive decides to suspend or cancel the certificate, or to recommend that a recognised official suspend or cancel the certificate, the notice must state—
- (a) the reasons for the decision; and
  - (b) that the holder may appeal against the decision under part 11<sup>14</sup> 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.

**'46C Suspension or cancellation of certificate to work in prescribed occupation on recommendation of recognised official**

- '(1) This section applies to a certificate to work in a prescribed occupation granted by the chief executive to a person if—
- (a) a recognised official recommends in writing to the chief executive that the chief executive suspend or cancel the person's certificate; and
  - (b) the recommendation is made only after the official—
    - (i) has given the person a reasonable opportunity to show cause why the certificate should not be suspended or cancelled; and

- (ii) has considered all written or oral submissions made by or for the person to the official about why the proposed action should not be taken.
- ‘(2) The chief executive may suspend or cancel the person’s certificate without complying with sections 46A and 46B.<sup>15</sup>
- ‘(3) If the chief executive decides to cancel or suspend the person’s certificate, the chief executive must give the person written notice of the decision stating—
  - (a) the reasons for the decision; and
  - (b) that the person may appeal against the decision under part 11 of the Act.
- ‘(4) The suspension or cancellation of the certificate takes effect on the day stated in the notice, not earlier than 14 days from the day the notice is given.

#### **‘46D Certificate to be returned**

- ‘(1) A person whose certificate is suspended or cancelled must return the certificate 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 it to the holder at the end of the suspension term.’.

#### **42 Amendment of s 52 (Notifying of particular workplace incidents)**

- (1) Section 52(2)—  
*omit, insert—*
- ‘(2) The following persons must give the chief executive notice of the workplace incident—

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<sup>15</sup> Sections 46A (Grounds for suspension or cancellation) and 46B (Procedure for suspension or cancellation)

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- (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; 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.

Maximum penalty—20 penalty units.’.

- (2) Section 52(4)—  
*omit, insert—*

- ‘(4) If the workplace incident involves a relevant person, or a worker of a relevant person who is an employer, 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.’.

- (3) Section 52(6)—  
*omit, insert—*

- ‘(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.’.

**43 Amendment of s 53 (Recording particular workplace incidents)**

- (1) Section 53(1) to (3)—

*omit, insert—*

- ‘(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.

- ‘(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.’.

- (2) Section 53(5)—

*omit, insert—*

- ‘(5) If the workplace incident involves a relevant person, or a worker of a relevant person who is an employer, 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 for the construction work 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.’.

#### **44 Omission of pts 8–9**

Parts 8 to 9—

*omit.*

#### **45 Amendment of s 68 (What is *excessive noise*)**

- (1) Section 68(1), definition *excessive noise*, paragraph (b), after ‘C-weighted’—

*insert—*

‘peak’.

- (2) Section 68(2), ‘AS 1259.1.’ and footnote—

*omit, insert—*

‘AS IEC 61672.1.<sup>16</sup>’.

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16 AS 1259.1 (Acoustics–Sound Level Meters–Non-integrating) has been superseded by AS IEC 61672.1 (Electroacoustics–Sound level meters–Specifications)

**46 Replacement of s 69 (Preventing risk from exposure to excessive noise)**

Section 69—

*omit, insert—*

**'69 Preventing risk from exposure to excessive noise**

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

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

**47 Replacement of pt 11 (Asbestos)**

Part 11—

*omit, insert—*

**'Part 11 Asbestos**

**'Division 1 Interpretation**

**'69A Definitions for pt 11**

'In this part—

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

*asbestos removal code* means NOHSC's document entitled 'Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (2005)]'.<sup>17</sup>

*asbestos removalist* means a person who holds a certificate under section 29B<sup>18</sup> to perform asbestos removal work.

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<sup>17</sup> Copies of the codes are available on the department's website <[www.dir.qld.gov.au](http://www.dir.qld.gov.au)>

<sup>18</sup> Section 29B (Certificate to perform prescribed activity)

## **'Division 2                    Prohibitions relating to asbestos**

### **'69B    Prohibited substances and prohibited ACM**

- '(1) A relevant person must not use a prohibited substance or prohibited ACM mentioned in schedule 7<sup>19</sup> for a prohibited purpose mentioned in that schedule for the substance or material at the relevant person's workplace.
- '(2) A relevant person who is an employer must not allow a worker of the employer to use a prohibited substance or prohibited ACM mentioned in schedule 7 for a prohibited purpose mentioned in that schedule for the substance or material at the relevant person's workplace.
- '(3) Subsections (1) and (2) are workplace health and safety obligations for the Act.

### **'69C    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 employer 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.

### **'69D    Removing ACM**

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

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19 Schedule 7 (Prohibited substances, prohibited ACM and prohibited purposes)

## **'69E 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 employer 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**

### **'Subdivision 1       Particular buildings**

#### **'70       Application of sdiv 1**

'This subdivision applies to a building to which part 11, division 1,<sup>20</sup> as in force from time to time before 1 January 2006 (the *repealed division*), applied if—

- (a) the owner of the building had at any time an obligation to comply with the repealed division; and
- (b) the owner had not complied with the repealed division.

#### **'71       Compliance with asbestos management code**

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

### **'Subdivision 2       Particular structures**

#### **'72       Application of sdiv 2**

- '(1) This subdivision applies to a structure or a part of a structure that is a workplace only if all or part of the structure was built under an approval given by a local government before 1 January 1990.

*Examples for subsection (1)—*

- a structure built in 1989

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20 Part 11 (Asbestos), division 1 (On-site management of asbestos materials)

- a structure started in 1989 but completed in 1990
  - a structure built in 1990 under an approval given in 1989
- ‘(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

### ‘73 Compliance with asbestos management code

- ‘(1) The owner of the structure or part must comply with the asbestos management code on or before 1 January 2008.
- ‘(2) However, if a relevant event is proposed for the structure or part before 1 January 2008, the owner must comply with the asbestos management code before the relevant event happens.
- ‘(3) If the relevant event is altering the structure or part or offering the structure or part for sale or lease, subsection (2) applies only to the first time the structure or part is offered for sale or lease.
- ‘(4) Subsections (1) and (2) are workplace health and safety obligations for the Act.
- ‘(5) In this section—

***dismantle*** means systematically dismantle or remove a part of a structure for alteration, maintenance, remodelling, renovation or repair.

***relevant event***, for a structure or part of a structure, means the structure or part is to be—

- (a) offered for sale or lease; or
- (b) altered; or
- (c) dismantled; or
- (d) demolished.

## **'Division 4                   Asbestos removal work**

### **'74       Performing asbestos removal work**

- '(1) An asbestos removalist must not perform asbestos removal work other than in accordance with the asbestos removal code.
- '(2) The owner of a structure or place where asbestos removal work is to be performed, or 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<sup>21</sup> as if the owner or person were a client within the meaning of the asbestos removal code.
- '(3) Subsections (1) and (2) are workplace health and safety obligations for the Act.'

### **48       Omission of s 114 (Prohibited substances and asbestos products)**

Section 114—  
*omit.*

### **49       Replacement of s 135 (Removal from a lead-risk job)**

Section 135—  
*omit, insert—*

### **'135    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—

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<sup>21</sup> Asbestos removal code, part 7.2 (Responsibilities of clients)

- (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.

**‘135A 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
  - (c) the relevant person—
    - (i) has a medical condition that may be adversely affected by exposure to lead; or
    - (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.’.

## **50 Replacement of pts 17–20**

Parts 17 to 20—

*omit, insert—*

## **‘Part 17 Construction work**

### **‘Division 1 Interpretation**

#### **‘155 Definitions for pt 17**

‘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

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- 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.

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

- a structure mentioned in schedule 3<sup>22</sup> of the Act, definition *structure*, paragraph (b), (c) or (d);
- a bridge;
- a pumping station;
- a refinery;
- 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 160.

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

- a building or other structure; or
- an opening in a surface of a building or other structure; or
- a fall arresting platform; or
- 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.

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*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)—*

timber, plywood, metal, mesh

**gantry** means a structure that has—

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

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

**high risk construction activity** see section 156.

**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 300m<sup>2</sup>;  
or
- (b) a building that is not designed for habitation but is ancillary to a building to which paragraph (a) applies.

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*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

- (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 157; or
- (b) for a high risk construction activity that is a prescribed activity—see section 158.

## **‘156 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;<sup>23</sup> 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 where 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

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23 Schedule 9 (Dictionary) defines *confined space*.



- (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*, section 15.

***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 100.<sup>24</sup>

***powder-actuated hand-held fastening tool*** has the same meaning as in AS/NZ 1873.<sup>25</sup>

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

#### ‘157 **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

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<sup>24</sup> Section 100 (Meaning of *hazardous substance* for division)

<sup>25</sup> AS/NZ 1873 (Powder-actuated (PA) hand-held fastening tools)

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- (b) if the relevant person has an ABN, the ABN; and
- (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

*Example of a control measure to be used—*

The relevant person will, when working on or near a road, comply with the Manual of Uniform Traffic Control Devices issued under the *Transport Operations (Road Use Management) Act 1995*.

- (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 a prescribed occupation—the prescribed occupation.

'(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 156(1)(a)(i)—the trench collapsing; or
- (b) if the activity is a high risk construction activity because of section 156(1)(a)(ii)—an explosion; or
- (c) if the activity is a high risk construction activity because of section 156(1)(a)(iii)—working in the confined space; or
- (d) if the activity is a high risk construction activity because of section 156(1)(a)(iv)—being exposed to the substance; or
- (e) if the activity is a high risk construction activity because of section 156(1)(b) or (c)—falling; or

- (f) if the activity is a high risk construction activity because of section 156(1)(f)—hazards the principal contractor identifies.
- ‘(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.

**‘158 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 29B<sup>26</sup> for the activity and stating—
  - (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 under section 29B for performing the activity; 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 3A<sup>27</sup> of workers employed, or otherwise allowed, to perform the activity; and

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<sup>26</sup> Section 29B (Certificate to perform prescribed activity)

<sup>27</sup> Part 3A (Prescribed activities)

- (h) the arrangements for supervision under part 3A of the performance of the activity by a competent person within the meaning of section 29F(2).<sup>28</sup>
- ‘(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.

## **‘Division 2           Principal contractors**

### **‘Subdivision 1       Preliminary**

#### **‘159   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**

#### **‘160   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—

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28 Section 29F (Supervision of performance of prescribed activity)

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- (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<sup>29</sup> for the workplace where the construction work is to be performed; and
- (e) whether there is a workplace health and safety officer appointed<sup>30</sup> for the workplace where the construction work is to be performed; and
- (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

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29 See part 7 (Workplace consultative arrangements), division 4 (Workplace health and safety committees) of the Act.

30 See part 8 (Workplace health and safety officers) of the Act.

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*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.
- (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.

**'161 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.

**'162 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.

**'163 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.

**'164 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 160(2)(i) to (p).

Maximum penalty—30 penalty units.

‘(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**

#### **‘165      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.

#### **‘166      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.



**'167 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.

**'168 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**

**'169 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.

**'170 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;

- (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 in relation to prescribed occupations and prescribed activities**

### **‘171      Authority to perform work in prescribed occupation or prescribed activity**

‘A principal contractor must not allow a person to perform work in a prescribed occupation or work that is a prescribed activity unless the person has appropriate authority to perform the work or activity.

Maximum penalty—30 penalty units.

## **‘Subdivision 6      Principal contractor’s obligation to erect signs**

### **‘172      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. No unauthorised entry.’

- (b) that unauthorised entry to the workplace is not allowed;  
and

*Example for paragraph (b)—*

‘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

‘(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**

### **‘173      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 signage and lighting in accordance with AS/NZS 2293

#### **'174 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 person.
- '(2) For subsection (1), safe housekeeping practices include—
- (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**

### **'175      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**

### **'176      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**

### **‘177 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
  - (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—30 penalty units.

## 'Subdivision 11 Principal contractor's obligation for falling objects

### '178 Application of sdiv 11

'This subdivision applies to construction work if an object could fall on or otherwise hit persons during the work.

### '179 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<sup>31</sup> has a mean bursting pressure of at least 1000kPa.

**'180 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
- plant
- tools
- scaffolding components
- pre-cast 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

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31 AS 2001.2.4 (Methods of test for textiles—Physical tests—Determination of bursting pressure of textile fabrics—Hydraulic diaphragm method)

*Workers' Compensation and Rehabilitation and Other No. 308, 2005  
Legislation Amendment Regulation (No. 1) 2005*

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- 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 181(6)(a) and (b); or
- (b) if the control measure is a gantry—it must comply with the requirements for a gantry under section 186; or
- (c) 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 188; or
- (d) if the control measure is perimeter containment screening—it must—
  - (i) comply with section 184; 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
- (e) if the control measure is a catch platform—it must comply with section 185.

‘(4) Subsections (2) and (3) are workplace health and safety obligations for the Act.

**'181 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
  - (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 182(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 m<sup>2</sup> applied over 1m<sup>2</sup> at the top of the hoarding midway between any post and its nearest post without deforming permanently; and
    - (ii) 950N applied over 1500mm<sup>2</sup> at any point on the hoarding without fully penetrating the hoarding; and
  - (b) may have gaps to minimise wind resistance, if the gaps are no larger than are reasonably necessary; and
  - (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.

**'182 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 181(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 188 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 184 is installed—
    - (i) along the sides of each part of the structure from which an object could fall; and
    - (ii) not more than 1m below—
      - (A) if the structure has storeys—the storey of the structure from which an object could fall; or
      - (B) if the structure does not have storeys—the surface from which an object could fall.
- '(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.

**'183 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 188 at least to the extent necessary to prevent objects falling on or otherwise hitting persons; or
  - (b) perimeter containment screening complying with section 184 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.

#### **‘184 Perimeter containment screening as control measure**

- ‘(1) Each screen of perimeter containment screening used as a control measure, and its supporting framework, must comply with this section.

- '(2) If the perimeter containment screening is used to redirect a falling object onto a catch platform, each screen must be fitted vertically to the top of, or flush with, the outer edge of the catch platform to redirect a falling object, that may reasonably be expected to hit the perimeter containment screening, onto the catch platform.
- '(3) If the perimeter containment screening is not used to redirect a falling object onto a catch platform, each screen must be designed to prevent an object, that may reasonably be expected to hit the perimeter containment screening, from falling on persons from the level at which the work is to be done.
- '(4) Each screen must be made of mesh or of timber, plywood or metal sheeting.
- '(5) Each of the following gaps must be not over 25mm—
  - (a) the gap, measured horizontally, between—
    - (i) screens immediately beside each other; or
    - (ii) a screen and the framework supporting it;
  - (b) the gap, measured vertically, between—
    - (i) a screen and another screen immediately above it;  
or
    - (ii) a screen and the framework supporting it.
- '(6) The framework supporting a screen must be able to bear the load of the screen.

### **'185 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.

### **'186 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

### **'187 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 188 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 186.

*Example—*

If a pallet of scaffolding components is to be lifted over an adjoining area, the downwards force that the gantry’s overhead platform must be able to withstand is—

- (a) if the force applied by the pallet and components is less than or equal to 10kPa—10kPa; or
  - (b) if the force applied by the pallet and components is greater than 10kPa—the force applied by the pallet and components.
- ‘(5) Subsection (3) is a workplace health and safety obligation for the Act.

**‘188 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**

### **‘189 Amenities**

- ‘(1) Schedule 8A states particular duties of a principal contractor about amenities.
- ‘(2) A principal contractor must ensure that an amenity provided under schedule 8A 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—20 penalty units.

## **‘Division 3 Relevant persons**

### **‘Subdivision 1 Preliminary**

#### **‘190 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**

### **'191 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—
- (a) take into account—
    - (i) the current construction safety plan; and
    - (ii) if the activity is demolition work—the requirements of AS 2601;<sup>32</sup> and
    - (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.

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32 AS 2601 (Demolition of structures)

**'192 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 29B<sup>33</sup> 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
  - (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.

**'193 When relevant person who is 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 employer to perform a high risk construction activity unless—

- (a) the employer, or someone acting for the employer, 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 employer, or a person acting for the employer, that the worker understands and is able to comply with those aspects of the statement.

Maximum penalty—30 penalty units.

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33 Section 29B (Certificate to perform prescribed activity)

**'194 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 employer 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.

**'195 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.

**'196 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**

#### **'197 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.

#### **'198 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.

#### **'199 Relevant person who is 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 employer to start construction work unless the employer has sighted general induction evidence for the worker.

Maximum penalty—30 penalty units.

## **'Subdivision 4 Relevant person's obligation for safe housekeeping practices**

### **'200 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
  - (d) each of the person's workers at the workplace where the construction is being performed is instructed to follow the practices.<sup>34</sup>
- '(2) For subsection (1), safe housekeeping practices include the following, except 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;

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<sup>34</sup> For workers' obligations see the Act, section 36.

- (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**

### **‘201      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**

### **‘202      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 the employer’s 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.

## **'Subdivision 7      Relevant person's obligation for underground services**

### **'203      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 includes 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.

**'204 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 includes 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.

## **'Subdivision 8 Relevant person's obligation for excavation work that could reduce the stability of a structure**

### **'205 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.

### **'206 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**

### **'207      Meaning of *competent person* for sdiv 9**

- '(1) A person is a *competent person* for section 210(5) for work in relation to a trench 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.

### **'208      Risk from all excavations**

- '(1) This section applies if a relevant person intends to do—
- (a) excavation work; or

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(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 210 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.

## **‘209 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 208(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.
- ‘(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.

**‘210 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 208(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—
- (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.

#### **'211 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.

#### **'212 Events in trench more than 1.5m deep that is not shored, benched or battered**

- '(1) This section applies if—
  - (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.



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*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**

### **‘213 Definition for sdiv 10**

‘In this subdivision—

*ladder* does not include a fixed ladder.

### **‘214 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—

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- (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 where 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
  - 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 217B 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.

**'215 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 where a person could fall from—
- (a) a ladder or fixed ladder; or
  - (b) a platform supported by trestle ladders; or
  - (c) scaffolding which 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 217B 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.

## **'216 Edge protection as control measure**

- '(1) Edge protection used as a control measure must be erected in accordance with the instructions of—
  - (a) if the edge protection's manufacturer or supplier has given instructions about its installation—the manufacturer or supplier; or
  - (b) otherwise—an engineer or competent person.
- '(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—

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- (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
    - (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 the 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.

### **‘217 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.

### **‘217A 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.

### **‘217B 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.
- ‘(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 216<sup>35</sup> 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.

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- '(7) A relevant person must, in complying with section 214 or 215, ensure that any control measures required to prevent or minimise the risk of a person falling off the inner edge are used.

### **'217C Fall-arrest harness system as control measure**

- '(1) Each anchorage point of a fall-arrest harness system used as a control measure must be—
- (a) designed by an engineer for the purpose for which it is intended to be used; or
  - (b) inspected and approved by a competent person before the anchorage point is first used by any person.
- '(2) Each anchorage point of the system, other than an anchorage point supporting a static line, must have a capacity of at least—
- (a) if only 1 person is using the anchorage point and the person could have a limited free fall—12kN; or
  - (b) if only 1 person is using the anchorage point and the person could have a free fall—15kN; or
  - (c) if 2 persons are using the anchorage point—21kN.
- '(3) Each anchorage point of the system must be located so that a lanyard of the system can be attached to it before the person using the system moves into a position where the person could fall.
- '(4) The system's device to absorb the energy of a falling person must limit the force applied to the person by a fall to not more than 6kN.
- '(5) The system must be installed in accordance with the instructions of—
- (a) if the system's manufacturer or supplier has given instructions about its installation—the manufacturer or supplier; and
  - (b) to the extent the system's manufacturer or supplier has not given instructions—an engineer or competent person.



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- ‘(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—

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- (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
  - (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.

### **‘217D 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.

## **‘Subdivision 11 Relevant person's obligation for ladders**

### **‘217E 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.

## **'217F 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
- 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.

## **‘217G 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

*Workers' Compensation and Rehabilitation and Other No. 308, 2005  
Legislation Amendment Regulation (No. 1) 2005*

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- (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
- ‘(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
- ‘(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**

### **‘217H 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.
- ‘(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 216<sup>36</sup> 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.

### **‘2171 Platform supported by trestle ladders**

- ‘(1) This section applies if a relevant person is performing construction work on a platform supported by trestle ladders.

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36 Section 216 (Edge protection as control measure)

- '(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.
- '(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**

#### **'217J 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.

### **‘217K Erecting scaffolding**

- ‘(1) This section applies if a relevant person intends to perform construction work that is the erecting of scaffolding.
- ‘(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—
  - (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.

## **‘217L 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**

### **'217M 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.

### **'217N 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**

### **'217O 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 for subsection (3)—20 penalty units.

## ‘Division 4                      Workers

### ‘217P Application of div 4

‘This division applies only to a worker performing construction work.

### ‘217Q 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 pt 17

### ‘217R 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.
- ‘(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.

**‘217S 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 217D(5).<sup>37</sup>
- '(4) Subsections (1) and (2) are workplace health and safety obligations for the Act.

### **'217T Plant erected or installed after construction work starts**

- '(1) This section applies if—
  - (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.

### **'217U 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

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37 Section 217D (Industrial safety net as control measure)

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.
- '(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**

### **'217V 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<sup>38</sup> 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.

**'217W 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).'

**51 Omission of pt 21, divs 1 and 2**

Part 21, divisions 1 and 2—  
*omit.*

**52 Amendment of s 220 (Maintenance of amenities)**

- (1) Section 220(1)—  
*omit.*
- (2) Section 220(2), 'subsection (3)'—  
*omit, insert—*  
'subsection (2)'.  
*omit.*

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38 *Queensland Building Services Authority Act 1991*, section 68 (Payment of insurance premium)

- (3) Section 220(3), 'mentioned in subsection (1) or (2)'—  
*omit.*
- (4) Section 220(2) and (3)—  
*renumber* as section 220(1) and (2).

**53 Amendment of s 223 (Employers—all work)**

- (1) Section 223, heading—  
*omit, insert—*

**'223 Employers—work other than construction work'.**

Section 223, before subsection (1)—  
*insert—*

'(1A) This section does not apply to construction work.'

**54 Insertion of new pt 21D**

After section 225—  
*insert—*

**'Part 21D Workplace health and safety contributions**

**'226 Purpose of pt 21D**

'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<sup>39</sup> of the Act.

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<sup>39</sup> Part 14 (General), division 1B (Workplace health and safety contributions) of the Act

## '227 Amount of workplace health and safety contribution

- '(1) For section 182F(2)(a)<sup>40</sup> 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)<sup>41</sup> 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 industrial gazette notice under the Workers' Compensation Act, section 54.<sup>42</sup>

*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<sup>43</sup> by or in relation to the non-scheme employer for the same financial year.'

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40 Section 182F (Working out workplace health and safety contribution amounts) of the Act

41 Workers' Compensation Act, section 479 (Amounts payable by Authority on Minister's instruction)

42 Workers' Compensation Act, section 54 (Setting of premium)

43 Workers' Compensation Act, section 81 (Annual levy payable)

**55 Amendment of s 229 (Rural industry exemption)**

(1) Section 229(1) and (2)—

*omit, insert—*

‘(1) A relevant person in rural industry is exempted from complying with the following provisions—

- part 2 in relation to plant that is a mobile elevating work platform with an elevation of 6m or less
- part 3
- part 3A, except in relation to a prescribed activity that is asbestos removal work
- part 4
- part 13
- part 14
- part 15
- part 17, division 3, subdivision 9
- part 21B.’.

(2) Section 229(3)—

*renumber* as section 229(2).

**56 Insertion of new pt 23, div 5**

After section 239—

*insert—*

**'Division 5                      Transitional provisions for Workers'  
Compensation and Rehabilitation  
and Other Legislation Amendment  
Regulation (No. 1) 2005**

**'240      Certificates to work in prescribed  
occupation—self-erecting tower cranes**

- '(1) This section applies in relation to a prescribed occupation that is the operation of a self-erecting tower crane.
- '(2) A person is not required to obtain a certificate to work in the prescribed occupation until 1 January 2007 if, on the commencement of this section, the person holds a certificate to work in a prescribed occupation that is the operation of a tower crane.

**'241      Construction work—construction safety plans**

- '(1) This section applies to construction work started before the commencement of this section.
- '(2) A construction workplace plan for construction work prepared under this regulation, as in force immediately before the commencement, 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 this regulation, as in force immediately before the commencement, is taken to be a work method statement for a high risk construction activity, other than a prescribed activity.
- '(4) A work method statement for a prescribed activity that is demolition work prepared under this regulation, as in force immediately before the commencement, is taken to be a work method statement for a high risk construction activity that is a prescribed activity.

**'242 Construction work—general induction evidence before 1 January 2006**

- '(1) This section applies to—
- (a) a principal contractor; or
  - (b) an existing construction person.
- '(2) Sections 65J, 65S, 65T and 65U<sup>44</sup> do not apply in relation to a person to whom this section applies only because the person is required to sight, hold or show general induction evidence in relation to starting, or allowing an existing construction person to start, new construction work.
- '(3) In this section—
- existing construction person* means an employer, self-employed person or worker who, at any time between 2 November 2005 and 31 December 2005 (both inclusive), was or is performing new construction work.
- new construction work* means work that—
- (a) was not construction work before 2 November 2005; but
  - (b) became construction work on 2 November 2005.

**'243 Construction work—general induction evidence from 1 January 2006**

- '(1) Sections 169, 198, 199 and 217Q<sup>45</sup> do not apply in relation to an existing construction person until 1 January 2007.
- '(2) In this section—

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44 Sections 65J (Principal contractor must sight general induction evidence before work starts), 65S (Employer must ensure general induction evidence is held before work starts), 65T (Self-employed person must hold general induction evidence before work starts) and 65U (Worker must hold general induction evidence before work starts)

45 Sections 169 (Principal contractor to sight general induction evidence before construction work starts), 198 (Relevant person to hold general induction evidence before starting construction work), 199 (Relevant person who is employer to ensure worker holds general induction evidence before worker starts construction work) and 217Q (Worker to hold general induction evidence before starting construction work)



**existing construction person** means a relevant person or worker who, at any time between 2 November 2005 and 31 December 2005 (both inclusive), was performing new construction work.

**new construction work** means work that—

- (a) was not construction work before 2 November 2005; but
- (b) became construction work on 2 November 2005.’.

**57 Replacement of sch 1 (Fees)**

Schedule 1—

*omit, insert—*

**‘Schedule 1 Fees**

section 4

\$

**1 Notification of building and construction work**

- (1) This section sets the fee 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 registration, of registrable plant**

- (1) This section sets the fee for registration, or renewal 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 <sup>2</sup> . . . . .	58.10
(ii) more than 5m <sup>2</sup> but 10m <sup>2</sup> or less . . . . .	139.10
(iii) more than 10m <sup>2</sup> but 60m <sup>2</sup> or less . . . . .	218.50
(iv) more than 60m <sup>2</sup> but 500m <sup>2</sup> or less . . . . .	418.50
(v) more than 500m <sup>2</sup> but 2000m <sup>2</sup> or less . . . . .	740.40

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	\$
(vi) more than 2000m <sup>2</sup> . . . . .	1 250.50
(b) for an unfired pressure vessel with a capacity of—	
(i) more than 0.5m <sup>3</sup> but 5m <sup>3</sup> or less . . . . .	62.90
(ii) more than 5m <sup>3</sup> but 15m <sup>3</sup> or less . . . . .	107.50
(iii) more than 15m <sup>3</sup> but 30m <sup>3</sup> or less . . . . .	161.90
(iv) more than 30m <sup>3</sup> . . . . .	213.00
(c) for a crane, hoist (other than a vehicle hoist, building maintenance unit or elevating work platform) with a safe working load of—	
(i) not more than 10t. . . . .	117.30
(ii) more than 10t but 50t or less . . . . .	246.80
(iii) more than 50t. . . . .	308.70
(d) for a truck mounted concrete placing unit with boom (other than manually powered)	117.30
(e) for a building maintenance unit . . . . .	64.10
(f) for a service lift . . . . .	44.40
(g) for a lift other than a service lift . . . . .	77.10
	plus 17.80 for each floor
(h) for an escalator. . . . .	59.70
(i) for an airconditioning unit . . . . .	145.60
(j) for a specified amusement device classified as—	
(i) a class 2 amusement device (other than a coin operated amusement device) . . . . .	117.30
(ii) a class 3 amusement device . . . . .	179.40
(iii) a class 4 amusement device . . . . .	246.80
(iv) a class 5 amusement device . . . . .	246.80
(3) If a boiler is heated electrically, the fee payable must be worked out on the basis that 1kW equals 0.08m <sup>2</sup> of heating surface.	

		\$
<b>3</b>	<b>Application for a certificate of registration of registrable plant design</b>	
	The fee for an application for a certificate of registration of registrable plant design is . . . . .	76.90
<b>4</b>	<b>Certificates—prescribed occupations and workplace health and safety officers</b>	
	(1) This section sets the fee for, or in relation to, the following—	
	(a) a certificate to work in a prescribed occupation under part 3;	
	(b) a certificate of authority for appointment as a workplace health and safety officer under part 4.	
	(2) The fee is—	
	(a) for an assessment of qualifications or experience for a certificate. . . . .	24.30
	(b) for an application for a certificate . . . . .	48.30
	(c) for an application to replace a lost, stolen or destroyed certificate . . . . .	24.30
<b>5</b>	<b>Certificates—prescribed activities</b>	
	(1) This section sets the fees relating to a certificate to perform a prescribed activity under part 3A.	
	(2) The fee is—	
	(a) for an application for a certificate . . . . .	48.30
	(b) for an application to replace a lost, stolen or destroyed certificate . . . . .	24.30
<b>6</b>	<b>Certificate of appointment as an accredited provider</b>	
	(1) This section sets the fees relating to a certificate of appointment as an accredited provider.	
	(2) The fee is—	
	(a) for an assessment of an application for a certificate, for each year or part of a year	138.40
	(b) for an application for a certificate . . . . .	48.30

	\$
(c) for an application to replace a lost, stolen or destroyed certificate .....	24.30

**7 Report about occupational health and safety  
performance for the Workers' Compensation  
Act**

- (1) This section sets the fee for the preparation of a report about the occupational health and safety performance of an employer or group employer for an application or renewal for self-insurance under the Workers' Compensation Act.
- (2) The fee is—
- |                                |            |
|--------------------------------|------------|
| (a) for an employer .....      | 869.90     |
| (b) for a group employer ..... | 1 155.80'. |

**58 Insertion of new sch 2**

After schedule 1—

*insert—*

**'Schedule 2 Accredited courses**

section 33A

<b>Course code</b>	<b>Course name</b>
30108QLD	Course in functioning as a workplace health and safety officer
30215QLD	Course in general safety induction (construction industry)
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'.

**59 Amendment of sch 3 (Registrable plant)**

Schedule 3, item 2—

*omit, insert—*

‘2 specified amusement devices, other than coin operated amusement devices’.

**60 Amendment of sch 4 (Registrable plant design for employer, self-employed person or supplier)**

(1) Schedule 4, heading—

*omit, insert—*

**‘Schedule 4 Registrable plant design’.**

(2) Schedule 4, item 15—

*omit, insert—*

‘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<sup>46</sup> that, if it had been manufactured before 5 December 1997, would have been classified as a class 1 amusement device in AS 3533-1988.<sup>47</sup>.

**61 Amendment of sch 5 (Prescribed occupations)**

(1) Schedule 5, item 1(d)—

*omit, insert—*

‘(d) operator of a bridge or gantry crane (other than a bridge or gantry crane operated by a remote control) having not more than 3 powered operations;’.

(2) Schedule 5, item 1—

---

46 AS 3533-1997 (Amusement rides and devices)

47 AS 3533-1988 (Amusement rides and devices)

*insert—*

‘(1) operator of a self-erecting tower crane.’.

(3) Schedule 5, items 3 to 7—

*renumber* as items 2 to 6.

(4) Schedule 5, example, ‘items 1(d) and (3)(a)’—

*omit, insert—*

‘items 1(d) and (2)(a)’.

**62 Replacement of sch 7 (Prohibited substances and asbestos products and prohibited purposes)**

Schedule 7—

*omit, insert—*

**‘Schedule 7 Prohibited substances, prohibited ACM and prohibited purposes**

section 69B

**‘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—
  - (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 NOHSC's document entitled 'National Model Regulations for the Control of Workplace Hazardous Substances [NOHSC:1005]', schedule 2.'

### 63 Amendment of sch 9 (Dictionary)

- (1) Schedule 9, definitions *asbestos, asbestos materials, asbestos removal work, construction workplace, containment device, owner, platform, prescribed activity, registrable plant design and surface*—

*omit.*

- (2) Schedule 9, definitions *anchorage point, appropriately qualified person, asbestos fibre, asbestos product, asbestos removal area, asbestos removalist, asbestos removal site, Australian Quality Training Framework, caisson, catch platform, cofferdam, common plant, construction workplace plan, containment barrier, design verification statement, dismantle, edge protection, engineering principles, essential plant, excavation, excavation work, fall-arrest harness system, fall protection cover, free fall, gantry, geo-technical engineer, hazardous service, hazardous substance, high risk construction activity, hoarding, housing construction work, ladder, light work, limited free fall, mesh, object, overhead platform, perimeter containment screening, permitted work, prescribed information, reasonably available, site-specific induction, static line, technical standard, toe board, travel restraint system, trench, underground service and work method statement*—

*omit.*

- (3) Schedule 9—

*insert*—

**'ACM** means asbestos containing material.

***anchorage point***, for part 17, see section 155.

***asbestos management code***, for part 11, see section 69A.

***asbestos removal code***, for part 11, see section 69A.

***asbestos removalist***, for part 11, see section 69A.

***barricade***, for part 17, see section 155.

***caisson***, for part 17, see section 155.

***catch platform***, for part 17, see section 155.



***civil construction work***, for part 17, see section 155.

***cofferdam***, for part 17, see section 155.

***common plant***, for part 17, see section 155.

***construction safety plan***, for part 17, see section 155.

***control measure*** means a measure to prevent, or minimise the level of, exposure to a risk.

***C-weighted*** means a standardised frequency response (in dB(C)) used in sound measuring instruments and corresponding approximately to the human ear response.

***design verification statement*** see section 39C(a).

***edge protection***, for part 17, see section 155.

***engineering principles*** see section 39B.

***excavation***, for part 17, see section 155.

***excavation work***, for part 17, see section 155.

***fall-arrest harness system***, for part 17, see section 155.

***fall arresting platform***, for part 17, see section 155.

***fall protection cover***, for part 17, see section 155.

***gantry***, for part 17, see section 155.

***geo-technical engineer***, for part 17, see section 155.

***hazardous substance***—

(a) for part 13, other than division 4—see section 88; or

(b) for part 13, division 4—see section 100.

***high risk construction activity***, for part 17, see section 155.

***hoarding***, for part 17, see section 155.

***housing construction work***, for part 17, see section 155.

***ladder***, for part 17, division 3, subdivision 10, see section 213.

***light work***, for part 17, see section 155.

***mesh***, for part 17, division 2, subdivision 11, see section 179.

***object***, for part 17, see section 155.

***overhead platform***, for part 17, see section 155.

***perimeter containment screening***, for part 17, see section 155.

***permitted work***, for part 17, see section 155.

***prescribed information***, for part 17, see section 155.

***reasonably available***, to a person, for schedules 8A, 8B, 8C, 8E and 8F 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.

***relevant person*** see section 28(1) of the Act.

***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.

***site-specific induction***, for part 17, see section 155.

***static line***, for part 17, see section 155.

***technical standard*** see section 39B.

***travel restraint system***, for part 17, see section 155.

***trench***, for part 17, see section 155.

***underground service***, for part 17, see section 155.

***Workers' Compensation Act*** means the *Workers' Compensation and Rehabilitation Act 2003*.

***work method statement***, for part 17, see section 155'.

- (4) Schedule 9, definition *competent person*, paragraphs (c) and (d)—

*omit, insert*—

- '(c) for performing an inspection or other task for a control measure, means a person who has acquired, through





**Part 6****Amendment of State Penalties  
Enforcement Regulation 2000****68 Regulation amended in pt 6**

This part amends the *State Penalties Enforcement Regulation 2000*.

**69 Amendment of sch 5 (Other legislation)**

Schedule 5, entries for the *Workplace Health and Safety Act 1995* and the *Workplace Health and Safety Regulation 1997*—  
*omit, insert—*

## 'Workplace Health and Safety Act 1995

	Column 1	Column 2	
	Infringement notice offence	Infringement notice fine (penalty units)	Individual    Corporation
s 24(1) For a contravention of the <i>Workplace Health and Safety Regulation 1997</i> —			
• section 69B(1) . . . . .		8	16
• section 69B(2) . . . . .		8	16
• section 69C(1) . . . . .		8	16
• section 69C(2) . . . . .		8	16
• section 69D(1) . . . . .		8	16
• section 69D(2) . . . . .		8	16
• section 69E(1) . . . . .		8	16
• section 69E(2) . . . . .		8	16
• section 71(1) . . . . .		8	16
• section 73(1) . . . . .		8	16
• section 73(2) . . . . .		8	16
• section 74(1) . . . . .		8	16
• section 74(2) . . . . .		8	16
• section 174(1) . . . . .		4	8
• section 177(2) . . . . .		4	8
• section 181(3) . . . . .		8	16
• section 182(3) . . . . .		8	16
• section 187(3) . . . . .		8	16
• section 203(2) . . . . .		4	8
• section 203(3) . . . . .		8	16
• section 204(2) . . . . .		4	8
• section 204(3) . . . . .		8	16
• section 208(2) . . . . .		8	16
• section 208(3) . . . . .		8	16
• section 209(2) . . . . .		4	8

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• section 215(3) .....	8	16
• section 217C(7) .....	8	16
• section 217E(2) .....	4	8
• section 217F(4) .....	8	16
• section 217H(3) .....	8	16
• section 217I(5) .....	8	16
• section 217K(2) .....	8	16
• section 217L(2) .....	8	16
• section 217N(1) .....	8	16
s 93(1) .....	2	4
s 94(1) .....	2	4
s 117(4) .....	5	20

**Authorised person for service of infringement notices**—an inspector appointed under the *Workplace Health and Safety Act 1995*, section 99<sup>49</sup>

## ‘Workplace Health and Safety Regulation 1997

	Column 2	
	Infringement notice fine	
	(penalty units)	
Column 1	Individual	Corporation
Infringement notice offence		
s 10 .....	2	4
s 12 .....	2	4
s 16(1) .....	2	4
s 16(2) .....	2	4
s 16(3) .....	2	4
s 16(6) .....	1	2
s 16B(1) .....	2	4

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<sup>49</sup> *Workplace Health and Safety Act 1995*, section 99 (Appointment)

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s 16B(2) .....	2	4
s 16C(1) .....	2	4
s 16C(2) .....	2	4
s 16C(4) .....	2	4
s 17(1) .....	2	4
s 17(2) .....	2	4
s 21(b) .....	2	4
s 21(c) .....	2	4
s 24 .....	2	
s 25 .....	2	
s 33A .....	4	8
s 33B(2)(a) .....	2	4
s 39D(1) .....	2	4
s 39D(2) .....	2	4
s 39F(3) .....	2	4
s 46D(1) .....	2	
s 47(2) .....	3	5
s 52(2) .....	2	4
s 53(2) .....	2	4
s 53(3) .....	2	4
s 54A(2) .....	3	5
s 93(5) .....	3	5
s 97(3) .....	3	5
s 106 .....	3	5
s 108(3) .....	3	5
s 109(5) .....	3	5
s 111(1) .....	3	5
s 111(2) .....	3	5
s 112(2) .....	3	5
s 112(4) .....	3	5
s 113(3) .....	3	5
s 123(2) .....	3	5
s 127(1)(a) .....	3	5



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s 129(7)(b)(i) .....	2	4
s 130.....	3	5
s 132(1)(b).....	3	5
s 133(4)(d).....	3	5
s 139(2) .....	3	5
s 139(3) .....	3	5
s 139(6) .....	3	5
s 160(1) .....	4	8
s 167(3) .....	3	5
s 167(5) .....	3	5
s 169(1) .....	1	2
s 170(2) .....	1	2
s 170(5) .....	1	2
s 170(6) .....	1	2
s 171.....	2	4
s 176(1) .....	3	5
s 189(2) .....	3	5
s 191(1) .....	4	8
s 194(1) .....	3	5
s 194(2) .....	3	5
s 198.....	$\frac{2}{3}$	$1\frac{1}{3}$
s 199.....	1	2
s 202.....	3	5
s 217O(1).....	3	5
s 217O(3).....	3	5
s 217Q(1).....	$\frac{2}{3}$	
s 220(1) .....	3	5
s 222(2) .....	3	5
s 223(1) .....	3	5
s 223(3) .....	3	5
s 223(5) .....	3	5
s 224.....	3	5
sch 8A, s 2(1).....	3	5

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sch 8A, s 5(1).....	3	5
sch 8A, s 6(1).....	3	5
sch 8A, s 7(1).....	3	5
sch 8B, s 1(1).....	3	5
sch 8B, s 3(1).....	3	5
sch 8B, s 4.....	3	5
sch 8B, s 5(1).....	3	5
sch 8C, s 7(1).....	3	5
sch 8C, s 8.....	3	5
sch 8C, s 10(1).....	3	5
sch 8C, s 10(2).....	3	5
sch 8C, s 16(1).....	3	5
sch 8C, s 20.....	3	5
sch 8C, s 22(1).....	3	5
sch 8C, s 24.....	3	5
sch 8C, s 25(2).....	3	5
sch 8C, s 27(1).....	3	5
sch 8C, s 28(1).....	3	5
sch 8C, s 29(1).....	3	5
sch 8C, s 30.....	3	5
sch 8C, s 31(2).....	3	5
sch 8D, s 2(3).....	3	5
sch 8D, s 4(3).....	3	5
sch 8D, s 5(3).....	3	5

**Authorised person for service of infringement notices**—an inspector appointed under the *Workplace Health and Safety Act 1995*, section 99<sup>50</sup>.

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<sup>50</sup> *Workplace Health and Safety Act 1995*, section 99 (Appointment)

## **Schedule                      Minor amendments**

sections 3 and 17

### **Workers' Compensation and Rehabilitation Regulation 2003**

- 1            Section 102—**  
*omit.*
  
- 2            Section 108, after 'about rehabilitation'—**  
*insert—*  
'and return to work'.
  
- 3            Section 119(2), Examples—**  
*omit, insert—*  
*'Examples—*
  - income and profit lines
  - tax file numbers'.

### **Workplace Health and Safety Regulation 1997**

- 1            Section 3BB—**  
*omit.*
  
- 2            Sections 11, 16(2) and (3), 19(1), 29C(1), 31(1) and 33(1),  
'division 1'—**  
*omit, insert—*  
'division 1A'.

Schedule (continued)

- 3 Section 16(1), 'division 1' and footnote—**  
*omit, insert—*  
'division 1A'.
- 4 Sections 16(1), 94(1), 101(1), 102(1), 103(1), 104(1), 105(1), 109(1), 111(1), 115D(1), 115E(1), 121(1), 126(1), 127(1), 128(1), 129(1), 131(5), 136(2), 145(1) and 150(2), 'An employer or self-employed person'—**  
*omit, insert—*  
'A relevant person'.
- 5 Sections 16(2), 110, 112(3), 113(1), 129(9), 136(1), 137, 138(1) and 151(1), 'An employer'—**  
*omit, insert—*  
'A relevant person who is an employer'.
- 6 Section 16C(2), from 'An employer' to 'an employer'—**  
*omit, insert—*  
'A relevant person who installs or uses, or a relevant person who is an employer'.
- 7 Part 3A, division 1—**  
*omit.*
- 8 Part 3A, divisions 2 and 3—**  
*renumber* as divisions 1 and 2.
- 9 Section 29D(b), 'buildings or other'—**  
*omit.*

Schedule (continued)

- 10 Section 42, after 'authority of'—**  
*insert—*  
'appointment of'.
- 11 Section 44—**  
*omit.*
- 12 Section 78(1)(a), footnote, from 'performer'—**  
*omit, insert—*  
'performer.'
- 13 Sections 90(6), 91(6), 93(8), 97(5), 98(4), 101(4), 102(5), 103(5), 104(3), 107(6), 108(6), 109(7), 113(6), 115A(4), 119(5), 120(6), 123(5), 124(4), 126(4), 128(5), 129(11), 131(7), 132(3), 133(10), 134(4), 136(4), 138(4), 141(3), 142(3), 143(3), 144(3) and 145(3)—**  
*omit, insert—*  
*Note—*  
See section 24 of the Act for the penalty for failing to discharge the obligation.'
- 14 Sections 91(3)(a), 97(3)(a), 107(1), 120(3)(a), 123(2)(a), 131(1) and 133(2) and (3), 'an employer, self-employed person'—**  
*omit, insert—*  
'a relevant person'.
- 15 Sections 93(3) and (6)(b)(ii), 105(1), 109(1), 129(1), 133(1), (2)(a), (b), (c) and (d), 133(3)(a) and (b) and 134(2), 'employer, self-employed person'—**  
*omit, insert—*  
'relevant person'.

Schedule (continued)

- 16 Sections 93(3)(a), 94(2), 97(1), 102(1)(a), 103(2), 106, 107(1), (2), (3) and (4), 108(2) and (3), 109(1)(b) and (c) and (3), 112(1), (2) and (4), 115F(2), 115G(2) and (3), 115H(2), 121(2), 123(1), 127(1)(b), 128(2), 129(4), (5), (7) and (8), 130, 131(1), (2), (3) and (4), 132(1), 133(1), (2), (3) and (4), 134(1) and (2), 139(1) and (2), 150, heading and (3) and 153(1)(a), 'employer or self-employed person'—**

*omit, insert—*

'relevant person'.

- 17 Part 13, division 4, heading and part 14, division 4, heading—**

*omit, insert—*

**'Division 4 Relevant persons'.**

- 18 Sections 99, 100, definition *hazardous substance*, 112(4), 115F(1), 125, 139(6) and 153(1), 'an employer or self-employed person'—**

*omit, insert—*

'a relevant person'.

- 19 Sections 102(2), 108(4), 109(5), 111(2), 127(2), 133(8) and 139(3), 'The employer'—**

*omit, insert—*

'A relevant person who is an employer'.

- 20 Section 106(b), footnote, 'Standard'—**

*omit, insert—*

'Code of Practice'.

Schedule (continued)

- 21 Sections 109(4) and 133(6), first mention, 'the employer'—**  
*omit, insert—*  
'a relevant person who is an employer'.
- 22 Sections 113(3), 129(8)(a), 133(6), second mention and (7), 139(5) and 151(2), 'employer'—**  
*omit, insert—*  
'relevant person'.
- 23 Section 115B(1), before 'spray'—**  
*insert—*  
'a'.
- 24 Sections 115D(1) and 115F(1), 'at the employer's or self-employed person's workplace'—**  
*omit.*
- 25 Section 115E(1), 'to be done at the employer's or self-employed person's workplace'—**  
*omit.*
- 26 Sections 115G(1) and 115H(1), 'at an employer's or self-employed person's workplace'—**  
*omit, insert—*  
'by a relevant person'.
- 27 Section 127(1)—**  
*insert—*  
'Maximum penalty—30 penalty units.'

Schedule (continued)

- 28 Section 127(2), penalty, 'for subsections (1) and (2)'—**  
*omit.*
- 29 Section 129(8)(a), before 'is'—**  
*insert—*  
'if the relevant person is an employer—'.
- 30 Section 129(9), 'the employer'—**  
*omit, insert—*  
'the relevant person'.
- 31 Section 136(2), 'the employer or self-employed person'—**  
*omit, insert—*  
'the relevant person'.
- 32 Section 136(2), 'themselves under section 135'—**  
*omit, insert—*  
'himself or herself under section 135A'.
- 33 Section 152—**  
*omit.*
- 34 Section 153(1)(b), 'employer's or self-employed person's'—**  
*omit, insert—*  
'relevant person's'.



Schedule (continued)

- 35 Section 153(2), from 'a person' to 'undertaking'—**  
*omit, insert—*  
'a relevant person'.
- 36 Part 21, heading—**  
*omit, insert—*  
**'Part 21 Amenities—work that is not  
construction work'.**
- 37 Part 21, divisions 3, heading and 4, heading—**  
*omit.*
- 38 Part 21C, note—**  
*omit.*
- 39 Section 225—**  
*omit.*
- 40 Schedule 5A—**  
*omit.*
- 41 Schedule 8A, authorising provision—**  
*omit, insert—*  
'section 189'.
- 42 Schedules 8A, 8B and 8C, note before part 1—**  
*omit.*

Schedule (continued)

- 43 Schedule 8A, section 1, definition *construction person*—**  
*omit, insert—*  
*'construction person* means a relevant person or worker who is performing construction work.'
- 44 Schedule 8A, sections 2(1), 5(1), 6(1) and 7(1), 'a construction workplace'—**  
*omit, insert—*  
*'construction work'.*
- 45 Schedule 8A, sections 2(1), footnote and 7(1), footnote, schedule 8B, section 1(1), footnote and schedule 8C, sections 27(1), footnote and 28(1), footnote—**  
*omit.*
- 46 Schedule 8A, section 2(1), example—**  
*omit, insert—*  
*'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'.
- 47 Schedule 8A, section 2(3), 'construction workplace'—**  
*omit, insert—*  
*'workplace'.*
- 48 Schedule 8A, section 2(3), 'a building'—**  
*omit, insert—*  
*'a structure that is a building'.*

Schedule (continued)

- 49**    **Schedule 8A, sections 2(3) and 7(1), example, and schedule 8C, sections 13, 27(2) and 28(2), 'section 216(a)'—**  
*omit, insert—*  
 'schedule 9, definition *reasonably available*, paragraph (a)'.
- 50**    **Schedule 8B, section 1(2), 'under section 216(a)'—**  
*omit, insert—*  
 'for schedule 9, definition *reasonably available*, paragraph (a)'.
- 51**    **Schedule 8C, section 10(1), footnote, from 'See' to 'and'—**  
*omit, insert—*  
 'See schedule 9 (Dictionary), definition *reasonably available* and'.
- 52**    **Schedule 8D, section 1, 'part'—**  
*omit, insert—*  
 'schedule'.
- 53**    **Schedule 9—**  
*insert—*  
       '*registrable plant design* means the design of plant mentioned in schedule 4.'
- 54**    **Schedule 9, definition *exposed*—**  
*insert—*  
       '(c) for an electrical installation—see section 156(2).'
- 55**    **Schedule 9, definition *general induction evidence*, paragraph (c)—**  
*omit.*

Schedule (continued)

- 56**    **Schedule 9, definition *personnel hoist*, '2.4 m'—**  
*omit, insert—*  
*'2m'.*
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ENDNOTES

- 1    Made by the Governor in Council on 15 December 2005.
- 2    Notified in the gazette on 16 December 2005.
- 3    Laid before the Legislative Assembly on . . .
- 4    The administering agency is the Department of Industrial Relations.