



Queensland

Work Health and Safety and Another Regulation Amendment Regulation (No. 1) 2013

Subordinate Legislation 2013 No. 222

made under the

State Penalties Enforcement Act 1999
Work Health and Safety Act 2011

Contents

		Page
Part 1	Preliminary	
1	Short title	5
2	Commencement	5
Part 2	Amendment of Work Health and Safety Regulation 2011	
3	Regulation amended	5
4	Amendment of s 2 (Commencement)	5
5	Amendment of s 7 (Meaning of person conducting a business or undertaking—persons excluded)	6
6	Amendment of s 39 (Provision of information, training and instruction)	7
7	Amendment of s 58 (Audiometric testing)	7
8	Amendment of s 82 (Exceptions)	7
9	Amendment of s 85 (Evidence of licence—duty of person conducting business or undertaking)	9
10	Amendment of s 89 (Decision on application)	10
11	Insertion of new s 91A	10
	91A Conditions of licence	10
12	Amendment of s 101 (Application for renewal)	11

Contents

13	Amendment of s 104 (Provisions relating to renewal of licence) .	11
14	Amendment of s 106 (Suspension or cancellation of licence) . . .	12
15	Replacement of ss 107 and 108.	13
	107 Matters taken into account	13
	108 Notice to and submissions by licence holder	13
16	Amendment of s 109 (Notice of decision)	14
17	Amendment of s 123 (Accreditation document)	14
18	Amendment of s 132 (Provisions relating to application)	15
19	Insertion of new ch 5, pt 5.0	15
	Part 5.0 Preliminary	
	184A Definition for ch 5	15
22	Amendment of s 241 (Annual inspection of amusement device) .	17
23	Amendment of s 244 (Altered plant designs to be registered) . . .	18
24	Amendment of s 261 (Registration document)	19
25	Amendment of s 272A (Duration of registration on commencement)	19
26	Amendment of s 274 (Registration document)	19
27	Amendment of s 279A (Duration of renewal on commencement)	19
28	Insertion of new ch 5, pt 5.3, div 6	20
	Division 6 Cancellation of registration	
	288A Application of division.	20
	288B Regulator may cancel registration	20
	288C Cancellation process	21
	288D Registration holder to return registration document . .	22
29	Omission of ss 305A and 305B	22
30	Amendment of s 306C (Risk of fall of less than 3m in housing construction work or less than 2m in other construction work or construction work on roof with slope not over 26°).	22
31	Amendment of s 306D (Risk of fall of at least 3m in housing construction work or at least 2m in other construction work or construction work on roof with a slope over 26°)	23
32	Replacement of s 318 (Recognition of general construction induction training cards issued in other jurisdictions).	24
	Division 1A Recognition of general construction induction training cards issued in other jurisdictions	
	318 References to general construction induction training cards	24
33	Amendment of s 328 (Application of pt 7.1)	25

34	Amendment of s 344 (Person conducting business or undertaking to obtain and give access to safety data sheets) . . .	25
35	Omission of ch 7, pt 7.1, div 5, subdiv 5 (Spray painting)	26
36	Amendment of s 418 (Health monitoring records)	26
37	Amendment of s 492 (Application for asbestos removal licence or asbestos assessor licence)	26
38	Amendment of s 502 (Conditions of licence)	27
39	Amendment of s 516 (Application for renewal)	27
40	Amendment of s 517 (Provisions relating to renewal of licence) .	27
41	Amendment of s 521 (Matters taken into account)	28
42	Amendment of s 530 (This chapter does not apply to particular facilities)	29
43	Amendment of s 547 (Re-notification if quantity of schedule 15 chemicals increases)	29
44	Amendment of s 598 (Provisions relating to renewal of licence) .	29
45	Amendment of s 603 (Matters to be taken into account)	30
46	Amendment of s 676 (Which decisions are reviewable)	30
47	Amendment of s 709 (Application of provisions)	31
48	Amendment of s 724 (Applications for high risk work licence until 31 December 2013 if no VET course available)	31
49	Amendment of s 726 (Particular licence classes to include other licence classes)	31
50	Amendment of s 750 (Existing bonded asbestos removal certificate continues as transitional class B asbestos removal licence)	32
51	Amendment of s 755 (Training requirement for worker under section 460(1) satisfied by alternative to certification)	32
52	Amendment of s 756 (Application for class A asbestos removal licence when specified VET course unavailable for named supervisors)	32
53	Amendment of s 757 (Application for class B asbestos removal licence when specified VET course unavailable for named supervisors)	32
54	Amendment of s 758 (No need for asbestos register in particular transitional circumstances)	33
55	Amendment of s 759 (No need for asbestos management plan in particular transitional circumstances)	33
56	Amendment of s 761 (Transitional competent person for ss 473 and 474 clearance inspection and certificates)	33
57	Replacement of s 777 (Particular provision for audiometric testing)	33
	777 Particular provision for audiometric testing.	34

Contents

58	Amendment of s 779 (Registration of design of particular item of plant not needed until end of 31 December 2013)	34
59	Insertion of new ch 14	34
	Chapter 14 Amendment of State Penalties Enforcement Regulation 2000	
	787 Regulation amended	35
	788 Amendment of sch 5 (Other legislation)	35
60	Amendment of sch 3 (High risk work licences and classes of high risk work)	35
61	Amendment of sch 5 (Registration of plant and plant designs) . .	36
62	Amendment of sch 10 (Prohibited carcinogens, restricted carcinogens and restricted hazardous chemicals)	38
63	Amendment of sch 11 (Placard and manifest quantities)	38
64	Amendment of sch 19 (Dictionary)	39
Part 3	Amendment of State Penalties Enforcement Regulation 2000	
65	Regulation amended	42
66	Amendment of sch 5 (Other legislation)	42
Part 4	Minor and consequential amendments of Work Health and Safety Regulation 2011	
67	Regulation amended in sch 1	42
Schedule 1	Minor and consequential amendments	43
	Work Health and Safety Regulation 2011	43

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Work Health and Safety and Another Regulation Amendment Regulation (No. 1) 2013*.

2 Commencement

- (1) Sections 29, 35, 47 and 64(2) and (8) commence on 1 December 2013.
- (2) Section 63(3), to the extent it inserts schedule 11, table 1.1, item 43, commences on 1 March 2014.
- (3) Section 66(2) commences on 1 January 2014.

Part 2 Amendment of Work Health and Safety Regulation 2011

3 Regulation amended

This part amends the *Work Health and Safety Regulation 2011*.

Note—

See also the amendments in schedule 1.

4 Amendment of s 2 (Commencement)

- (1) Section 2(2A)(b) to (d) and (f)—
omit.
- (2) Section 2(2A)(e)—
renumber as section 2(2A)(b).
- (3) Section 2—

[s 5]

insert—

- (2B) The following provisions commence on 1 January 2015—
- (a) section 217;
 - (b) section 272;
 - (c) section 279(2)(d);
 - (d) part 8.5, division 1;
 - (e) chapter 14.

5 Amendment of s 7 (Meaning of *person conducting a business or undertaking—persons excluded*)

Section 7(3)—

omit, insert—

- (3) For section 5(6) of the Act, an incorporated association may be taken not to be a person conducting a business or undertaking if—
- (a) the incorporated association consists of a group of volunteers working together for 1 or more community purposes; and
 - (b) the incorporated association, either alone or jointly with another similar incorporated association, does not employ a person to carry out work for the incorporated association; and
 - (c) none of the volunteers, whether alone or jointly with any other volunteers, employs a person to carry out work for the incorporated association.
- (4) In this section—
- strata title body corporate*** means a body corporate under—

-
- (a) the *Body Corporate and Community Management Act 1997*, schedule 6; or
 - (b) the *Integrated Resort Development Act 1987*, schedule 3, section 1; or
 - (c) the *Mixed Use Development Act 1993*; or
 - (d) the *Registration of Plans (H.S.P. (Nominees) Pty. Limited) Enabling Act 1980*; or
 - (e) the *Registration of Plans (Stage 2) (H.S.P. (Nominees) Pty. Limited) Enabling Act 1984*; or
 - (f) the *Sanctuary Cove Resort Act 1985*, schedule 3, section 1.

6 Amendment of s 39 (Provision of information, training and instruction)

Section 39(3), ‘provided under this section’—
omit.

7 Amendment of s 58 (Audiometric testing)

Section 58(2), after penalty—
insert—

Note—

See, however, section 777.

8 Amendment of s 82 (Exceptions)

(1) Section 82(1)—
omit, insert—

- (1) A person who carries out high risk work is not required to be licensed if the work is carried out—

[s 8]

- (a) in the course of training towards a certification in order to be licensed to carry out the high risk work; and
 - (b) under the supervision of a person who is licensed to carry out the high risk work.
 - (1A) A person who holds a certification for a specified VET course for high risk work is not required to be licensed to carry out the work—
 - (a) during the period of 60 days starting on the issue of the certification; and
 - (b) if, within that 60-day period, the person applies for the relevant high risk work licence for the work, until—
 - (i) the grant of the licence; or
 - (ii) the expiry of a period of 28 days starting on the day the person is given written notice under section 91(2)(c) for the application.
 - (1B) A person who carries out high risk work is not required to be licensed to carry out the work if the work is carried out while an accredited assessor is conducting an assessment of the person's competency in relation to the work.
- (2) Section 82(3), from 'does not'—
omit, insert—
includes operating plant in order to load it on to, or unload it from, a vehicle or equipment used to move it.
- (3) Section 82—
insert—
(6) Subsection (7) applies if, immediately before the repeal of the repealed WHS regulation, a person held an earthmoving or particular crane work certificate to perform work as an operator of a

bridge and gantry crane (remote control only) under the repealed WHS regulation.

- (7) The person is not required to have a high risk work licence to carry out licence class dogging if—
 - (a) the person will operate a bridge crane or gantry crane that can perform 3 or fewer powered operations; and
 - (b) the load is being lifted by remote control; and
 - (c) the load being lifted is lifted within the view of the person.
- (8) A person is not required to be licensed to carry out high risk work for the licence class advanced boiler operator if—
 - (a) the person holds a high risk work licence for the licence class standard boiler operation; and
 - (b) the person held a licence class intermediate boiler operator under the repealed WHS regulation immediately before the regulation was repealed; and
 - (c) the person does not operate a boiler that has multiple fuel sources.

9 Amendment of s 85 (Evidence of licence—duty of person conducting business or undertaking)

(1) Section 85(2)—

omit, insert—

- (2) A person conducting a business or undertaking at a workplace must not direct or allow a worker to carry out high risk work under section 82(1) or (1A) unless the person sees written evidence provided by the worker that the worker—

[s 10]

- (a) for work carried out under section 82(1)—is undertaking the course of training mentioned in section 82(1)(a); or
- (b) for work carried out under section 82(1A)(a)—holds the certification mentioned in section 82(1A); or
- (c) for work carried out under section 82(1A)(b)—has applied for the licence mentioned in that paragraph.

Maximum penalty—36 penalty units.

- (2) Section 85(3), ‘82(1)(a)’—

omit, insert—

82(1)

- (3) Section 85(4), ‘the written evidence given’—

omit, insert—

a record of the written evidence provided

10 Amendment of s 89 (Decision on application)

Section 89(2)—

insert—

- (g) the applicant is able to comply with any conditions that will apply to the licence.

11 Insertion of new s 91A

After section 91—

insert—

91A Conditions of licence

- (1) The regulator may impose conditions on a high risk work licence when granting the licence.

-
- (2) Without limiting subsection (1), the regulator may impose conditions in relation to any of the following matters—
- (a) control measures that must be implemented in relation to the carrying out of work or activities under the licence;
 - (b) the circumstances in which work or activities authorised by the licence may be carried out.
- (3) The regulator must give the licence holder written notice of any conditions imposed on the licence.

Notes—

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

12 Amendment of s 101 (Application for renewal)

Section 101(2)(b) and (c)—

omit, insert—

- (b) if required by the regulator, a photograph of the applicant in the form required by the regulator;
- (c) any other evidence of the applicant's identity required by the regulator;

13 Amendment of s 104 (Provisions relating to renewal of licence)

Section 104(1)(b) and (c)—

omit, insert—

- (b) sections 89 (except subsection (5)), 91A and 92 apply as if a reference in those sections to

[s 14]

the grant of a licence were a reference to the renewal of a licence; and

- (c) section 90 applies as if a reference in section 89 to the grant of a licence were a reference to the renewal of a licence; and
- (d) section 91 applies as if a reference in that section to a refusal to grant a licence were a reference to a refusal to renew a licence.

14 Amendment of s 106 (Suspension or cancellation of licence)

(1) Section 106(1)—

insert—

- (aa) the licence holder has failed to comply with a condition of the licence; or
- (d) the licence holder has failed to obtain a reassessment of the holder's competency directed under section 95.

(2) Section 106(2)—

omit.

(3) Section 106(3)—

renumber as section 106(2).

(4) Section 106—

insert—

- (3) If the regulator suspends a licence, the regulator may vary the conditions of the licence, including by imposing different or additional conditions.
- (4) A variation of conditions under subsection (3) takes effect when the suspension of the licence ends.

Note—

A decision to vary a condition of a licence is a reviewable decision, see section 676.

15 Replacement of ss 107 and 108

Sections 107 and 108—

omit, insert—

107 Matters taken into account

- (1) In making a decision under section 106, the regulator must have regard to—
 - (a) any submissions made by the licence holder under section 108; and
 - (b) any advice received from a corresponding regulator.
- (2) For section 106(1)(a), (aa) and (b), the regulator must have regard to any relevant matter, including the following—
 - (a) any relevant WHS conviction of the licence holder;
 - (b) any suspension or cancellation of an equivalent licence held by the licence holder, or a refusal to issue an equivalent licence to the licence holder, under a relevant WHS law;
 - (c) any enforceable undertaking that has been entered into by the licence holder under a relevant WHS law;
 - (d) the licence holder's record in relation to any matters arising under a relevant WHS law.

108 Notice to and submissions by licence holder

- (1) Before suspending or cancelling a high risk work licence, the regulator must give the licence holder written notice of—

[s 16]

- (a) the proposed suspension or cancellation;
and
 - (b) any proposed disqualification; and
 - (c) any proposed variation of licence conditions.
- (2) A notice under subsection (1) must—
- (a) outline all relevant allegations, facts and circumstances known to the regulator; and
 - (b) advise the licence holder that the licence holder may, by a specified date that is not less than 28 days after the notice is given to the licence holder, make a submission to the regulator in relation to the proposed suspension or cancellation, any proposed disqualification, and any proposed variation of licence conditions.

16 Amendment of s 109 (Notice of decision)

Section 109(2)(b)—

insert—

- (v) if licence conditions are to be varied—
 - (A) the variation; and
 - (B) that the variation will take effect when the suspension ends; and

17 Amendment of s 123 (Accreditation document)

Section 123(2)(d)—

omit, insert—

- (d) the date on which the accreditation was granted; and
- (e) the expiry date of the accreditation.

18 Amendment of s 132 (Provisions relating to application)

Section 132(a) to (c)—

omit, insert—

- (a) section 117 applies as if a reference in that section to an application for accreditation were a reference to an application to renew an accreditation; and
- (b) sections 118 (except subsection (5)), 121 and 122 apply as if a reference in those sections to the grant of an accreditation were a reference to the renewal of an accreditation; and
- (c) section 119 applies as if a reference in section 118 to the grant of an accreditation were a reference to the renewal of an accreditation; and
- (d) section 120 applies as if a reference in that section to a refusal to grant an accreditation were a reference to a refusal to renew an accreditation.

19 Insertion of new ch 5, pt 5.0

Chapter 5, before part 5.1—

insert—

Part 5.0 Preliminary

184A Definition for ch 5

In this chapter—

maintain, for a plant or structure, includes repair and service.

[s 19]

20 Amendment of s 215 (Powered mobile plant—specific control measures)

Section 215(1), ‘conducting a business or undertaking’—
omit.

21 Amendment of s 235 (Major inspection of registered mobile cranes and tower cranes)

Section 235(2) to (5)—
omit, insert—

- (2) The person must ensure that a major inspection of the crane is carried out by, or under the supervision of, a competent person—
 - (a) at the end of the design life recommended by the manufacturer for the crane; or
 - (b) if there are no manufacturer’s recommendations—in accordance with the recommendations of a competent person; or
 - (c) if it is not reasonably practicable to comply with paragraph (a) or (b)—every 10 years from the date that the crane was first commissioned or first registered, whichever occurred first.

Maximum penalty—36 penalty units.

- (3) A major inspection carried out under an equivalent provision of a corresponding WHS law is taken to be a major inspection for the purposes of this section.

- (4) In this section—

competent person means a person who—

- (a) complies with both of the following—

- (i) has acquired through training, qualification or experience the

knowledge and skills to carry out a major inspection of the crane;

(ii) is registered under a law that provides for the registration of professional engineers; or

(b) is determined by the regulator to be a competent person.

major inspection means—

(a) an examination of all critical components of the crane, if necessary by stripping down the crane and removing paint, grease and corrosion to allow a thorough examination of each critical component; and

(b) a check of the effective and safe operation of the crane.

(5) The regulator may, on the application of a person, make a decision in relation to the person for the purposes of subsection (4), definition *competent person*, paragraph (b) if the regulator considers that exceptional circumstances exist.

22 **Amendment of s 241 (Annual inspection of amusement device)**

Section 241(5) and (6)—

omit, insert—

(5) In this section—

competent person means a person who—

(a) in the case of an inflatable device (continuously blown) with a platform height less than 9m—has acquired through training, qualification or experience the knowledge and skills to inspect the plant; or

(b) in the case of any other amusement device—

[s 23]

- (i) has the skills, qualifications, competence and experience to inspect the amusement device; and
 - (ii) is registered under a law that provides for the registration of professional engineers; or
- (c) is determined by the regulator to be a competent person.
- (6) The regulator may, on the application of a person, make a decision in relation to the person for the purposes of subsection (5), definition *competent person*, paragraph (c) if the regulator considers that exceptional circumstances exist.
- (7) An annual inspection under an equivalent provision of a corresponding WHS law is taken to be an annual inspection for the purposes of this section.

23 Amendment of s 244 (Altered plant designs to be registered)

Section 244—

insert—

- (3) This section does not apply in relation to a tower crane or a gantry crane if—
 - (a) the crane is relocated for use in a different workplace; and
 - (b) the design for the supporting structure or foundations of the crane is altered in accordance with a site-specific design prepared for the purpose of the safe operation of the crane at the new location; and
 - (c) the design of the crane is not altered in any other way.

24 Amendment of s 261 (Registration document)

Section 261(2)—

insert—

- (e) any conditions imposed on the registration by the regulator.

25 Amendment of s 272A (Duration of registration on commencement)

(1) Section 272A(1), ‘1 January 2014’—

omit, insert—

1 January 2015

(2) Section 272A(2), ‘31 January 2014’—

omit, insert—

31 January 2015

26 Amendment of s 274 (Registration document)

Section 274(2)—

insert—

- (f) any conditions imposed on the registration by the regulator; and
- (g) the expiry date of the registration.

27 Amendment of s 279A (Duration of renewal on commencement)

(1) Section 279A(1), ‘1 January 2014’—

omit, insert—

1 January 2015

(2) Section 279A(2), ‘31 January 2014’—

omit, insert—

[s 28]

31 January 2015

28 Insertion of new ch 5, pt 5.3, div 6

Chapter 5, part 5.3—

insert—

**Division 6 Cancellation of
registration**

288A Application of division

This division applies to—

- (a) the registration of a design of an item of plant; and
- (b) the registration of an item of plant.

288B Regulator may cancel registration

The regulator may cancel a registration if satisfied that—

- (a) the registration holder, in applying for the registration—
 - (i) gave information that was false or misleading in a material particular; or
 - (ii) failed to give any material information that should have been given; or
- (b) the design of the item of plant or the item of plant (as applicable) is unsafe.

Note—

A decision to cancel a registration is a reviewable decision, see section 676.

288C Cancellation process

- (1) Before cancelling a registration, the regulator must give the registration holder written notice that—
 - (a) sets out the proposal to cancel the registration and the reasons for it; and
 - (b) informs the registration holder that the registration holder may, by a stated date being not less than 28 days after the notice is given, make a submission to the regulator in relation to the proposed cancellation.
- (2) After the date stated in the notice under subsection (1)(b), the regulator must—
 - (a) if the registration holder has made a submission in relation to the proposed cancellation—consider that submission; and
 - (b) whether or not the registration holder has made a submission, decide—
 - (i) to cancel the registration; or
 - (ii) not to cancel the registration; and
 - (c) within 14 days after making that decision, give the registration holder written notice stating—
 - (i) whether or not the registration has been cancelled; and
 - (ii) if the regulator decided to cancel the registration—
 - (A) if a submission was made in relation to the proposed cancellation—the regulator’s reasons for cancelling the registration; and
 - (B) the date on which the cancellation takes effect.

[s 29]

288D Registration holder to return registration document

A registration holder who receives a written notice under section 288C(2)(c) stating the holder's registration is cancelled must return the registration document to the regulator at the written request of the regulator within the time stated in the request.

Maximum penalty—

- (a) for an individual—12¹/₂ penalty units; or
- (b) for a body corporate—60 penalty units.

Note—

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

29 Omission of ss 305A and 305B

Sections 305A and 305B—

omit.

30 Amendment of s 306C (Risk of fall of less than 3m in housing construction work or less than 2m in other construction work or construction work on roof with slope not over 26°)

- (1) Section 306C(3) and (4)—

renumber as section 306C(4) and (5).

- (2) Section 306C—

insert—

- (3) A person conducting a business or undertaking who intends to do construction work must, before the work starts—

- (a) ensure each hazard that may result in a fall or cause death or injury if a 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
 - unsheathed 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 a person fell on it
 - 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.

Maximum penalty—60 penalty units.

31 Amendment of s 306D (Risk of fall of at least 3m in housing construction work or at least 2m in other construction work or construction work on roof with a slope over 26°)

- (1) Section 306D(3) and (4)—

renumber as section 306D(4) and (5).

- (2) Section 306D—

insert—

- (3) A person conducting a business or undertaking who intends to do construction work must, before the work starts, use control measures—

- (a) to prevent a person falling any distance; or

Examples of control measures to prevent a person falling—

- edge protection
- a fall protection cover placed over an opening

[s 32]

- a travel restraint system
- (b) if prevention is not practicable—
- (i) to arrest a person's fall; and
 - (ii) to prevent or minimise the risk of death or injury to a 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

Maximum penalty—60 penalty units.

32 Replacement of s 318 (Recognition of general construction induction training cards issued in other jurisdictions)

Section 318—

omit, insert—

Division 1A Recognition of general construction induction training cards issued in other jurisdictions

318 References to general construction induction training cards

- (1) In this part, other than division 2, a reference to a general construction induction training card includes a reference to an equivalent card that was issued under a corresponding WHS law.
- (2) Subsection (1) does not apply to a card that is cancelled in the corresponding jurisdiction.

33 Amendment of s 328 (Application of pt 7.1)

(1) Section 328(6)(a), ‘; or’—

omit, insert—

;

(2) Section 328(6)—

insert—

(c) therapeutic goods within the meaning of the *Therapeutic Goods Act 1989* (Cwlth) at the point of intake by or administration to humans;

(d) veterinary chemical products within the meaning of the *Agvet Code* at the point of intentional administration to animals.

(3) Section 328—

insert—

(7) In this section—

Agvet Code means the Agricultural and Veterinary Chemicals Code set out in the schedule to the *Agricultural and Veterinary Chemicals Code Act 1994* (Cwlth).

34 Amendment of s 344 (Person conducting business or undertaking to obtain and give access to safety data sheets)

Section 344(4)(c)(ii)—

omit, insert—

(ii) in a way that is—

(A) consistent with household use;
and

(B) incidental to the nature of the work carried out by a worker using the hazardous chemical.

[s 35]

35 Omission of ch 7, pt 7.1, div 5, subdiv 5 (Spray painting)

Chapter 7, part 7.1, division 5, subdivision 5—

omit.

36 Amendment of s 418 (Health monitoring records)

(1) Section 418(1) and (2)—

insert—

Maximum penalty—

- (a) for an individual—12¹/₂ penalty units; or
- (b) for a body corporate—60 penalty units.

Note—

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

(2) Section 418(3), penalty—

omit.

37 Amendment of s 492 (Application for asbestos removal licence or asbestos assessor licence)

Section 492(2)(a) to (c)—

omit, insert—

- (a) the name and address of the applicant;
- (b) if required by the regulator of an applicant who is an individual, a photograph of the applicant in the form required by the regulator;
- (c) any other evidence of the applicant's identity required by the regulator;

38 Amendment of s 502 (Conditions of licence)

Section 502(2)(c)—

omit, insert—

- (c) requiring the licence holder, or a nominated supervisor of the licence holder, to undergo retraining or reassessment during the term of the licence;

39 Amendment of s 516 (Application for renewal)

Section 516(2)(b) and (c)—

omit, insert—

- (b) if required by the regulator of an applicant who is an individual, a photograph of the applicant in the form required by the regulator;
- (c) any other evidence of the applicant's identity required by the regulator;

40 Amendment of s 517 (Provisions relating to renewal of licence)

Section 517(1)—

omit, insert—

- (1) For this division—
 - (a) section 496 applies as if a reference in that section to an application for a licence were a reference to an application to renew a licence; and
 - (b) sections 497 (except subsection (5)) and 503 apply as if a reference in those sections to the grant of a licence were a reference to the renewal of a licence; and

[s 41]

- (c) section 500 applies as if a reference in section 497 to the grant of a licence were a reference to the renewal of a licence; and
- (d) section 501 applies as if a reference in that section to a refusal to grant a licence were a reference to a refusal to renew a licence.

41 Amendment of s 521 (Matters taken into account)

Section 521(2)—

omit, insert—

- (2) For section 520(1)(a) and (b), the regulator must have regard to all relevant matters, including the following—
 - (a) any relevant WHS conviction of the licence holder;
 - (b) any of the following acts under a relevant WHS law—
 - (i) the suspension or cancellation of an equivalent licence held by the licence holder;
 - (ii) a refusal to grant an equivalent licence to the licence holder;
 - (iii) the imposition of any condition on an equivalent licence held by the licence holder;
 - (c) any enforceable undertaking the licence holder has entered into under a relevant WHS law;
 - (d) the record of the licence holder in relation to any matters arising under a relevant WHS law.
- (3) For section 520(1)(a) and (b), if the licence holder is a body corporate, the regulator must have regard to all relevant matters, including

matters referred to in subsection (2), in relation to—

- (a) the body corporate; and
- (b) each officer of the body corporate.

42 Amendment of s 530 (This chapter does not apply to particular facilities)

Section 530(1), from ‘as defined’—

omit, insert—

regulated by the National Offshore Petroleum Safety and Environmental Management Authority under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cwlth).

43 Amendment of s 547 (Re-notification if quantity of schedule 15 chemicals increases)

Section 547(1)(c)—

omit, insert—

- (c) in relation to which the regulator—
 - (i) has not conducted an inquiry under this part; or
 - (ii) on conducting an inquiry under this part, has not determined the facility or proposed facility to be a major hazard facility under section 541.

44 Amendment of s 598 (Provisions relating to renewal of licence)

(1) Section 598(c)—

renumber as section 598(d).

(2) Section 598(b)—

omit, insert—

[s 45]

- (b) sections 580 (except subsection (6)) and 585 apply as if a reference in those sections to the grant of a licence were a reference to the renewal of a licence; and
- (c) section 581 applies as if a reference in section 580 to the grant of a licence were a reference to the renewal of a licence; and

45 Amendment of s 603 (Matters to be taken into account)

Section 603—

insert—

- (3) For section 602(1)(a) and (b), if the operator is a body corporate, the regulator must have regard to all relevant matters, including matters referred to in subsection (2), in relation to—
 - (a) the body corporate; and
 - (b) each officer of the body corporate.

46 Amendment of s 676 (Which decisions are reviewable)

(1) Section 676(1), table 676, item 3, ‘Applicant’—

omit, insert—

Licence holder

(2) Section 676(1), table 676—

insert—

2A	91A—Imposition of a condition when granting licence	Applicant
2B	91A—Imposition of a condition when renewing licence	Applicant
7A	106—Variation of licence conditions	Licence holder

21A	271—Imposition of a condition when renewing registration of item of plant	Registration holder The person with management or control of the item of plant
25A	288B—Cancellation of registration	Registration holder The person with management or control of the item of plant

47 Amendment of s 709 (Application of provisions)

Section 709(2), ‘(other than division 5, subdivision 5)’—
omit.

48 Amendment of s 724 (Applications for high risk work licence until 31 December 2013 if no VET course available)

(1) Section 724, heading, ‘31 December 2013’—
omit, insert—

31 December 2014

(2) Section 724(2), ‘31 December 2013’—
omit, insert—

31 December 2014

49 Amendment of s 726 (Particular licence classes to include other licence classes)

Section 726(2), ‘31 December 2013’—
omit, insert—

31 December 2014

[s 50]

50 Amendment of s 750 (Existing bonded asbestos removal certificate continues as transitional class B asbestos removal licence)

Section 750(3), ‘31 December 2013’—

omit, insert—

31 December 2014

51 Amendment of s 755 (Training requirement for worker under section 460(1) satisfied by alternative to certification)

Section 755(3)(d), after ‘assessed’—

insert—

before 31 December 2013

52 Amendment of s 756 (Application for class A asbestos removal licence when specified VET course unavailable for named supervisors)

Section 756(3)(a), ‘31 December 2013’—

omit, insert—

31 December 2014

53 Amendment of s 757 (Application for class B asbestos removal licence when specified VET course unavailable for named supervisors)

(1) Section 757(2)—

omit, insert—

(2) It is sufficient compliance with section 494(1)(c) if each person named as a supervisor holds—

(a) a transitional class B asbestos removal licence; or

(b) a certification for the specified VET course for class A asbestos removal work; or

(c) a certification for the specified VET course
for class B asbestos removal work.

(2) Section 757(3)(a), ‘31 December 2013’—

omit, insert—

31 December 2014

54 Amendment of s 758 (No need for asbestos register in particular transitional circumstances)

Section 758(2), ‘31 December 2013’—

omit, insert—

31 December 2014

55 Amendment of s 759 (No need for asbestos management plan in particular transitional circumstances)

Section 759(2), ‘31 December 2013’—

omit, insert—

31 December 2014

56 Amendment of s 761 (Transitional competent person for ss 473 and 474 clearance inspection and certificates)

Section 761, ‘31 December 2013’—

omit, insert—

31 December 2014

57 Replacement of s 777 (Particular provision for audiometric testing)

Section 777—

omit, insert—

[s 58]

777 Particular provision for audiometric testing

- (1) This section applies if a person conducting a business or undertaking is required to provide audiometric testing under section 58(2)(a) for a worker who commences work mentioned in that section before 1 January 2015.
- (2) Section 58(2)(a) does not apply in relation to the worker.
- (3) The 2-year periods mentioned in section 58(2)(b) start to apply in relation to the worker from 1 January 2015.

58 Amendment of s 779 (Registration of design of particular item of plant not needed until end of 31 December 2013)

- (1) Section 779, heading, '31 December 2013'—

omit, insert—

31 December 2014

- (2) Section 779, '31 December 2013'—

omit, insert—

31 December 2014

59 Insertion of new ch 14

After section 786—

insert—

Chapter 14 Amendment of State Penalties Enforcement Regulation 2000

787 Regulation amended

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

788 Amendment of sch 5 (Other legislation)

Schedule 5, entry for the *Work Health and Safety Regulation 2011*—

insert—

s 438(1)	4 ⁸ / ₂₅	21 ³ / ₅
s 438(2)	4 ⁸ / ₂₅	21 ³ / ₅
s 444(1)	1 ¹¹ / ₂₅	7 ¹ / ₅
s 444(2)	1 ¹¹ / ₂₅	7 ¹ / ₅

60 Amendment of sch 3 (High risk work licences and classes of high risk work)

Schedule 3, table 3.1, items 15 to 18, third column—

insert—

- (2) Use of a vehicle loading crane with a capacity of 10 metre tonnes or more, excluding the application of load estimation and slinging techniques to move a load
- (3) Use of a non-slewing mobile crane with a capacity exceeding 3t
- (4) Use of a reach stacker

[s 61]

61 Amendment of sch 5 (Registration of plant and plant designs)

- (1) Schedule 5, part 1, sections 1.8 and 1.9—

omit, insert—

1.8 Amusement devices covered by section 2.1 of AS 3533.1:2009 (Amusement rides and devices—Design and construction), except devices and structures stated in section 2(2)

1.9 Concrete placing booms

- (2) Schedule 5, part 1, section 1.10, ‘and prefabricated formwork’—

omit.

- (3) Schedule 5, part 1, section 2(1)—

insert—

- (e) any pressure equipment (other than a gas cylinder) excluded from the scope of AS/NZS 1200:2000 (Pressure equipment);
or

Note—

See section A1 of Appendix A to AS/NZS 1200:2000.

- (f) a reach stacker.

- (4) Schedule 5, part 1, section 2(2)—

omit, insert—

- (2) The following devices and structures are excluded from section 1.8—

- (a) an amusement ride or device classified as class 1 under section 2.1 of AS 3533.1:2009 (Amusement rides and devices—Design and construction);

- (b) playground structures;

-
- (c) water slides where water facilitates patrons to slide easily, predominantly under gravity, along a static structure;
 - (d) wave generators where patrons do not come into contact with the parts of machinery used for generating water waves;
 - (e) inflatable devices, other than inflatable devices (continuously blown) with a platform height of 3 metres or more.
- (5) Schedule 5, part 2, sections 3.6 and 3.7—
omit, insert—
- 3.6 Amusement devices covered by section 2.1 of AS 3533.1:2009 (Amusement rides and devices—Design and construction), except devices and structures stated in section 4(3)
 - 3.7 Concrete placing booms
- (6) Schedule 5, part 2, section 4(1)—
omit, insert—
- (1) The items of plant listed in section 3 do not include—
 - (a) any pressure equipment (other than a gas cylinder) excluded from the scope of AS/NZS 1200:2000 (Pressure equipment); or

Note—
See section A1 of Appendix A to AS/NZS 1200:2000.

 - (b) a crane or hoist that is manually powered; or
 - (c) a reach stacker.
- (7) Schedule 5, part 2, section 4(3)—
omit, insert—
- (3) The following devices and structures are excluded from section 3.6—

[s 62]

- (a) an amusement ride or device classified as class 1 under section 2.1 of AS 3533.1:2009 (Amusement rides and devices—Design and construction);
- (b) playground structures;
- (c) water slides where water facilitates patrons to slide easily, predominantly under gravity, along a static structure;
- (d) wave generators where patrons do not come into contact with the parts of machinery used for generating water waves;
- (e) inflatable devices, other than inflatable devices (continuously blown) with a platform height of 3 metres or more.

62 Amendment of sch 10 (Prohibited carcinogens, restricted carcinogens and restricted hazardous chemicals)

- (1) Schedule 10, table 10.3, item 10, column 3, ‘0.1%’—
omit, insert—
1%
- (2) Schedule 10, table 10.3, item 10, column 3, ‘For spray painting’—
omit.

63 Amendment of sch 11 (Placard and manifest quantities)

- (1) Schedule 11, table 11.1, item 32, column 4, ‘1000kg or 1000L’—
omit, insert—
250kg or 250L
- (2) Schedule 11, table 11.1, item 32, column 5, ‘10 000kg or 10 000L’—
omit, insert—

2500kg or 2500L

(3) Schedule 11, table 11.1—

insert—

42	Unstable explosives		5kg or 5L	50kg or 50L
43	Unstable chemicals	Any combination of chemicals from items 11, 29 and 42 where none of the items exceeds the quantities in columns 4 or 5 on their own	5kg or 5L	50kg or 50L

64 Amendment of sch 19 (Dictionary)

(1) Schedule 19, definitions *appropriate training in underwater medicine, combustible liquid, concrete placement unit with delivery boom* and *hazardous area*—

omit.

(2) Schedule 19, definition *spray painting booth*—

omit.

(3) Schedule 19—

insert—

combustible dust means finely divided solid particles and includes dust, fibres or flyings that are—

- (a) suspended in air or settle out of the atmosphere under their own weight; and
- (b) able to burn or glow in air; and
- (c) able to form an explosive mixture with air at atmospheric pressure and normal temperature.

[s 64]

hazardous area means an area in which—

- (a) an explosive gas is present in the atmosphere in a quantity that requires special precautions to be taken for the construction, installation and use of plant; or
- (b) a combustible dust is present, or could reasonably be expected to be present, in the atmosphere in a quantity that requires special precautions to be taken for the construction and use of plant.

inflatable device (continuously blown) means an amusement device that is an inflatable device that relies on a continuous supply of air pressure to maintain its shape.

maintain, for chapter 5, see section 184A.

platform height, in relation to an inflatable device (continuously blown), means the height of the highest part of the device designed to support persons using it (the platform), as measured from the surface supporting the device to the top surface of the platform when the device is inflated but unloaded.

- (4) Schedule 19, definition *amusement device*, ‘travel’—

omit, insert—

or other users travel or move

- (5) Schedule 19, definition *boiler*, paragraph (d)—

insert—

- (iii) AMBSC Part 3—*Australian Miniature Boiler Safety Committee Code for Sub-Miniature Boilers*;

- (iv) AMBSC Part 4—*Australian Miniature Boiler Safety Committee Code for Duplex Steel Boilers*; or

- (6) Schedule 19, definition *bridge crane*, ‘, for schedule 3,’—

omit.

- (7) Schedule 19, definition *competent person*, paragraph (c), after ‘for’—

insert—

a major

- (8) Schedule 19, definition *exposure standard*, ‘and sections 367B and 367D’—

omit.

- (9) Schedule 19, definition *gantry crane*, paragraph (a)—

omit, insert—

- (a) consists of a bridge beam or beams supported at one or both ends by legs mounted to end carriages; and

- (10) Schedule 19, definition *specified VET course*, paragraphs (b) to (d)—

omit, insert—

- (b) for class A asbestos removal work—the VET course *Remove friable asbestos*; or

- (c) for class B asbestos removal work—the VET course *Remove non-friable asbestos*; or

- (d) for the supervision of asbestos removal work—the VET course *Supervise asbestos removal*; or

- (e) for asbestos assessor work—the VET course *Conduct asbestos assessment associated with removal*; or

- (f) for high risk work—the relevant VET course specified in schedule 4.

[s 65]

Part 3 **Amendment of State Penalties Enforcement Regulation 2000**

65 **Regulation amended**

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

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

(1) Schedule 5, entry for the *Work Health and Safety Regulation 2011*, entries for sections 432(5), 438(1), 438(2), 444(1) and 444(2)—

omit.

(2) Schedule 5, entry for the *Work Health and Safety Regulation 2011*—

insert—

s 432(5) 4⁸/₂₅ 21³/₅

Part 4 **Minor and consequential amendments of Work Health and Safety Regulation 2011**

67 **Regulation amended in sch 1**

Schedule 1 amends the regulation it mentions.

Schedule 1 Minor and consequential amendments

section 67

Work Health and Safety Regulation 2011

1 Section 21(2), '72(1)(b) of the Act, the regulator may have regard to all relevant'—

omit, insert—

72(1) of the Act, the regulator may have regard to any relevant

2 Section 43(3), 'consider'—

omit, insert—

have regard to

3 Section 84(1), '82(1)(a)'—

omit, insert—

82(1)

4 Section 87(2)(d)—

omit, insert—

(d) a photograph of the applicant in the form required by the regulator;

5 Section 87(2)(f)(i), 'the VET course, or each of the VET courses, set out in schedule 4 in relation to the'—

omit, insert—

the specified VET course, or each of the specified VET courses, for the

6 Section 133(2), note, after ‘under this section’—

insert—

to suspend or cancel an accreditation, to vary the conditions of an accreditation or to disqualify an accredited assessor from applying for a further accreditation

7 Section 169(a), ‘appropriate’—

omit.

8 Section 175(2), ‘conducting as business’—

omit, insert—

conducting a business

9 Sections 178(1)(a) and (b), 180(c) and 181(2)(b) and (3), ‘competent’—

omit.

10 Section 257(2), note, ‘sections 256 and’—

omit, insert—

section

11 Section 266(2)(h), ‘plant was first commissioned or was first registered,’—

omit, insert—

item of plant was first commissioned or was first registered, if known,

12 Section 269(2)(b), ‘design’—

omit, insert—

item of plant

13 Section 269(2)(c), before ‘plant’—

insert—

item of

14 Section 270(2), note, ‘sections 269 and’—

omit, insert—

section

15 Section 279(2)(b), ‘sections 269 and 271 apply’—

omit, insert—

section 269 (except subsection (5)) applies

16 Section 319(4)(b), ‘(2)(b)(ii)’—

omit, insert—

(3)(b)(ii)

17 Section 346(4)(b)—

omit, insert—

(b) the hazardous chemical is a consumer product and the person is not required to obtain a safety data sheet for the hazardous chemical under section 344.

Note—

See section 344(4).

18 Section 348(2)(c)—

omit.

19 Section 391(1)—

insert—

Note—

WHS Act—section 19 (see section 9).

20 Section 466(4), ‘(2)’—

omit, insert—

(3)

21 Section 491(2), ‘493, 494 or 495 (as applicable)’—

omit, insert—

495

22 Section 498(a)(ii)(B), ‘and class B asbestos removal work’—

omit.

23 Section 500(e), ‘record of applicant’—

omit, insert—

record of the applicant

24 Section 538(3)(a)(iv), ‘paragraph’—

omit, insert—

subparagraph

25 Section 539, ‘division’—

omit, insert—

part

Schedule 1

- 33 Schedule 13, section 1(2)(e), 'authority'—**
omit, insert—
organisation
- 34 Schedule 13, section 4(2)(b), after '(4)(b)'—**
insert—
and (c)
- 35 Schedule 15, section 1, definition *LC₅₀ for acute toxicity on inhalation*, second occurring—**
omit.
- 36 Schedule 16, 'emergency services'—**
omit, insert—
emergency service organisations

ENDNOTES

- 1 Made by the Governor in Council on 14 November 2013.
- 2 Notified on the Queensland legislation website on 15 November 2013.
- 3 The administering agency is the Department of Justice and Attorney-General.

© State of Queensland 2013
Authorised by the Parliamentary Counsel