

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

Explanatory Notes for SL 2013 No. 222

made under the

Work Health and Safety Act 2011

General outline

Short title

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

Authorising law

Section 276 of the *Work Health and Safety Act 2011*.

Policy objective of the legislation

Review of Work Health and Safety Laws

Following the commencement of the national model Work Health and Safety (WHS) laws in Queensland on 1 January 2012, the Queensland Government conducted a review of the WHS laws to consider their impact on Queensland business. In particular, the Government sought views on whether there were any aspects of the legislation that are considered unworkable or have had unintended consequences, including any unanticipated or inequitable compliance or cost burdens. Industry roundtable meetings with key stakeholders were held on 29 August 2012 and 11 July 2013 to discuss the operation of the laws and consider recommendations made by various working groups established as part of the review.

The Government's intention in conducting the review of the WHS laws was to reduce any unnecessary red tape burdens while ensuring a strong focus on maintaining high standards and improved safety outcomes. While industry stakeholders generally indicated they were satisfied with the model WHS laws they did raise a number of issues of concern, some of which are particular to the construction industry and some minor amendments to address a number of red tape requirements that do not provide any safety benefit.

As a result of the review there are a number of proposed amendments to the *Work Health and Safety Act 2011* (the WHS Act) and the *Work Health and Safety Regulation 2011* (the WHS Regulation).

Under the Intergovernmental Agreement on Occupational Health and Safety reform, any proposed legislative amendments that materially affect the operation of the model WHS laws are required to be submitted to the Select Council for Workplace Relations (SCWR) for consideration. A number of issues raised by Queensland stakeholders have been raised in other jurisdictions. The proposed amendments will be submitted to SCWR for consideration for inclusion in the model WHS laws.

When the national model WHS laws commenced in Queensland, the WHS Regulation included a number of transitional provisions to delay the commencement of certain parts of the regulation to

give duty holders time to comply with new requirements. A number of these transitional provisions were due to commence on 1 January 2014 but relate to matters that are subject to amendments following the review.

It is necessary to delay the commencement of these provisions until 1 January 2015 to allow for the proposed amendments to the WHS Regulation to be considered by the SCWR. It is also necessary to extend certain related transitional arrangements until the end of 31 December 2014. These measures provide regulatory certainty and consistency by ensuring the provisions do not commence or expire prior to the implementation of the proposed amendments to the WHS Regulation and avoids a situation where business must adapt to one regulatory change followed by another.

The WHS Regulation includes transitional arrangements for high risk work (HRW) licensing where the national competency units and assessment instruments were not available when the WHS laws commenced. A number of these new national competency units and assessment instruments are still not available. This regulation further delays the commencement of these provisions until 1 January 2015 to allow time for the training packages to become available and adopted by Registered Training Organisations.

Eleven first stage model codes of practice have been adopted in Queensland and commenced on 1 January 2012. There are a further twelve second stage codes of practice that have been approved by the SCWR but not yet adopted in Queensland. Stakeholders supported adopting a number of second stage approved model codes of practice. This includes the Excavation Work and Spray Painting and Powder Coating codes of practice that the Government approved for implementation. The Amendment Regulation repeals specific provisions in the WHS Regulation relating to spray painting and excavation work that were carried over from the repealed *Workplace Health and Safety Regulation 2008* (the repealed Regulation) as an interim measure until these national model codes of practice were finalised and adopted in Queensland.

Industry has raised concerns with a lack of certainty over height thresholds in construction work. It is proposed to clarify this by making the WHS Regulation consistent with provisions in the repealed Regulation that require specific control measures to be used where there is a risk of a fall of :

- at least three metres in housing construction work; or
- at least two metres in other construction work.

Transforming certain transitional arrangements into permanent arrangements - exemption of certified bridge and gantry crane operators from high risk work licences

Under the WHS Regulation, a bridge and gantry crane, which has the ability to perform no more than three powered operations and is operated by remote control, is no longer required to be operated by a certificated operator. However, the previous units of competency for this certification also trained operators in slinging their own loads, including the application of load estimation and slinging techniques to move a load, in addition to the operation of the crane itself. So while a certificate is no longer required for the operation of a bridge and gantry crane (remote), the work of slinging a load is required to be undertaken by a person who holds a high risk work dogging licence.

Concerns were raised by industry stakeholders that many businesses that use this type of bridge and gantry crane would be required to either re-certify their workers or engage contractors as licensed doggers at a significant cost for little safety benefit given that their existing operators hold competencies to sling their own loads.

To address this issue, the regulator granted a class exemption for operators who held a bridge and gantry crane (remote) certificate under the repealed Regulation to allow them to perform load estimation and slinging techniques without having to obtain a high risk work dogging licence.

The amendment regulation includes provisions to make the exemption a permanent arrangement to ensure that there is no additional ongoing impost on these operators and business.

Transforming certain transitional arrangements into permanent arrangements - recognition of intermediate boiler operator competency in advanced licence class

Under the repealed Regulation there were three licence classes for boiler operators – basic, intermediate and advanced. These were collapsed into two classes under the WHS Regulation – standard and advanced. While boiler operators holding an intermediate licence were transitioned to the standard class, some work performed by intermediate licence holders was re-classified as advanced under the WHS Regulation. This meant that up to 3,000 boiler operators with an intermediate boiler operator licence would have been required to upgrade to an advanced boiler operator licence, despite performing the same work, at a cost of approximately \$650 per licence. It is estimated this would cost industry approximately \$1,950,000 in licences for the 3,000 affected operators who are already competent in the work.

The WHS Regulation includes transitional provisions to allow the holder of an intermediate boiler operator licence issued under the repealed Regulation to continue to carry out the same intermediate boiler operator work until 1 January 2014. On 13 September 2013 the Regulator granted a class exemption to intermediate boiler operators from upgrading to an advanced licence class when performing the same class of work as previously under certain conditions.

The amendment regulation includes provisions to make this a permanent arrangement to ensure that there are no unnecessary costs imposed upon existing intermediate licence holders and industry where there is no safety benefit.

Amendments to State Penalties Enforcement Regulation 2000

The Amendment Regulation also includes minor amendments to schedule 5 of the *State Penalties Enforcement Regulation 2000* that clarifies the commencement dates for certain infringement notices listed for offences under asbestos related provisions of the WHS Regulation that have not yet commenced. The offence under subsection 436(5) will commence on 1 January 2014 when that provision commences in the WHS Regulation. The offences under subsections 438(1), 438(2), 444(1) and 444(2) will commence on 1 January 2015. This ensures the commencement dates for the infringement notices are consistent with the commencement dates for their substantive provisions in the WHS Regulation.

Minor technical amendments

There are a number of minor technical amendments to the WHS Regulation which correct minor discrepancies identified in a comparison of the Queensland WHS Regulation and the model WHS Regulation. The discrepancies occurred since the model WHS Regulation was finalised after the final version of the WHS Regulation was drafted by the Office of the Queensland Parliamentary Counsel. These minor amendments include:

- the inclusion of section 7(3) from the model WHS Regulation to clarify that a volunteer association does not conduct a business or undertaking for the purpose of the Act if it is a group of volunteers working together for one or more community purposes where none of

- the volunteers, whether alone or jointly with other volunteers, employs any person to carry out work for the volunteer association; and
- amending the definition of strata title bodies corporate so that it covers not just those defined as a body corporate under the *Body Corporate and Community Management Act 1997* (the BCCM Act) but a broader cross-section that includes bodies corporate covered by any of the Specified Acts listed under section 326 of the BCCM Act.

Additionally, the amendment Regulation makes a number of minor and technical amendments approved by Safe Work Australia as amendments to the model WHS Regulation. These are not considered significant enough to warrant consideration by the SCWR. Key amendments include:

- allowing a person certified but not yet licensed to carry out HRW to perform such work for up to 60 days after they have been certified or until their licence application has been approved or rejected;
- stipulating that a plant registration may be cancelled and the relevant process for doing so;
- clarifying that the specified VET course for Class A asbestos removal work is the VET course *Remove friable asbestos*; and
- specific licence ‘encompassment’ provisions for related classes of HRW licences.

These changes will ensure Queensland’s WHS Regulation remains consistent with the harmonised model WHS Regulation.

Achievement of policy objectives

The amendment achieves its objectives by:

- delaying the commencement of the following uncommenced provisions of the WHS Regulation until 1 January 2015:
 - section 217;
 - section 272, duration of plant registration is five years;
 - part 8.5, division 1, health monitoring for those at risk of exposure to asbestos; and
 - section 279(2)(d), decision on application to renew registration on an item of plant.
- extending the following transitional arrangements under the WHS regulation until the end of 31 December 2014 to allow:
 - a person holding an assessment summary or statement of attainment for a unit of competency under the repealed Regulation to apply for a HRW licence when the VET course for new competency is not yet available;
 - additional time for audiometric testing to be provided for workers under section 58(2) of the Regulation while related reforms arising from the Government’s Review of WHS laws are considered by SWCR,
 - for certain arrangements for asbestos-related removal licences, registers, management plans and clearance inspections, under sections 750, 755-759 and 761, to continue until related reforms arising from the Government’s review of WHS laws are considered by SWCR.
- repealing the following provisions of the WHS Regulation, effective from 1 December 2013:
 - sections 305A and 305B, relating to excavation work; and
 - sections 367A to 367H, relating to spray painting.
- amending sections 306C and 306D of the WHS Regulation by inserting further provisions from the repealed Regulation clarifying the specific control measures required where there is a risk of falls from specific heights in construction work.

- making transitional arrangements for bridge and gantry crane and intermediate boiler operators into permanent arrangements;
- amending schedule 5 of the *State Penalties Enforcement Regulation 2000* to clarify that infringement notices for offences under subsections 438(1), 438(2), 444(1) and 444(2) will commence on 1 January 2015 to ensure consistency with the commencement date of those provisions in the WHS Regulation;
- giving effect to a number of minor and technical amendments that have been endorsed by Safe Work Australia as amendments to the model WHS Regulation; and
- making a number of minor technical amendments to correct minor discrepancies identified in a comparison of Queensland's WHS Regulation with the model WHS Regulation.

Consistency with authorising Act and other legislation

The objective of the *Work Health and Safety Act 2011* is to protect workers and other persons against harm to their health, safety and welfare through the elimination or minimisation of risks arising from work, plant or substances. This objective is achieved by establishing a framework for preventing or minimising a person's exposure to the risk of death, injury or illness caused by work, plant or substances. The proposed amendments are consistent with the objectives of the *Work Health and Safety Act 2011*.

Possible alternative approach

The policy objective can only be achieved by regulatory amendment.

Benefits and costs of implementation

With material amendments being proposed to the WHS Regulation following the Government's review of the WHS laws, the Amendment Regulation ensures affected sections do not commence prior to the implementation of the proposed changes to the WHS Regulation. This will provide certainty to industry and avoid any additional costs to businesses by avoiding a situation where industry is required to adapt to one change followed by another.

Consistency with fundamental legislative principles

The Amendment Regulation has been drafted with regard to fundamental legislative principles and is considered to generally comply with these principles.

The new penalty units for offences under subsection 39(2)(c) of a maximum of 60 units could be considered to breach fundamental legislative principles in that it exceeds the maximum of 20 penalty units usually adhered to in a regulation in Queensland. The increase to 60 penalty units seeks to maintain consistency with penalty units imposed under the model WHS Regulation (which imposes a penalty of 60 penalty units for offences under subsection 39(3)) and so is considered justified.

Consultation

There has been extensive consultation with key stakeholders on the WHS Regulation throughout the review of the WHS laws, including:

- an industry roundtable held by the Attorney-General on 29 August 2012, which sought the views of key industry stakeholders on the workability of the national model WHS laws;
- a discussion paper was circulated to key stakeholders participating in the roundtable meeting, canvassing a number of issues that had been raised by industry;
- a survey of 195 Queensland businesses (including 94 small businesses) was conducted in February and March 2013 by the Department of Justice and Attorney-General, in conjunction with the Chamber of Commerce and Industry Queensland and Queensland Treasury and Trade. The survey aimed to address the lack of data on the financial impacts of new WHS legislation on small business;
- in order to drill down further on the issues raised in the business survey, a series of focus groups were held across Queensland throughout March 2013;
- the establishment of a number of working groups to further examine specific issues raised, particularly with regulations regarding asbestos, confined spaces and workplace bullying;
- a second industry round table held on 11 July 2013, to further discuss proposed reforms to WHS laws that emerged out of the working groups.

In attendance at the industry roundtables were representatives from:

- AiGroup
- Agforce
- Civil Contractors Federation
- Australian Workers Union
- Chamber of Commerce and Industry Queensland
- Growcom
- HIA
- Local Government Association of Queensland
- Master Builders Queensland
- National Retailers Association
- Queensland Council of Unions
- the Construction Forestry Mining Energy Union of Queensland
- Queensland Farmers Federation
- Queensland Law Society
- Queensland Major Contractors' Association
- Canegrowers Queensland
- Timber Queensland
- Queensland Trucking Association
- Australian Sugar Milling Council

The Queensland Competition Authority has been consulted and advised that as the amendments are not considered likely to result in significant adverse impacts, a Regulatory Impact Statement is not required. These changes also reduce red tape for industry by removing requirements that would impose additional costs but provide no safety benefit.

Notes of Provisions

Short Title

Clause 1 provides the short title of the regulation.

Commencement

Clause 2 sets out the commencement dates for various provisions of the Amendment Regulation. Section 66(2) is to commence on 1 January 2014 when the provision related to this infringement notice commences. Sections 29, 35, 47 and 64(2) and (8) commence on 1 December 2013 to align with the making of the *Spray Painting and Powder Coating Code of Practice 2013* and the *Excavation Work Code of Practice 2013* under the *Work Health and Safety (Codes of Practice) Amendment Notice No.1 2013*. Section 63(3), to the extent it inserts Schedule 11, table 11.1 item 43, commences on 1 March 2014.

Regulation amended

Clause 3 states that part 2 of the amendment regulation amends the *Work Health and Safety Regulation 2011*.

Amendment of s 2 (Commencement)

Clause 4 amends section 2 to delay the commencement of sections 217, 272, 279(2)(d), part 8.5, division 1 and the new chapter 14 until 1 January 2015.

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

Clause 5 corrects a minor discrepancy with the national model WHS Regulation by inserting a new subsection (3) that clarifies the exclusion of volunteer associations under section 5(7) and (8) of the WHS Act.

This clause also extends the definition of a strata title body corporate under renumbered section 7(4) to include residential units covered under any of the specified Acts listed under section 326 of the *Body Corporate and Community Management Act 1997* (BCCM Act). This is to ensure the exclusion of relevant residential units from the meaning of a person conducting a business or undertaking rather than only those defined as a body corporate under the BCCM Act.

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

Clause 6 amends section 39(3) to clarify that this provision applies broadly and not just to training under the regulation consistent with changes to the model WHS Regulation.

Amendment of s 58 (Audiometric testing)

Clause 7 inserts a note in section 58 referencing the transitional provision at section 777.

Amendment of s 82 (Exceptions)

Clause 8 amends subsection 82(1) and inserts two new sub-sections, 82(1A) and (1B). 82(1A) clarifies that a person who holds a certification for the specified VET course is not required to be licensed to carry out high risk work for 60 days after the certification is issued. Additionally a person who holds a certification for the specified VET course and has applied for the relevant high risk work licence within the 60 day period, is not required to be licensed until the licence is granted or until the expiry of 28 days after the date of notification of a decision to refuse to grant the licence under section 91(2)(c).

82(1B) clarifies that a person is not required to hold a high risk licence for work undertaken while an accredited assessor is assessing their competency in relation to the work.

The wording of section 82(3) is also amended to give effect to the policy intention that it is not necessary for a worker to hold a high risk work licence if only transporting or relocating plant while it is unloaded, for example 'off the bed of a flatbed truck'. These changes have been agreed by Safe Work Australia and maintain consistency with amendments to the model WHS Regulation.

Clause 7 also inserts new subsections (6) to (8) to provide for two new exceptions under section 82.

Subsections (6) and (7) provide that persons who 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 can carry out high risk work for licence class dogging without a high risk work licence in specific circumstances. Those circumstances are that the person is operating a bridge and gantry crane that can perform 3 or fewer operations; the load is being lifted by remote control and the load is being lifted within the view of the person.

Subsection (8) provides an exception for persons from the requirement to hold a high risk work licence for the licence class advanced boiler operator in particular circumstances. Those circumstances are that the person holds a high risk work licence for the licence class standard boiler operator; that the person held a licence class intermediate boiler operator under the repealed WHS Regulation at the time that it was repealed and the person does not operate a boiler that has multiple fuel sources.

For the new subsections (6), (7) and (8) there were previously transitional arrangements under the WHS Regulation that allowed the holder of such a licence issued under the repealed WHS Regulation to continue to carry out the same work they were authorised and competent to perform. This clause now makes these transitional arrangements permanent.

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

Clause 9 makes minor technical amendments that have been agreed to by Safe Work Australia and to be consistent with the model WHS regulations.

Amendment of s 89 (Decision on application)

Clause 10 makes a minor technical amendment to be consistent with the model WHS regulations.

Amendment of s 91A (Conditions of licence)

Clause 11 inserts a new regulation 91A that has been approved by Safe Work Australia for inclusion in the model WHS regulations. The new regulation makes explicit the regulator's power

to impose conditions on high risk work licences, similar to the approach taken under other licensing provisions under the WHS Regulation. This amendment sets out that the regulator may impose conditions relating to control measures that must be implemented when carrying out the work or in activities under the licence and/or relating to the circumstances in which work or activities authorised by the licence may be carried out.

Amendment of s 101 (Application for renewal)

Clause 12 makes a minor technical amendment that has been agreed to by Safe Work Australia and to be consistent with the model WHS regulations.

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

Clause 13 makes a minor technical amendment that has been agreed to by Safe Work Australia and to be consistent with the model WHS regulations.

Amendment of s 106 (Suspension or cancellation of licence)

Clauses 14 makes minor technical amendments to section 106 agreed to by Safe Work Australia as a consequence of the new regulation inserted at section 91A.

Replacement of ss 107 and 108

Clause 15 makes minor technical amendments to sections 107 and 108 agreed to by Safe Work Australia as a consequence of the new regulation inserted at section 91A

Amendment of s 109 (Notice of decision)

Clause 16 makes a minor technical amendment to section 109 agreed to by Safe Work Australia as a consequence of the new regulation inserted at section 91A.

Amendment of s 123 (Accreditation document)

Clause 17 makes a minor technical amendment to be consistent with the model WHS regulations.

Amendment to s 132 (Provisions relating to application)

Clause 18 makes a minor technical amendment that has been agreed to by Safe Work Australia and to be consistent with the model WHS regulations.

Insertion of new s 184A (Definition for ch 5)

Clause 19 makes minor technical amendments that have been agreed to by Safe Work Australia and to be consistent with the model WHS regulations.

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

Clause 20 makes a minor technical amendment to be consistent with the model WHS regulations.

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

Clause 21 makes a minor technical amendment that has been agreed to by Safe Work Australia and to be consistent with the model WHS regulations.

Amendment of s 241 (Annual inspection of amusement device or passenger ropeway)

Clause 22 makes a minor technical amendment that has been agreed to by Safe Work Australia and to be consistent with the model WHS regulations.

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

Clause 23 makes a minor technical amendment that has been agreed to by Safe Work Australia and to be consistent with the model WHS regulations.

Amendment of s 261 (Registration document)

Clause 24 makes a minor technical amendment to be consistent with the model WHS regulations.

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

Clause 25 amends section 272A to extend for a further 12 months the transitional duration period relating to granting registration for items of plant. The expiry date for section 272A is also delayed for a further 12 months until 31 January 2015. This is necessary as a consequence of section 272 now not commencing until 1 January 2015.

Amendment of s 274 (Registration document)

Clause 26 makes a minor technical amendment to be consistent with the model WHS regulations.

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

Clause 27 amends section 279A to extend for a further 12 months the transitional duration period for renewing the registration of items of plant. This expiry date for section 279A is also delayed for a further 12 months until 31 January 2015. This is necessary as a consequence of section 279(2)(d) now not commencing until 1 January 2015.

Amendment of Part 5.3 (Registration of plant design and items of plant)

Clause 28 inserts 'Division 6 – Cancellation of registration' in Chapter 5 part 5.3. The new Division makes explicit the regulator's power to cancel a registration of a design of an item of plant and a registration of an item of plant, and sets out the cancellation process. This amendment has been agreed to by Safe Work Australia for inclusion in the model WHS regulations.

Omission of s 305A (Additional controls – barricade or hoarding) and s 305B (Additional controls – ladders to trenches more than 1.5m deep)

Clause 29 removes sections 305A and 305B relating to additional controls for excavation work as these provisions duplicate control measures contained within a new model code of practice which is being adopted in Queensland, the *Excavation Work Code of Practice 2013*. These provisions were transferred over from the repealed Regulation as an interim measure until new model codes of practice were finalised.

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°)

Clause 30 inserts a new subsection 306C(3) which reflects the provisions contained in section 317(3) of the repealed Regulation. These amendments clarify that for risks of falls of less than three metres in housing construction work and less than two metres in other construction work a person conducting a business or undertaking must assess the risk of identified fall hazards that may cause the death or injury of a person and ensure any control measures necessary to prevent or minimise the exposure to the risk are used. These amendments maintain the standards for managing the risks of falls in construction that existed under the repealed Regulation.

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 slope over 26°)

Clause 31 inserts a new subsection 306D(3) which reflects the provisions contained in section 318(3) of the repealed Regulation. These amendments clarify that for risks of falls of at least three metres in housing construction work and at least two metres in other construction work, a person conducting a business or undertaking must before work commences use control measures to prevent a person falling. If prevention is not practicable, control measures must be used to arrest a person's fall to prevent or minimise the risk of death or injury. These amendments maintain the standards for managing the risks of falls in construction that existed under the repealed Regulation.

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

Clause 32 inserts a new Division 1A that covers the recognition of general construction induction training cards issued in other jurisdictions. The new section 318 (References to general construction induction training cards) makes a minor technical amendment that has been agreed to by Safe Work Australia and to be consistent with the model WHS regulations.

Amendment of s 328 (Application of pt 7.1)

Clause 33 makes a minor technical amendment to be consistent with the model WHS regulations.

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

Clause 34 makes a minor technical amendment to be consistent with the model WHS regulations.

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

Clause 35 removes all provisions in the Regulation relating to spray painting as these provisions duplicate measures contained within a new model code of practice which is being adopted in Queensland, the *Spray Painting and Powder Coating Code of Practice 2013*. These provisions were transferred over from the repealed Regulation as an interim measure until new model codes of practice were finalised.

Amendment of s 418 (Health monitoring records)

Clause 36 makes a minor technical amendment that has been agreed to by Safe Work Australia and to be consistent with the model WHS regulations.

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

Clause 37 makes a minor technical amendment that has been agreed to by Safe Work Australia and to be consistent with the model WHS regulations.

Amendment of s 502 (Conditions of licence)

Clause 38 makes a minor technical amendment to be consistent with the model WHS regulations.

Amendment of s 516 (Application for renewal)

Clause 39 makes a minor technical amendment that has been agreed to by Safe Work Australia and to be consistent with the model WHS regulations.

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

Clause 40 makes a minor technical amendment that has been agreed to by Safe Work Australia and to be consistent with the model WHS regulations.

Amendment of s 521 (Matters taken into account)

Clause 41 makes a minor technical amendment to be consistent with the model WHS regulations.

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

Clause 42 makes a minor technical amendment that has been agreed to by Safe Work Australia and to be consistent with the model WHS regulations.

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

Clause 43 makes a minor technical amendment that has been agreed to by Safe Work Australia and to be consistent with the model WHS regulations.

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

Clause 44 makes a minor technical amendment that has been agreed to by Safe Work Australia and to be consistent with the model WHS regulations.

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

Clause 45 makes a minor technical amendment that has been agreed to by Safe Work Australia and to be consistent with the model WHS regulations.

Amendment of s 676 (Which decisions are reviewable)

Clause 46 amends the table of reviewable decisions in section 676 to include a number of new reviewable decisions as a result of including new regulations providing the regulator with the power to impose conditions on a high risk work licences at section 91A and to cancel the registration of the design of items of plant and registration of items of plant at 288A to 288D and corrects several inadvertent omissions that have now been included in the model regulations.

Amendment of s 709 (Application of provisions)

Clause 47 makes a consequential amendment as a result of omitting the provisions relating to spray painting.

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

Clause 48 extends this transitional provision that allows a person holding an assessment summary or statement of attainment for a unit of competency under the repealed Regulation to apply for a high risk work licence when the VET course for a new competency unit is not available, under particular circumstances until the end of 31 December 2014.

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

Clause 49 extends this transitional arrangement relating to a certain high risk work licence class until the end of 31 December 2014.

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

Clause 50 removes the reference in section 750(3) to ‘31 December 2013’ and replaces it with ‘31 December 2014’. This transitional arrangement is being extended to allow those with a bonded asbestos removal certificate granted under the repealed Regulation a further 12 months to gain certification under the specified VET course being provided by registered training organisations.

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

Clause 51 amends section 755(3)(d) by inserting ‘before 31 December 2013’ prior to ‘the worker has been assessed by an RTO...’. This restricts this transitional provision so that all new workers entering the market to carry out Class B asbestos removal work are trained under the new specified VET course being provided by registered training organisations and not the old Class B course. Those with a transitional Class B licence issued under the repealed Regulation are being given an additional 12 months up to 31 December 2014 to obtain certification in the new specified VET course.

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

Clause 52 removes the reference in section 756(3)(a) to ‘31 December 2013’ and replaces it with ‘31 December 2014’. This extends the transitional arrangements in this section for Class A asbestos removal licences where the specified VET course for asbestos removal supervisors is not reasonably available.

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

Clause 53 inserts a new section 757(2) which provides additional compliance options for the competency of an applicant’s supervisor when the VET course for supervisors is not reasonably available. This clause also extends the transitional arrangements in this section until 31 December 2014.

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

Clause 54 replaces the reference to ‘31 December 2013’ in section 758(2) with ‘31 December 2014’. This extends this transitional provision while possible amendments to other related asbestos provisions are considered nationally for inclusion in the model regulations.

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

Clause 55 replaces the reference to ‘31 December 2013’ in section 759(2) with ‘31 December 2014’. This extends this transitional provision while possible amendments to other related asbestos provisions are considered nationally for inclusion in the model regulations.

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

Clause 56 replaces the reference to ‘31 December 2013’ in section 761 with ‘31 December 2014’. This extends the transitional arrangements in this section while possible amendments to other related asbestos provisions are considered nationally for inclusion in the model regulations.

Amendment of s 777 (Particular provision for audiometric testing)

Clause 57 amends section 777 so that transitional provisions for audiometric testing apply until 1 January 2015 while possible amendments to audiometric testing requirements are considered nationally for inclusion in the model regulations.

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

Clause 58 replaces references to ‘31 December 2013’ in section 779 with ‘31 December 2014’. This extends this transitional provision while possible amendments to other provisions related to the registration of items of plant are considered nationally for inclusion in the model regulations.

Insertion of new ch 14 (Amendment of the State Penalties Enforcement Regulation 2000)

Clause 59 inserts a new chapter detailing amendments that this subordinate legislation makes to schedule 5 of the *State Penalties Enforcement Regulation 2000*.

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

Clause 60 inserts new licence ‘crane encompassment’ provisions for items 15-18 in Table 3.1 which restores the status quo under pre-harmonisation regulations that allowed holders of higher ranked high risk work licence classes to operate plant covered by lower ranked high risk work licence classes. This technical amendment has been agreed to by Safe Work Australia and included in the model regulations.

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

Clause 61 makes minor technical amendments to schedule 5 that have been agreed to by Safe Work Australia and to be consistent with the model WHS regulations.

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

Clause 62 makes a minor technical amendment that has been agreed to by Safe Work Australia and to be consistent with the model WHS regulations.

Amendment of sch 11 (Placard and manifest quantities)

Clause 63 makes minor technical amendments to schedule 11, Table 11.1 that have been agreed to by Safe Work Australia and to be consistent with the model WHS regulations.

Amendment of sch 19, (Dictionary)

Clause 64 inserts new definitions that have been agreed by Safe Work Australia and included in the model regulations for ‘*combustible dust*’, ‘*inflatable device (continuously blown)*’ and ‘*platform height*’. It also makes other minor technical amendments to be consistent with the model regulations.

Regulation amended

Clause 65 states that part 3 of the amendment regulation amends the *State Penalties Enforcement Regulation 2000*.

Amendment of schedule 5 (Other legislation)

Clause 66 amends schedule 5 of the *State Penalties Enforcement Regulation 2000* to remove infringement notices that relate to offences under provisions of the WHS Regulation which have not yet commenced. This clause further amends schedule 5 to re-insert one infringement notice which commences from 1 January 2014 when the related provision under the WHS Regulation is due to commence.

Regulation amended in sch 1

Clause 67 states that schedule 1 makes minor and consequential amendments to the WHS Regulation.