EXPLANATORY STATEMENT – MODEL WORK HEALTH AND SAFETY REGULATIONS

Explanatory notes for SL 2011 No. xx

made under the **Model Act**

Authorising law

- clause 276 of Schedule 3 to the model Act
- clause XXYYZZ of the [Jurisdictions to insert external legislation relevant to the operation of the regulations if applicable]
- clause XXYYZZ of the [Jurisdictions to insert relevant penalty or enforcement legislation]

Policy objective of the legislation

The harmonisation of Work Health and Safety (WHS) laws is part of the Council of Australian Governments' National Reform Agenda aimed at reducing the regulatory burden and creating a seamless economy. The objects of harmonising WHS laws through a model framework are to protect the safety of workers, improve safety outcomes, reduce compliance costs for business and improve efficiency for health and safety regulators.

The national model WHS laws comprise a national Act, national regulations and a suite of national model WHS codes of practice. The package of WHS laws has been developed by Safe Work Australia and agreed under the Inter-Governmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety (IGA).

Notes on provisions

The regulations are made under clause 276 of Schedule 3 to the Work Health and Safety Act 2011 and cover a wide range of matters relating to work health and safety, including:

- Representation and participation (Chapter 2);
- General risk and workplace management (Chapter 3);
- Hazardous work involving noise, hazardous manual tasks, confined spaces, falls, work requiring a high risk work licence, demolition work, electrical safety and energised electrical work and diving work (Chapter 4);
- Plant and structures (Chapter 5);
- Construction work (Chapter 6);
- Hazardous chemicals (Chapter 7);
- Asbestos (Chapter 8);
- Major hazard facilities (Chapter 9);
- Mines (Chapter 10) [optional]; and
- General (Chapter 11).

Chapter 1 Preliminary

Part 1.1 Introductory matters

Short title

Regulation 1 sets out the title of the regulations (the regulations).

Commencement

Regulation 2 provides that the regulations, except for regulation 164, commences on 1 January 2012. Regulation 164 relating to Residual Current Devices (RCD's) commences on 1 January 2013.

Authorising provisions

Regulation 3 states the authorising law for the Regulations.

Revocation

Regulation 4 revokes the regulations listed in Schedule 1.

Definitions

Regulation 5 defines the terms used in the Regulation. [jurisdictions can list significant definitions]

Determination of safety management system

Regulation 6 provides that the regulator may make a determination for the purpose of the definition of certified safety management system. Regulation 5 defines a Certified Safety Management System, in Chapter 8, as a safety management system that complies with AS 4801:2001 (Occupational health and safety management systems), or an equivalent systems determined by the regulator.

Meaning of person conducting a business or undertaking—persons excluded

Regulation 7 excludes a strata title body corporate that is responsible for any common areas used only for residential purposes from the meaning of a person conducting a business or undertaking in relation to those premises, for the purposes of clause 5(6) of the Act (the Act)_. However, the exclusion does not apply if the strata title body corporate engages any worker as an employee. Regulation 7 defines strata title body corporate as [insert relevant jurisdictional regulation here].

Meaning of supply

Regulation 8 prescribes the meaning of supply, for the purposes of clause 6(3)(b) of the Act. It specifies that the supply of a thing does not extend to circumstances where a thing is supplied by a person who does not control the supply and has no authority to make decisions about the supply. For example, an auctioneer who auctions a thing without having possession of it.

Provisions linked to health and safety duties in Act

Regulation 9 provides that if a note in the foot of a provision of the regulations states 'WHS Act' followed by a reference to a clause number of the WHS Act, the regulation provision sets out the way in which a person's duty or obligation under that clause of the Act is to be performed in relation to the matters and to the extent set out in the regulation provision. A failure to comply with a duty or obligation under a clause of the Act referred to in a regulation linked to the Act is an offence to which a penalty applies.

Part 1.2 Application

Application of the Act to dangerous goods and high risk plant

Regulation 10 excludes the application of Divisions 2 to 8 of Part 5 covering consultation, representation and participation, Part 6 on discriminatory, coercive and misleading conduct and Part 7 on workplace entry by WHS entry permit holders from the operation of Schedule 1 to the Act.

Application of these regulations

Regulation 11 specifies that a duty imposed on a person under the regulation in relation to health and safety does not limit or affect any duty the person has under the Act or, unless otherwise expressly provided, any other provision of the regulations.

Assessment of risk in relation to a class of hazards, tasks, circumstances or things

Regulation 12 specifies the conditions under which a risk assessment may be carried out for a class of hazards, tasks, things or circumstances.

Part 1.3 Incorporated documents

Documents incorporated as in force when incorporated

Regulation 13 provides that a reference to a document applied, adopted or incorporated by, or referred to in the regulation is taken to be the document in force at the time it was applied, adopted or incorporated by, or referred to, unless expressed provision is made to the contrary.

Inconsistencies between provisions

Regulation 14 provides that where an inconsistency exists, a provision of the regulations will prevail over any provision of a document applied, adopted or incorporated by, or referred to in the regulation.

References to standards

Regulation 15 explains references to Australian Standards or AS and Australia/New Zealand Standards or AS/NZS used in the regulations.

Chapter 2 Representation and participation

Chapter 2 sets out administrative requirements to implement existing rights and duties of PCBUs, workers, unions and other workers' representatives about the election, removal and training of health and safety representatives, the determination of work groups and the procedure for resolution of health and safety issues. It also prescribes requirements for workplace entry by WHS entry permit holders.

This Chapter prescribes matters for Part 5 of the Act – Consultation, representation and participation and Part 7 of the Act – Workplace entry by WHS entry permit holders.

Regulations in Part 3.1 – Managing risks to health and safety, Part 4.7 – Electrical Safety and Energised Electrical Work, Chapter 5 – Plant and Structures, Chapter 6 – Construction Work, Part 7.2 – Lead, Chapter 8 – Asbestos and Chapter 9 – Major Hazard Facilities include a role for health and safety representatives.

Part 2.1 Representation

Division 1 Work groups

Negotiations for and determination of work groups

Regulation 16 requires any negotiations for, determination and variation of work groups are directed at ensuring that workers are grouped in a way that most effectively and conveniently enables the representation of the workers' work health and safety interests, and must also take into account the need for a health and safety representative to be readily accessible to each worker in the work group.

Regulation 16 also notes that under clause 51(3) of the Act, a work group may be determined so as to include workers at more than one workplace. Under Subdivision 3 of Division 3 of Part 5 of the Act, a work group may also be determined to include workers who carry out work for two or more PCBUs at one or more workplaces.

Matters to be taken into account in negotiations

Regulation 17 provides that all relevant matters must be taken into account when negotiating for, determining or varying work groups as required by clauses 52(6) and 56(4) of the Act. These relevant matters must include the thirteen matters set out by this regulation.

Division 2 Health and safety representatives

Procedures for election of health and safety representatives

Regulation 18 sets out the minimum procedural requirements for the election of a health and safety representative for a work group as required by clause 61(2) of the Act.

Sub-regulation 18(2) requires the person conducting the election to take all reasonable steps to ensure specific procedures are complied with including that:

- each PCBU in which a worker in the work group works is informed of the date of the election as soon as practicable after the date is determined,
- all workers in the workgroup are given an opportunity to nominate for the position of health and safety representative and to vote in the election, and
- all workers in the work group and all relevant PCBUs are informed of the outcome of the election.

Persons conducting business or undertaking must not delay election

Regulation 19 provides that a PCBU must not unreasonably delay the election of a health and safety representative.

The maximum penalty for contravening this regulation is $3 600 for an individual and $18 000 for a body corporate.

Removal of health and safety representatives

Regulation 20 outlines how a majority of members of a work group may remove a health and safety representative as allowed under clause 64(2)(d) of the Act.

Sub-regulation 20(1) provides that a majority of the members of a work group may remove a health and safety representative for that work group if those members sign a written declaration that the health and safety representative should no longer represent the work group.

Sub-regulation 20(2) provides that a member of the work group nominated by the members who signed the declaration removing the health and safety representative, must, as soon as practicable, inform the removed health and safety representative and each PCBU with a worker in the work group of the removal. Nominated members must then also, as soon as practicable, take all reasonable steps to inform all members of the work group of the removal.

Sub-regulation 20(3) provides that the removal takes effect when the health and safety representative concerned, each PCBU with a worker in the work group, and the majority of members of the work group have been informed of the removal.

Notice of entry for person assisting health and safety representative

Regulation 20A sets out the notice of entry requirements for a person assisting a health and safety representative under clause 68(3A) of the Act.

Sub-regulation 20A(1) requires the notice of entry for a person assisting a health and safety representative to be set out in writing and to include the following:

- the full name of the health and safety representative giving the notice,
- the full name of the assistant whose entry is proposed,
- the name and address of the workplace proposed to be entered,
- the date of proposed entry, and
- a statement of the reasons why the health and safety representative considers it is necessary for the assistant to enter the workplace to assist.

Sub-regulation 20A(2) requires the notice of entry to identify whether the assistant is or has been a WHS entry permit holder and if so, the notice of entry must set out the name of the union that the assistant represents or represented, as well as a declaration by the assistant that declares that the assistant has not had their WHS entry permit revoked, any current WHS entry permit is not suspended, nor is the assistant disqualified from holding a WHS entry permit.

Training for health and safety representatives

Regulation 21 sets out the training entitlements of health and safety representatives as provided by clause 72(1) of the Act.

Sub-regulation 21(1) provides that a health and safety representative (including a deputy health and safety representative) is entitled to attend an initial course of training in work health and safety of up to 5 days duration. A health and safety representative (including a deputy health and safety representative) is also entitled to up to one day's refresher training each year, with the entitlement to the first refresher training commencing 1 year after the initial training.

Sub-regulation 21(2) allows the regulator to have regard to all relevant matters when approving a course of training in work health and safety for the purposes of clause 72(1) of the Act, including:

- the content and quality of the curriculum,
- relevance of the curriculum to the powers and functions of a health and safety representative, and

- the qualifications, knowledge and experience of the person who is to provide the training.

Regulation 21 also notes that in addition to the entitlements set out in this regulation, the health and safety representative and the relevant PCBU may agree that the health and safety representative will attend or receive further training.

It is further noted that the power to approve a course of training includes a power to revoke or vary the approval.

Part 2.2 Issue resolution

Agreed procedure—minimum requirements

Regulation 22 sets out the minimum requirements for an agreed procedure for issue resolution at a workplace.

Sub-regulation 22(2) requires the agreed procedure for issue resolution to include the steps set out in regulation 23.

Sub-regulation 22(3) further requires the PCBU to ensure that the agreed procedure is set out in writing, and is communicated to all workers to whom the agreed procedure applies.

The maximum penalty for a contravention of this sub-regulation is $3 600 for an individual and $18 000 for a body corporate.

Default procedure

Regulation 23 provides the default procedure for issue resolution as allowed under clause 81(2) of the Act.

Sub-regulation 23(2) provides that any party to the issue may commence the issue resolution procedure by telling each of the other parties that there is an issue to be resolved and the nature and scope of the issue.

Sub-regulation 23(3) provides that as soon as the parties are told of the issue, all parties must meet or communicate with each other to try to resolve the issue. In attempting to resolve the issue, sub-regulation 23(4) provides that all parties must have regard to all relevant matters including:

- the degree and immediacy of risk to workers or other persons affected by the issue,
- the number and location of workers and other persons affected by the issue,
- the temporary and permanent measures that must be implemented to resolve the issue, and
- the person responsible for implementing the resolution measures.

Sub-regulation 23(5) allows a party who is involved in resolving the issue to be assisted or represented by a person nominated by the party.

Sub-regulation 23(6) provides that if an issue is resolved, and any party to the issue requests it, details of the issue and its resolution must be set out in a written agreement. The sub-regulation also notes that under clause 80 of the Act, parties to an issue include a PCBU, a worker, a health and safety representative as well as any representatives of these persons.

If a written agreement is prepared, sub-regulation 23(7) provides that all parties to the issue must be satisfied that the written agreement reflects the resolution of the issue. Sub-regulation 23(8) further provides that a copy of the written agreement must be provided to all parties to the issue and to the health and safety committee for the workplace, if it requests it.

Sub-regulation 23(9) clarifies that nothing in the issue resolution procedure prevents a worker from bringing a work health and safety issue to the attention of the worker's health and safety representative.

Part 2.3 Cessation of unsafe work

Continuity of engagement of worker

Regulation 24 sets out the prescribed purposes referred to by clause 88 of the Act. These prescribed purposes are the assessment of eligibility for, or the calculation of benefits for, any benefit or entitlement associated with the worker's engagement. This includes:

- remuneration and promotion as affected by seniority,
- superannuation benefits,
- leave entitlements, and
- any entitlement to notice of termination of engagement.

Part 2.4 Workplace entry by WHS entry permit holders

Training requirement for WHS entry permits

Regulation 25 provides that the prescribed training required under clauses 130 and 133 of the Act is training that is provided or approved by the regulator. Sub-regulation 25(1) sets out the matters that must be covered by the training.

Sub-regulation 25(2) requires the training to provide participants with information about the availability of any guidance material published by the regulator in relation to the Act and the regulations.

Sub-regulation 25(3) provides that of the purpose of approving training, the regulator may have regard to any relevant matter, including:

- the content and quality of the curriculum,
- relevance of the curriculum to the powers and functions of a WHS permit holder, and
- the qualifications, knowledge and experience of the person who is to provide the training.

Regulation 25 also notes that the power to approve training includes a power to revoke or vary the approval.

Form of WHS entry permit

Regulation 26 sets out the information that must be included in a WHS entry permit.

Notice of entry—general

Regulation 27 provides that a notice of entry under Part 7 of the Act must be written. It also sets out the information that must be included in a notice of entry.

Additional requirements—entry under clause 117

Regulation 28 sets out additional requirements for a notice of entry in relation to an entry under clause 117 of the Act. A notice of entry in relation to clause 117 must also include:

- so far as reasonably practicable, the particulars of the suspected contravention to which the notice relates, and
- a declaration stating:
- that the union is entitled to represent the industrial interests of a worker who carries out work at the workplace entered, and that the worker is a member, or eligible to be a member, of that union,
- the provision in the union's rules that entitles the union to represent the industrial interests of that worker, and

- that the suspected contravention relates to or affects that worker.

Regulation 28 also notes that clause 130 of the Act provides that a WHS entry permit holder is not required to disclose the name of any worker to the PCBU, and may do so only with the consent of the worker.

Exemption certificate requirements – entry under clause 117

Regulation 28A specifies the minimum content that is required in an exemption certificate issued by an authorised authority under sub-clause 117(7) of the model WHS Act. An exemption certificate must specify the following

- if known, the full name of the WHS entry permit holder, or holders, who entered or will enter the premises,
- the name of the union that applied for the exemption certificate,
- that section 117(1) of the Act authorises the entry and that section 117(6) provides that notice of entry is not required if an exemption certificate has been issued,
- the name and address of the workplace entered or proposed to be entered,
- the relevant person conducting the business or undertaking,
- the date of entry or proposed entry, and
- so far as is practicable, particulars of the suspected contravention, or contraventions, to which the entry relates.

Additional requirements—entry under clause 120

Regulation 29 sets out additional requirements for a notice of entry under clause 120 of the Act. A notice of entry in relation to clause 120 must also include:

- so far as is practicable, the particulars of the suspected contravention to which the notice relates,
- a description of the employee records and other documents, or the classes of records and documents that are directly relevant to the suspected contravention that are proposed to be inspected,
- a declaration stating:
- that the union is entitled to represent the industrial interests of a worker who is a member, or eligible to be a member, of that union,
- the provision in the union's rules that entitles the union to represent the industrial interests of that worker,
- that the suspected contravention relates to or affects that worker, and
- the records or documents proposed to be inspected relate to that contravention.

Regulation 29 also notes that clause 130 of the Act provides that a WHS entry permit holder is not required to disclose the name of any worker to the PCBU, and may do so only with the consent of the worker.

Additional requirements—entry under clause 121

Regulation 30 sets out additional requirements for a notice of entry under clause 122 of the Act in relation to an entry under clause 121 of the Act must also include a declaration stating:

- that the union is entitled to represent the industrial interests of a worker who carries out work at the workplace proposed to be entered, and that the worker is a member, or eligible to be a member, of that union, and

- the provision in the union's rules that entitles the union to represent the industrial interests of that worker.

Regulation 30 also notes that clause 130 of the Act provides that a WHS entry permit holder is not required to disclose the name of any worker to the PCBU, and may do so only with the consent of the worker.

Register of WHS entry permit holders

Regulation 31 provides that the [insert relevant authorising authority here] must publish on its website an up-to-date register of WHS entry permit holders and the date on which the register was last updated as required by clause 151 of the Act.

Chapter 3 General risk and workplace management

Part 3.1 Managing risks to health and safety

Part 3.1 imposes risk management duties on the persons described at Regulation 32. It requires duty-holders to manage risks to health and safety by identifying hazards, applying a hierarchy of control measures and in specified circumstances requires review of control measures.

Duty-holders under this Part also have duties under clause 17 of the Act to manage risks, and duties under Part 5 Division 2 of the Act to consult with workers about matters in this Part. clause 27 of the Act applies to officers in respect of this Part.

There are additional regulations about management of risk in Part 4.1 – Noise; Part 4.2 – Hazardous manual tasks; Part 4.3 – Confined spaces; Part 4.4 – Falls; Part 4.7 – Electrical Safety and Energised Electrical Work; Part 4.8 – Diving work; Chapter 5 – Plant and Structures; Chapter 6 – Construction Work; Part 7.1 - Hazardous chemicals; Part 7.2 –Lead; Chapter 8 – Asbestos; and Chapter 9 – Major Hazard Facilities.

Defined terms in Chapter 1 which are relevant to this Part include administrative control and duty holder.

Application of part 3.1

Regulation 32 specifies that part 3.1 applies to a PCBU who has a duty under the regulation to manage risks to health and safety.

Specific requirements must be complied with

Regulation 33 provides that any specific requirements under the regulations for the management of risk must be complied with when implementing the requirements of part 3.1.

Regulation 33 also provides specific examples of the duty in regulation 33 including a requirement not to exceed an exposure standard, a duty to implement a specific control measure and a duty to assess risk.

Duty to identify hazards

Regulation 34 states that a duty holder, in managing risks to health and safety, must identify reasonably foreseeable hazards that could give rise to risks to health and safety.

Management of risk to health and safety

Regulation 35 specifies the way in which a duty holder must manage risks to health and safety. Risks to health and safety must be eliminated so far as is reasonably practicable. If it is not reasonably practicable to eliminate risks to health and safety, then the risks must be minimised so far as is reasonably practicable.

Hierarchy of control measures

Regulation 36 sets out the hierarchy of control measures which must be implemented to minimise risks to health and safety if it is not reasonably practicable for a duty holder to eliminate risks to health and safety.

Sub-regulation 36(2) requires that a duty holder implement risk control measures in accordance with regulation 36.

Sub-regulation 36(3) specifies that a duty holder must minimise risk, so far as is reasonably practicable by undertaking one or more of:

- substituting the hazard giving rise to the risk with something that gives rise to a lesser risk,
- isolating the hazard from any person exposed to the hazard, and
- implementing engineering controls.

Sub-regulation 36(4) provides that if a risk then remains, the duty holder must minimise the remaining risk, so far as is reasonably practicable, by implementing administrative controls.

Sub-regulation 36(5) states that if a risk still remains the duty holder must minimise the remaining risk, so far as is reasonably practicable, by ensuring the provision and use of suitable personal protective equipment.

Regulation 36 also notes that a duty holder may use a combination of control measures to minimise a risk, so far as is reasonably practicable, if a single control measure is not sufficient for the purpose.

Maintenance of control measures

Regulation 37 provides that a duty holder must ensure that a control measure implemented to eliminate or minimise risks to health and safety is effective and is maintained so that it remains effective. In order to do this, regulation 37 provides that the duty holder must ensure that the control measure is and remains: fit for purpose, is suitable for the nature and duration of work, and is installed, set up and used correctly.

Review of control measures

Regulation 38 requires a duty holder to review and, as necessary, revise control measures implemented under the Regulations so as to maintain, so far as is reasonably practicable, a work environment that is without risks to health or safety.

Sub-regulation 38(2) outlines specific circumstances in which a control measure must be reviewed, and revised as necessary; including when a control measures does not control the risk which it was implemented to control so far as is reasonably practicable, such as when a notifiable incident occurs because of the risk.

Sub-Regulation 38 (2) also requires a review and revision of control measures before a change at the workplace that is likely to give rise to a new or different risk to health and safety that the control measure may not effectively control. Sub-regulation 38(3) stipulates that a change at the workplace includes a change to the workplace itself or any aspect of the work environment or a change to a system of work, a process or procedure.

Sub-regulation 38(4) allows a health and safety representatives for workers at a workplace request a review of a control measure and prescribes the circumstances in which a health and safety representative may request that review.

Part 3.2 General workplace management

Part 3.2 imposes duties on PCBUs to ensure that the general working environment at a workplace is without risks to health and safety. It requires duty holders to ensure provision of general workplace facilities for workers, first aid, emergency plans, training and instruction for workers and imposes duties regarding remote or isolated work and falling objects. It imposes duties regarding personal protective equipment on PCBUs who direct the carrying out of work at a workplace, workers and persons at a workplace.

Duty-holders under this Part may also have health and safety duties under clause 19, 20, 21, 28 or 29 of the Act. PCBUs may have duties under Part 5 Division 2 of the Act to consult with workers about matters in this Part. clause 27 of the Act applies to officers in respect of this Part.

There are additional regulations about emergency plans in Part 4.3 – Confined spaces, Part 4.4 – Falls, Part 4.8 – Diving work, Part 7.1 – Hazardous chemicals and Chapter 9 – Major Hazard Facilities. Additional regulations about personal protective equipment are contained in Part 4.3 – Confined spaces, Part 4.4 – Falls; Chapter 6 – Construction Work, and Chapter 8 - Asbestos.

Additional regulations about workplace environmental conditions relate to Part 4.2 – Hazardous manual tasks, Part 4.3 – Confined spaces, Part 4.4 – Falls, Part 4.7 – Electrical Safety and Energised Electrical Work;, Chapter 6 – Construction work, Chapter 8 – Asbestos and Chapter 9 – Major Hazard Facilities.

Regulations about training, information and instruction are also included in Part 4.3 – Confined spaces, Part 4.4 – Falls; Part 4.8 – Diving work; Chapter 6 – Construction Work, Part 7.1 – Hazardous chemicals, Part 7.2 – Lead, Chapter 8 – Asbestos and Chapter 9 – Major Hazard Facilities.

Part 3.2 General workplace management covers work health and safety requirements in relation to:

- Training, information and instruction
- Workplace facilities
- First aid
- Emergency plans
- Personal protective equipment
- Remote or isolated work
- Managing risks from airborne contaminants
- Hazardous atmospheres
- Ignition sources
- Storage of flammable or combustible substances, and
- Falling objects

Division 1 Information, training and instruction

Provision of training, information and instruction

Regulation 39 applies to a PCBU for the purposes of clause 19 of the Act which requires a PCBU to ensure, so far as reasonably practicable, the provision of any information, training, instruction or supervision that is necessary to protect all persons from risks to their health and safety arising from work carried out as part of the conduct of the business or undertaking.

Sub-regulation 39(2) prescribes the requirement for a PCBU to ensure that information, training and instruction provided to a worker is suitable and adequate having regard to:

- the nature of the work carried out by the worker,
- the nature of the risks associated with the work at the time the information, training or instruction is provided, and
- control measures implemented.

The maximum penalty for a contravention of this sub-regulation is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 39(3) states that a PCBU must ensure, so far as is reasonably practicable, that the information, training and instruction are provided in a readily understandable manner by any person to whom it is provided.

The maximum penalty for a contravention of this sub-regulation is $6 000 for an individual and $30 000 for a body corporate.

Division 2 General working environment

Duty in relation to general workplace facilities

Regulation 40 sets out the requirements for a PCBU at a workplace to ensure the workplace layout and maintenance allows persons to enter, exit and move about without risk to health and safety in normal working conditions and in an emergency. It also sets out requirements in relation to space

for work to occur, floors and other surfaces, lighting, ventilation, work undertaken in extremes of heat or cold, and work on or near essential services.

The maximum penalty for a contravention of this sub-regulation is $6 000 for an individual and $30 000 for a body corporate.

Duty to provide and maintain adequate and accessible facilities

Regulation 41 provides that a PCBU at a workplace must ensure, so far as is reasonably practicable, the provision of adequate facilities for workers. Facilities in this regulation include toilets, drinking water, washing facilities and eating facilities.

The maximum penalty for a contravention of this sub-regulation is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 41(2) provides that a PCBU at a workplace must ensure, so far as is reasonably practicable, that the facilities provided are maintained to be in good working order, clean, safe and accessible.

The maximum penalty for a contravention of this sub-regulation is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 41(3) requires the PCBU to consider a number of listed relevant matters in determining the adequacy of facilities including the nature of the work being carried out at the workplace, the nature of the hazards at the workplace, the size, location and nature of the workplace, and the number and composition of the workers at the workplace.

Division 3 First aid

Duty to provide first aid

Regulation 42 provides that a PCBU at a workplace must ensure the provision of first aid equipment for a workplace and access by each worker to the equipment, and access to facilities for the administration of first aid

The maximum penalty for a contravention of this regulation is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 42(2) requires a PCBU at a workplace to ensure that an adequate number of workers are trained to administer first aid at the workplace or that workers have access to an adequate number of other persons who have been trained to administer first aid.

The maximum penalty for a contravention of this sub-regulation is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 42(3) prescribes the matters that the PCBU must consider in determining the adequacy of first aid facilities and equipment under sub-regulations 42 (1) and 42(2) including the nature of the work being carried out at the workplace, the nature of the hazards at the workplace, the size, location and nature of the workplace, and the number and composition of the workers at the workplace.

Division 4 Emergency plans

Duty to prepare, maintain and implement emergency plan

Regulation 43 requires a PCBU at a workplace to ensure that an emergency plan is prepared for the workplace which provides for specified procedures including effective response to an emergency, evacuation procedures, medical treatment and assistance, and effective communication between the person authorised by the PCBU to coordinate the emergency response and all persons at the workplace.

The maximum penalty for a contravention of this regulation is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 43(2) prescribes that a PCBU at a workplace must maintain the emergency plan for the workplace so that it remains effective.

Sub-regulation 43(3) prescribes the matters that the PCBU must consider in preparing an emergency under sub-regulations 43(1) and 43(2) including the nature of the work being carried out at the workplace, the nature of the hazards at the workplace, the size, location and nature of the workplace, and the number and composition of the workers at the workplace. Sub-regulation 43(4) states that the PCBU must implement the emergency plan in the event of an emergency.

The maximum penalty for a contravention of this sub-regulation is $6 000 for an individual and $30 000 for a body corporate.

Division 5 Personal protective equipment

Provision to workers and use of personal protective equipment

Regulation 44 applies if personal protective equipment is to be used to minimise a risk to health and safety in relation to work at a workplace in accordance with the hierarchy of control measures (Regulation 36).

Sub-regulation 44(2) requires the PCBU who directs the carrying out of work to provide the personal protective equipment to workers at the workplace, unless the personal protective equipment has been provided by another PCBU, such as a labour hire company.

The maximum penalty for a contravention of sub-regulation 44(2) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 44(3) requires the PCBU who directs the carrying out of work to ensure that the personal protective equipment provided is selected to minimise risk to health and safety, including by ensuring that the equipment is suitable having regard to the work and any hazard associated with the work, and that the equipment is a suitable size and fit for the worker who is to use or wear it. It also requires the PCBU ensure that the personal protective equipment is maintained, repaired or replaced so that the equipment is clean and hygienic and in good working order so the equipment continues to minimise risk to the worker who uses it. Sub-regulation 44(3)(c) also requires the PCBU to ensure that the personal equipment is used or worn by the worker, so far as is reasonably practicable.

Sub-regulation 44(4) requires the PCBU to provide the worker with information, training and instruction in the proper use, wearing, storage and maintenance of the personal protective equipment.

The maximum penalty for a contravention of sub-regulation 44(4) is $6 000 for an individual and $30 000 for a body corporate.

This regulation also notes that a PCBU must not charge or impose a levy on a worker for the provision of personal protective equipment in line with clause 273 of the Act.

Personal protective equipment used by other persons

Regulation 45 requires a PCBU who directs the carrying out of work to ensure, so far as is reasonably practicable that personal protective equipment used by any person other than a worker at the workplace is capable of minimising risk to the person's health and safety, and that the person uses or wears the equipment.

The maximum penalty for a contravention of regulation 45 is $6 000 for an individual and $30 000 for a body corporate.

Duties of worker

Regulation 46 applies if a PCBU provides a worker with personal protective equipment.

Sub-regulation 46(2) requires the worker, so far as they are reasonably able, to use or wear the equipment in accordance with any information, training or reasonable instruction provided by the PCBU.

The maximum penalty for a contravention of sub-regulation 46(2) is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulation 46(3) provides that the worker must not intentionally misuse or damage the equipment.

The maximum penalty for a contravention of sub-regulation 46(3) is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulation 46(4) requires the worker to inform the PCBU of any damage to, defect in or need to clean or decontaminate any of the equipment of which the worker becomes aware.

The maximum penalty for a contravention of sub-regulation 46(4) is $3 600 for an individual and $18 000 for a body corporate.

Duty of person other than worker

Regulation 47 requires a person other than a worker to wear personal protective equipment at a workplace in accordance with any information, training or reasonable instruction provided by the PCBU at the workplace.

The maximum penalty for a contravention of this regulation is $3 600 for an individual and $18 000 for a body corporate.

Division 6 Remote or isolated work

Remote or isolated work

Regulation 48 requires a PCBU to manage risks to the health and safety of a worker associated with remote or isolated work in accordance with part 3.1 of the regulations.

Sub-regulation 48(2) requires a PCBU to provide a system of work that includes effective communication with the worker.

Sub-regulation 48(3) defines assistance and remote or isolated work for the purpose of this regulation.

The maximum penalty for a contravention of sub-regulation 48(2) is $6 000 for an individual and $30 000 for a body corporate.

Division 7 Managing risks from airborne contaminants

Ensuring exposure standards for substances and mixtures not exceeded

Regulation 49 requires a PCBU at a workplace to ensure that no person at the workplace is exposed to a substance or mixture in an airborne concentration that exceeds the relevant exposure standard.

The maximum penalty for a contravention of regulation 49 is $6 000 for an individual and $30 000 for a body corporate.

Monitoring airborne contaminant levels

Regulation 50 requires a PCBU at a workplace to ensure that air monitoring is carried out to determine the airborne concentration of a substance or mixture at the workplace to which an exposure standard applies if:

- the person is not certain on reasonable grounds whether or not the airborne concentration of a substance or mixture at the workplace exceeds the relevant exposure standard; or
- monitoring is necessary to determine whether there is a risk to health.

The maximum penalty for a contravention of sub-regulation 50(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 50(2) requires a PCBU at a workplace to ensure that the results of air monitoring are recorded and are kept for 30 years after the record is made, and that the results are readily accessible to persons at that workplace who may be exposed to the substance or mixture.

The maximum penalty for a contravention of sub-regulation 50(2) is $1 250 for an individual and $6 000 for a body corporate.

Division 8 Hazardous atmospheres

Managing risks to health and safety

Regulation 51 requires a PCBU at a workplace to manage risks to health and safety associated with a hazardous atmosphere at the workplace in accordance with Part 3.1 of the regulations.

Sub-regulation 51(2) defines hazardous atmosphere.

Ignition sources

Regulation 52 requires a PCBU at a workplace to manage risks to health and safety associated with an ignition source in a hazardous atmosphere at the workplace, in line with Part 3.1 of the regulations.

Sub-regulation 52(2) provides that the regulation does not apply to an ignition source if it is part of a deliberate process or activity at the workplace.

Division 9 Storage of flammable or combustible substances

Flammable and combustible material not to be accumulated

Regulation 53 requires a PCBU to ensure that any flammable or combustible substances kept at the workplace are kept at the lowest practicable quantity for the workplace.

Sub-regulation 53(2) defines flammable or combustible substances for the purpose of the regulation.

Division 10 Falling objects

Management of risk of falling objects

Regulation 54 requires a PCBU to manage, in accordance with Part 3.1 of the regulations, risks to health and safety associated with an object falling on a person if the falling object is reasonably likely to injure the person.

Minimising risk associated with falling objects

Regulation 55 is applicable if it is not reasonably practicable to eliminate the risk of an object falling on a person.

Sub-regulation 55(2) requires the PCBU to minimise the risk of an object falling on a person by providing adequate protection against the risk.

Sub-regulation 55(3) prescribes that the PCBU has provided adequate protection against the risk, for the purposes of sub-regulation 55(2), by providing and maintaining a safe system or work., including preventing an object from falling freely, so far as is reasonably practicable, or providing, so far as reasonably practicable, a system to arrest the fall of a falling object. Sub-regulation 55(3) also provides examples of a system to arrest the fall of a falling object as including providing:

- A secure barrier
- A safe means of raising and lowering objects
- An exclusion zone persons are prohibited from entering

Chapter 4 Hazardous Work

Chapter 4 sets out the health and safety requirements for noise, hazardous manual tasks, confined spaces, falls, high risk work, demolition work, electrical safety and energised electrical work and diving work.

Part 4.1 Noise

Part 4.1 imposes duties on PCBUs about the exposure of workers to noise at the workplace. Duty-holders under this Part may also have health and safety duties under clause 19, 20 or 21 of the Act, and duties under Part 5 Division 2 of the Act to consult with workers about matters in this Part. clause 27 of the Act applies to officers in respect of this Part. There are additional regulations about management of risk in Part 3.1 – Managing risks to health and safety.

Meaning of exposure standard for noise

Regulation 56 provides the meaning of, the exposure standard for noise.

Managing risk of hearing loss from noise

Regulation 57 provides that, in accordance with Part 3.1 of the regulations, a PCBU at a workplace must manage the risks to health and safety relating to hearing loss associated with noise.

Sub-regulation 57(2) provides that the PCBU must ensure that workers at the workplace are not exposed to noise that exceeds the exposure standard for noise.

The maximum penalty for contravening sub-regulation 57(2) is $6000 for an individual and $30 000 for a body corporate

Audiometric testing

Regulation 58 applies to workers who are frequently required to wear personal protective equipment to protect against the risk of hearing loss associated with noise that exceeds the exposure standard for noise.

Sub-regulation 58(2) provides that the PCBU who provides this personal protective equipment as a control measure must also provide audiometric testing for the worker within 3 months of the worker commencing the work and, in any event, at least every 2 years.

The maximum penalty for contravening sub-regulation 58(2) is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulation 58(3) provides the meaning of audiometric testing.

Duties of designers, manufacturers, importers and suppliers of plant

Regulation 59 provides the duties of designers, manufacturers, importers or suppliers of plant.

Sub-regulation 59(1) provides that a designer of plant must ensure that the plant is designed so that its noise emission is as low as reasonably practicable.

The maximum penalty for contravening sub-regulation 59(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 59(2) further provides that a designer of plant must give each person who is provided with the design for the purpose of giving effect to it adequate information about:

- the noise emission values of the plant,
- the operating conditions of the plant when noise emission is to be measured, and
- the methods the designer has used to measure the noise emission of the plant.

The maximum penalty for contravening sub-regulation 59(2) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 59(3) provides that a manufacturer of plant must ensure that the plant is manufactured so that its noise emission is as low as reasonably practicable.

The maximum penalty for contravening sub-regulation 59(3) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 59(4) further provides that a manufacturer of plant must give to each person who is provided with the plant, adequate information about:

- the noise emission values of the plant,
- the operating conditions of the plant when noise emission is to be measured, and
- the methods the manufacturer has used to measure the noise emission of the plant.

The maximum penalty for contravening sub-regulation 59(4) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 59(5) requires an importer of plant to take all reasonable steps to obtain the information the manufacturer is required to provide to an importer under sub-regulation 59(4) and give that information to any person the plant is supplied to.

The maximum penalty for contravening sub-regulation 59(5) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 59(6) requires a supplier of plant to take all reasonable steps to obtain the information the designer, manufacturer or importer is required to provide to a supplier under sub-regulation 59(2), 59(4) and 59(5), and give that information to any person the supplier supplies the plant to.

The maximum penalty for contravening sub-regulation 59(6) is $6 000 for an individual and $30 000 for a body corporate.

Part 4.2 Hazardous manual tasks

Part 4.2 imposes duties on PCBUs to manage the risk of a musculoskeletal disorder associated with a hazardous manual task in accordance with Part 3.1 of the regulations. It also specifies the duties placed on designers, manufacturers, importers and suppliers of plant or structures for hazardous manual tasks.

Duty-holders under this Part may also have health and safety duties under clause 19, 20, 21, 22, 23, 24, 25 or 26 of the Act, and duties under Part 5 Division 2 of the Act to consult with workers about matters in this Part. clause 27 of the Act applies to officers in respect of this Part.

There are additional regulations about management of risk in Part 3.1– Managing risks to health and safety and about workplace environmental conditions in Part 3.2 – General Workplace Management of the regulations.

Managing risks to health and safety

Regulation 60 specifies that a PCBU must manage risks to health and safety relating to a musculoskeletal disorder associated with a hazardous manual task, in accordance with part 3.1 of the regulations.

The PCBU must have regard to all relevant matters that may contribute to a musculoskeletal disorder when determining what control measures must be implemented to manage the risk of musculoskeletal disorder. The matters to be regarded in this process including the duration and frequency of the hazardous manual task, the design and layout of the workplace, and the nature, size, weight or number of persons, animals or things involved in carrying out the hazardous manual task.

Duties of designers, manufacturers, importers and suppliers of plant or structures

Regulation 61 outlines the duties placed on designers, manufacturers, importers and suppliers of plant or structures.

Sub-regulations 61(1) and 61(2) provides that a designer and manufacturer of plant or a structure must eliminate, or if it is not reasonably practicable to do so, minimise the need for a hazardous

manual task to be carried out in relation with the plant or structure when it is being designed and manufactured.

The maximum penalty for contravening sub-regulation 61(1) and 61(2) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulations 61(3) and 61(4) provides that a designer and manufacturer of plant or a structure must also give adequate information about the features of the plant or structure that eliminate or minimise the need for any hazardous manual task to an importer or supplier of the plant or structure.

The maximum penalty for contravening sub-regulation 61(3) and 61(4) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 61(6) and 61(7) provides that an importer or a supplier of plant or a structure must take all reasonable steps to obtain the relevant information about the features of the plant or structure from the manufacturer. The importer and supplier must give this information to any person to whom the plant or structure is supplied.

The maximum penalty for contravening sub-regulation 61(6) and 61(7) is $6 000 for an individual and $30 000 for a body corporate.

Part 4.3 Confined spaces

Part 4.3 Confined spaces applies to any confined space that is or could be entered by a person.

Duty-holders under this Part may also have health and safety duties under clause 20, 21, 22, 23 or 25 of the Act, and duties under Part 5 Division 2 of the Act to consult with workers about matters in this Part. clause 27 of the Act applies to officers in respect of this Part.

There are additional regulations about management of risk in Part 3.1 –Managing risks to health and safety, about workplace environmental conditions and information, training and instruction in Part 3.2 – General Workplace Management and about construction work involving confined spaces in Chapter 6 – Construction Work. Additional regulations imposing duties on designers, manufacturers and suppliers about plant and structures are included in Chapter 5 – Plant and Structures.

Division 1 Preliminary

Confined spaces to which this Part applies

Regulation 62 provides that Part 4.3 of the regulations applies to any confined space that is entered, intended to be, or could inadvertently be entered by any person. It also clarifies that, the person with management or control of the confined space is the PCBU for the purposes of Part 4.3.

Application to emergency service workers

Regulation 63 exempts an emergency service worker from the requirements for an entry permit and signage requirements prescribed in regulations 67 and 68, if they are either rescuing or providing first aid to a person in a confined space at the direction of the emergency service organisation.

Division 2 Duties of designer, manufacturer, importer, supplier, installer and constructor of plant or structure

Duty to eliminate or minimise risk

Regulation 64 applies to plant or structures that include a space that is or is intended to be a confined space.

Sub-regulation 64(2) imposes a duty on a designer, manufacturer, importer or supplier of the plant or structure, and a person who installs or constructs the plant or structure to ensure that the need for any person to enter the space and the risk of a person inadvertently entering the space are eliminated, so far as is reasonably practicable.

Sub-regulation 64(3) prescribes that if elimination is not possible, the need to enter the space or the risk of a person inadvertently entering the space then the need or risk should be minimised so far as

is reasonably practicable, the space should be designed with a safe means of entry and exit, and the risk to health and safety of any person who enters the space must be eliminated so far as is reasonably practicable and if that is not possible, minimised so far as is reasonably practicable.

Division 3 Duties of person conducting business or undertaking

Entry into confined space must comply with this Division

Regulation 65 provides that a PCBU must ensure, so far as is reasonably practicable, that a worker does not enter a confined space before the duties in Division 3 of Part 4.3 have been complied with.

The maximum penalty for contravening regulation 65 is $6 000 for an individual and $30 000 for a body corporate.

Managing risks to health and safety

Sub-regulation 66 requires a PCBU to manage, in accordance with Part 3.1 of the regulations, risks to health and safety associated with a confined space at a workplace.

Sub-regulation 66(2) provides that a PCBU must ensure that a risk assessment is conducted by a competent person.

The maximum penalty for contravening sub-regulation 66(2) is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulation 66(3) provides that the PCBU must ensure that the risk assessment conducted under sub-regulation 66(2) is recorded in writing.

The maximum penalty for contravening sub-regulation 66(3) is $1 250 for an individual and $6 000 for a body corporate.

Sub-regulation 66(4) prescribes the relevant matters which the PCBU must have regard for the purposes of sub-regulations 66(1) and 66(2).

Sub-regulation 66(5) prescribes that the PCBU must ensure that the risk assessment developed under the regulation is reviewed, and as necessary revised, by a competent person to reflect any review and revision of control measures under Part 3.1 of the regulations.

The maximum penalty for contravening sub-regulation 61(5) is $3 600 for an individual and $18 000 for a body corporate.

Confined space entry permit

Regulation 67 states that a PCBU must not direct a worker to enter a confined space to carry out work unless the person has issued a confined space entry permit for the work.

The maximum penalty for contravening sub-regulation 67(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 67(2) specifies the details which must be included in the confined space entry permit including the confined space to which the permit relates, the names of the persons permitted to enter the space, the period of time during which the work in the space will be carried out, the control measures implemented to control risks associated with the proposed work in the space as well as space to acknowledge that when the work is complete that all persons have left the confined space.

Sub-regulation 67(3) requires the control measures specified in the permit must be based on the risk assessment required by regulation 66, control measures to be implemented for safe entry, and detail the communication and safety monitoring required in regulation 69.

Sub-regulation 67(4) provides that the PCBU must ensure that, when the work for which the entry permit was issued is completed, all workers leave the confined space and the work provided for in the entry permit is acknowledged as being completed by the competent person.

The maximum penalty for contravening sub-regulation 67(4) is $1 250 for an individual and $6 000 for a body corporate.

Signage

Regulation 68 requires a PCBU to ensure that signs are erected immediately prior to when work in a confined space begins and while work is being carried out and when the work in a confined space is completed.

The maximum penalty for contravening sub-regulation 68(1) is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulation 68(2) provides that the signs must identify the confined space, inform workers that they must not enter the space unless they have a confined space entry permit, and are clear and prominently located next to each entry to the space.

Communication and safety monitoring

Regulation 69 requires a PCBU to ensure that a worker does not enter a confined space to carry out work unless the PCBU provides a system of work that includes continuous communication with the worker from outside the space, and monitoring conditions within the space by a standby person who is in the vicinity of the space and, if practicable, observing the work being carried out.

The maximum penalty for contravening regulation 69 is $6 000 for an individual and $30 000 for a body corporate.

Specific control—connected plant and services

Regulation 70 requires a PCBU to, so far as is reasonably practicable, eliminate any risk associated with work in a confined space from the introduction of any substance or condition into the space from or by any plant or services connected to the space, or from the activation or energising in any way of any plant or services connected to the space.

The maximum penalty for contravening sub-regulation 68(1) is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulation 70(2) provides that if it is not reasonably practicable for the person to eliminate risk under sub-regulation 70(1), the person must minimise that risk so far as is reasonably practicable.

The maximum penalty for contravening sub-regulation 70(2) is $3 600 for an individual and $18 000 for a body corporate.

Specific control—atmosphere

Regulation 71 requires a PCBU to ensure that purging or ventilation of any contaminant in the atmosphere of the confined space is carried out, and pure oxygen or gas mixtures with oxygen in a concentration exceeding 21 per cent by volume are not used for purging or ventilation.

The maximum penalty for contravening sub-regulation 71(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 71(2) provides that the PCBU must also ensure that while work is being carried out in a confined space, the atmosphere of the space has a safe oxygen level, and if this is not reasonably practicable to comply with and the atmosphere in the space has an oxygen level less than 19.5 per cent by volume—any worker carrying out work in the space is provided with air supplied respiratory equipment.

The maximum penalty for contravening sub-regulation 71(2) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 71(3) defines purging as the method used to displace any contaminant from a confined space.

This regulation also notes that regulation 50 applies to airborne contaminants and that regulation 44 applies to the use of PPE, including the equipment provided under sub-regulation (2) of this regulation.

Specific control—flammable gases and vapours

Regulation 72 requires a PCBU to ensure, so far as is reasonably practicable, that while work is being carried out in a confined space, the concentration of any flammable gas, vapour or mist in the atmosphere of the space is less than 5 per cent of its lower explosive limit (LEL).

The maximum penalty for contravening sub-regulation 72(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 72(2) provides that if not reasonably practicable to limit the atmospheric concentration of any flammable gas, vapour or mist in the atmosphere of the confined space is equal to or greater than 5 per cent but less than 10 per cent of its LEL, the PCBU must ensure that any worker is immediately removed from the space unless a suitably calibrated, continuous-monitoring flammable gas detector is used in the space. The PCBU must ensure that any worker is immediately removed from the space if the concentration of any flammable gas, vapour or mist in the atmosphere of the confined space is equal to or greater than 10 per cent of its LEL.

The maximum penalty for contravening sub-regulation 72(2) is $6 000 for an individual and $30 000 for a body corporate.

Specific control—fire and explosion

Regulation 73 requires a PCBU to ensure that an ignition source is not introduced into a confined space, if there is a possibility of fire or explosion in the space being caused by an ignition source being introduced into the space.

The maximum penalty for contravening sub-regulation 71(2) is $6 000 for an individual and $30 000 for a body corporate.

Emergency procedures

Regulation 74 requires a PCBU to establish first aid and rescue procedures in the event of an emergency in a confined space, and to ensure that the procedures are practised to ensure that they are efficient and effective.

The maximum penalty for contravening sub-regulation 74(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 74(2) requires the PCBU to ensure that first aid and rescue procedures are initiated from outside the confined space as soon as practicable in an emergency.

The maximum penalty for contravening sub-regulation 74(2) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 74(3) requires the PCBU to ensure that entry and exit points to the confined space are large enough to facilitate emergency access, that access and egress points are not obstructed, and that plant, equipment and personal protective equipment provided for first aid or emergency rescue are maintained in good working order.

The maximum penalty for contravening sub-regulation 74(3) is $6 000 for an individual and $30 000 for a body corporate.

Personal protective equipment in emergencies

Regulation 75 applies to a worker who is to enter a confined space in order to carry out first aid or rescue procedures in an emergency.

Sub-regulation 75(2) requires the PCBU to take all reasonable steps to ensure that air supplied respiratory equipment is provided and available for use by the worker in an emergency where the atmosphere in the confined space does not have a safe oxygen level, or has a harmful concentration of an airborne contaminant, or there is a serious risk of the atmosphere developing such a condition.

The maximum penalty for contravening sub-regulation 75(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 75(3) requires the PCBU to ensure that suitable personal protective equipment is provided and available for use by the worker in an emergency in which an engulfment has occurred inside the confined space, or there is a serious risk of an engulfment occurring while the worker is in the space.

The maximum penalty for contravening sub-regulation 75(2) is $6 000 for an individual and $30 000 for a body corporate.

Information, training and instruction for workers

Regulation 76 provides that a PCBU must ensure that relevant workers are provided with suitable and adequate information, training and instruction in relation to the nature of all hazards relating to a confined space, the need for and appropriate use of control measures to control risks to health and safety associated with those hazards, the selection, fit, wearing, testing, storage and maintenance of any personal protective equipment, the contents of any confined space entry permit that may be issued in relation to work carried out by the worker in a confined space and emergency procedures.

The maximum penalty for contravening sub-regulation 76(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 76(2) provides that a PCBU is also required to keep a record of this training for two years.

The maximum penalty for contravening sub-regulation 71(1) is $1 250 for an individual and $6 000 for a body corporate.

Sub-regulation 76(3) defines the meaning of relevant worker to include workers (and their supervisors) who may enter the confined space, or carry out regulated confined space functions (including emergency procedures), whether they enter the confined space or not.

Confined space entry permit and risk assessment must be kept

Regulation 77 states that if a PCBU prepares a risk assessment under regulation 66, or issues a confined space entry permit under regulation 67, the PCBU must keep a copy of the risk assessment for at least 28 days after the work to which it relates is completed, and keep a copy of the confined space entry permit at least until the work to which it relates is completed.

The maximum penalty for contravening sub-regulation 77(2) is $1 250 for an individual and $6 000 for a body corporate.

Sub-regulation 77(3) provides that a PCBU must also keep the copy of the assessment or permit (as the case requires) for at least 2 years after the occurrence of a notifiable incident in connection with the work to which the assessment or permit relates.

The maximum penalty for contravening sub-regulation 77(3) is $1 250 for an individual and $6 000 for a body corporate.

Sub-regulation 77(4) also requires the PCBU to ensure that, for the period for which the assessment or permit must be kept under this regulation, a copy is available for inspection under the Act.

The maximum penalty for contravening sub-regulation 77(4) is $1 250 for an individual and $6 000 for a body corporate.

Sub-regulation 77(5) requires the PCBU to ensure that, for the period for which the assessment or permit is available to any relevant worker on request.

The maximum penalty for contravening sub-regulation 77(5) is $3 600 for an individual and $18 000 for a body corporate.

Part 4.4 Falls

Part 4.4 Falls applies to situations where a person could fall from one level to another, where that fall is reasonably likely to cause injury to the person or any other person. This part also establishes requirements for control measures which eliminate or if that is not reasonably practicable, minimise the risk, and establishes requirements where the risk of a fall is not eliminated.

Duty-holders under this Part may also have health and safety duties under clause 19, 20 or 21 of the Act, and duties under Part 5 Division 2 of the Act to consult with workers about matters in this Part. clause 27 of the Act applies to officers in respect of this Part.

There are additional regulations about management of risk in Part 2.1 – Risk Management, about workplace environmental conditions in Part 2.2 – General Workplace Management and about construction work involving risk of a person falling in Chapter 6 – Construction Work. Part 4.5 – High Risk Work may apply in respect of some work involving risk of falls.

Management of risk of fall

Regulation 78 requires a PCBU at a workplace to manage, in accordance with Part 3.1 the risk of a fall by a person from one level to another, where that fall is reasonably likely to cause injury to the person or any other person.

Sub-regulation 78(2) explains that a fall from one level to another includes a potential fall in or on an elevated workplace, or in the vicinity of an opening or edge through which or over which a person could fall, or a surface through which a person could fall, or any other place from which a person could fall.

Sub-regulation 78(3) requires the PCBU to ensure, so far as is reasonably practicable, that any work that involves the risk of a fall is carried out on the ground or on a solid construction.

The maximum penalty for contravening sub-regulation 78(3) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 78(4) requires the PCBU to provide safe means of access to and exit from the workplace or areas within the workplace.

The maximum penalty for contravening sub-regulation 78(4) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 77(5) defines the term solid construction for the purpose of the regulations.

Specific requirements to minimise risk of fall

Regulation 79 applies if it is not reasonably practicable to eliminate the risk of a fall referred to in regulation 78. The regulation requires a PCBU to minimise the risk of a fall by providing adequate protection against the fall risk.

The maximum penalty for contravening sub-regulation 79(2) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 79(3) explains that adequate protection is taken to be provided if the PCBU provides and maintains a safe system of work, including:

- providing a fall prevention device if it is reasonably practicable to do so; or
- providing a work positioning system, if it is not reasonably practicable to provide a fall prevention device; or
- providing a fall arrest system, so far as is reasonably practicable, if it is not reasonably practicable to provide either a fall prevention device or a work positioning system.

Sub-regulation 79(4) clarifies that regulation 79 does not apply to the performance of stunt work, acrobatics, theatrical performance, a sporting or athletic activity or horse riding.

Sub-regulation 79(5) provides examples of fall prevention device which includes a secure fence, edge protection, working platforms and covers.

Emergency and rescue procedures

Regulation 80 requires a PCBU, who implements a fall arrest system as a control measure, to establish emergency and rescue procedures in relation to the use of the system,

The maximum penalty for contravening sub-regulation 80(2) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 80(2) provides that the PCBU must also ensure that the emergency and rescue procedures are tested so that they are effective.

The maximum penalty for contravening sub-regulation 80(3) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 80(4) provides that a PCBU is also required to provide relevant workers with suitable and adequate information, training and instruction in relation to the emergency and rescue procedures.

The maximum penalty for contravening sub-regulation 80(4) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 80(5) defines relevant worker as including both a worker who uses or is required to use a fall arrest system, as well as a worker who may be involved in initiating or implementing the emergency and rescue procedures.

Part 4.5 High risk work

Part 4.5 outlines the licensing requirements for:

- Basic scaffolding, intermediate scaffolding, advanced scaffolding
- Dogging, basic rigging, intermediate rigging, advanced rigging
- Crane and hoist operation – tower crane, self-erecting tower crane, derrick crane, portal boom crane, bridge and gantry crane, vehicle loading crane, non-slewing mobile crane, slewing mobile crane with a capacity up to 20 tonnes, slewing mobile crane with a capacity up to 60 tonnes, slewing mobile crane with a capacity up to 100 tonnes, slewing mobile crane with a capacity over 100 tonnes, materials hoist, personnel and materials hoist, boom-type elevating work platform, concrete placing boom
- Reach stacker
- Forklift operation – forklift truck, order-picking forklift truck
- Pressure equipment operation – standard boiler operation, advanced boiler operation, turbine operation, reciprocating steam engine

Part 4.5 outlines how to apply for a high risk work licence and places certain requirements on the regulator relating to granting or refusing an application. It contains provisions covering the replacement, surrender, renewal and suspension and cancellation of licences.

Part 4.5 also sets out the accreditation requirements for accredited assessors in relation to assessing competency for a high risk work licence.

This Part prescribes requirements for authorisation of work for clause 43 of the Act and required qualifications for clause 44 of the Act.

Schedules 4-5 of the regulations apply to this Part. Part 4.4 – Falls and Chapter 6 – Construction work may also apply to some classes of high risk work.

Division 1 Licensing of high risk work

Subdivision 1 Requirement to be licensed

Licence required to carry out high risk work

Regulation 81 specifies that a person must not carry out a class of high risk work prescribed in schedule 3 unless the person holds a high risk work licence for that class of high risk work.

Exceptions

Regulation 82 identifies the specific and limited circumstances in which a person is not required to hold a high risk work licence for carrying out high risk work, for carrying out high risk work involving plant, for carrying out high risk work involving cranes and hoists, or for carrying out high risk work with a heritage boiler.

Recognition of high risk work licences in other jurisdictions

Regulation 83 clarifies that a reference to a high risk work licence includes a reference to an equivalent licence that was issued by a corresponding regulator under a corresponding WHS law and is being used according to the terms and conditions under which it was granted.

Sub-regulation 83(2) stipulates that this regulation does not apply to a licence that is suspended or cancelled, or has expired in the corresponding jurisdiction.

Duty of person conducting business or undertaking to ensure direct supervision

Regulation 84 provides that a PCBU must ensure that a person who is carrying out high risk work as part of training towards a high risk work certification is directly supervised except in the limited circumstances stated in sub-regulation 84(2), including if the nature or circumstances of a particular task make direct supervision impracticable or unnecessary and if the reduced level of supervision will not place the health or safety of the supervised person or any other person at risk.

The maximum penalty for contravening sub-regulation 84(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 84(3) also provides the meaning of direct supervision for the purpose of regulation 84.

Evidence of licence—duty of person conducting business or undertaking

Regulation 85 requires the PCBU to sight written evidence that the worker has the relevant high risk licence for that work before directing or allowing a worker to carry out that high risk work.

The maximum penalty for contravening sub-regulation 85(1) is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulations 85(2), 85(2A) and 85(3) provide that the PCBU at a workplace must not direct or allow a worker to carry out or supervise high risk work unless the person sees written evidence provided by the worker that the worker:

- for carrying out work:
    - has the relevant high risk work licence, or
    - is undertaking training in a class of high risk work under the supervision of a person who has the relevant high risk work licence, or
    - has completed the training and has applied for a high risk work licence within the prescribed period.
- for supervision, has the relevant high risk work licence.

The maximum penalty for contravening sub-regulation 85(2) and 85(3) is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulation 85(4) provides that a PCBU at a workplace must keep a record of the written evidence for at least one year after the work was carried out under regulations 85(1) and 85(2) or for at least one year after the last occasion that the worker performs the supervision work under regulation 85(3).

The maximum penalty for contravening sub-regulation 85(4) is $1 250 for an individual and $6 000 for a body corporate.

Subdivision 2 Licensing process

Who may apply for a licence

Regulation 86 specifies that only a person who holds a qualification set out in Schedule 4 of the regulation may apply for a high risk work licence.

Application for high risk work licence

Regulation 87 sets out the requirements for an application for a high risk work licence. The application must be made in the approved form, include certain information listed in sub-regulation 87(2), and be accompanied by the relevant fee (sub-regulation 84(3)).

Additional information

Regulation 88 allows the regulator to seek additional information from the applicant if an application for a high risk work licence does not contain sufficient information for the regulator to make a decision whether or not to grant the licence. The request for additional information must be made in writing and specify the date by which the information is to be given (sub-regulation 88(2)).

Sub-regulation 88(3) provides that the application is taken to be withdrawn if the additional information is not provided by the specified date.

Sub-regulation 88(4) allows the regulator to make more than one request for additional information.

Decision on application

Regulation 89(1) requires the regulator to award a high risk work licence if satisfied about the matters listed in sub-regulation 89(2).

Sub-regulation 89(2) and (3) sets out the matters that the regulator must be satisfied with before deciding to grant or refuse a high risk work licence.

The regulator must notify the applicant within 14 days after making a decision to grant the high risk work licence (sub-regulation 89(4)).

An application is taken to have been refused if the regulator does not make a decision within 120 days after receiving the application or the additional information requested under regulation 88 (sub-regulation 89(5)).

Matters to be taken into account

Regulation 90 identifies the matters the regulator must consider when determining whether the applicant for a high risk work licence is able to carry out the work to which the licence relates safely and competently. The matters to be considered include the cancellation or suspension of any equivalent licence held by the applicant or any refusal to issue an equivalent licence to the applicant under the Act, the regulations or under corresponding WHS law.

Refusal to grant high risk work licence—process

Regulation 91 outlines the action the regulator must take if the regulator proposes to refuse to grant a high risk work licence (sub-regulations 91(1) and 91(2)).

The regulation notes that a decision to refuse to issue a licence is a reviewable decision under regulation 676.

Conditions of licence

Regulation 91A allows for a regulator to impose any conditions it considers appropriate on a high risk work licences. This may include control measures that must be implemented in relation to the carrying out of work or activities under the licence, as well as the circumstances in which work or activities authorised by the licence may be carried out.

Sub-regulation 91A(3) requires the regulator to provide the licence holder written notice of any conditions imposed on the licence.

Duration of licence

Regulation 92 provides that a high risk work licence takes effect on the day it is granted and expires five years after that day unless it is cancelled earlier.

Licence document

Regulation 93 provides that if the regulator grants a high risk work licence, the applicant must be issued with a licence document that contains the name of the licence holder, a recent photograph of the licence holder, the date of birth of the licence holder, and the date on which the licence was granted.

The licence document must contain a description of each class of licence and the work that is within the scope of each licence if more than one class of high risk work licence is granted to a person (sub-regulation 93(3)).

Sub-regulation 93(4) provides that if the licence holder holds more than one high risk work licence, the licence holder may be issued one licence document in relation to some or all of those licences. In this instance, the licences to which the licence document relates will expire on the date that the first of those licences expires (sub-regulation 93(5)).

Licence document to be available

Regulation 94 requires the licence holder to keep the licence document available for inspection under the Act.

The maximum penalty for contravening sub-regulation 94(1) is $1 250 for an individual and $6 000 for a body corporate.

Sub-regulation 94(2) clarifies that the requirement in sub-regulation 94(1) does not apply if the licence document is not in the licence holder's possession because it has been returned to the regulator to be amended under regulation 97 or the licence holder has applied for, but has not received, a replacement licence document under regulation 98.

Reassessment of competency of licence holder

Regulation 95 allows the regulator to direct a licence holder to obtain a reassessment of their competency to carry out the high risk work covered by the licence, if the regulator reasonably believes that the licence holder may not be competent to carry out that work. For example, the regulator receives information that the licence holder has carried out high risk work incompetently.

Subdivision 3 Amendment of licence document

Notice of change of address

Regulation 96 requires the licence holder of a high risk work licence to notify the regulator of a change of postal or residential address within 14 days of the change occurring.

The maximum penalty for contravening regulation 96 is $1 250 for an individual and $6 000 for a body corporate.

Licence holder to return licence

Regulation 97 provides that if a high risk work licence is amended, the licence holder must comply with the written request of the regulator to return the licence document to the regulator within the time specified in the request.

The maximum penalty for contravening regulation 97 is $1 250 for an individual and $6 000 for a body corporate.

Replacement licence document

Regulation 98 sets out the requirements for a licence holder to notify the regulator, as soon as practicable, if the original licence document is lost, stolen or destroyed and to apply for a replacement licence document (sub-regulation 98(2)).

The maximum penalty for contravening regulation 98(1) is $1 250 for an individual and $6 000 for a body corporate.

Sub-regulation 98(5) provides that the regulator must issue a replacement licence document if the regulator is satisfied that the original licence document was lost, stolen or destroyed.

Sub-regulation 98(6) provides that if the regulator refuses to issue a replacement licence document, the regulator must notify the licence holder in writing of this decision, within 14 days after making the decision.

The refusal to issue a replacement licence is a reviewable decision under regulation 676.

Voluntary surrender of licence

Regulation 99 provides that a licence holder may voluntarily surrender the licence document to the regulator, resulting in the expiry of the licence document.

Subdivision 4 Renewal of high risk work licence

Regulator may renew licence

Regulation 100 provides that the regulator may renew a high risk work licence on application by the licence holder.

Application for renewal

Regulation 101 sets out the requirements for an application for renewal of a high risk work licence. The application must be made before the expiry of the licence and be accompanied by the relevant fee (sub-regulation 101(3) and 101(4)).

Licence continues in force until application is decided

Regulation 102 provides that if a licence holder has applied to renew a high risk work licence, the licence continues to be valid until the licence holder is notified about the decision on the application.

Renewal of expired licence

Regulation 103 allows a person who has an expired high risk work licence to apply for the licence to be renewed within 12 months of the licence expiring, or a longer time if the regulator is satisfied that exceptional circumstances exist. As the licence has expired, the applicant cannot carry out the work covered by the licence until the licence is renewed. If the licence lapses beyond the time periods stated in this regulation, the applicant is required to apply for a new licence under regulation 87.

Provisions relating to renewal of licence

Regulation 104 provides that the requirements relating to:

- providing additional information in support of an application for high risk work under regulation 88, and
- the regulator being satisfied about certain matters before granting a high risk work licence under regulation 89(5) and 90, and
- the process for refusing an application for high risk work under regulation 91,
- also apply in relation to the requirements to renew a licence.

Sub-regulation 104(2) provides that the regulator may renew a high risk work licence granted to a person under a corresponding WHS law if that licence has not been renewed under that law.

The refusal to renew a licence is a reviewable decision under regulation 676.

Status of licence during review

Regulation 105 specifies the status of a high risk work licence during internal review and external review if the regulator has notified the licence holder before a high risk work licence expires that the regulator proposes to refuse to renew the licence.

Sub-regulation 105(6) stipulates that the licence continues to have effect under this regulation even if its expiry date passes.

Subdivision 5 Suspension and cancellation of high risk work licence

Suspension or cancellation of licence

Regulation 106 establishes the power of the regulator to suspend or cancel a high risk work licence. It provides that the regulator may suspend or cancel a high risk work licence if the regulator is satisfied about certain matters and specifies the action the regulator may take if the regulator suspends or cancels a licence. This includes the disqualification of the licence holder from applying for further high risk work licence of the same class or another licence under the regulations to carry out work which requires skills which are the same as or similar to those required for the work authorised by the licence that has been suspended or cancelled (sub-regulation 106(2)).

A decision to suspend or cancel a licence or disqualify the licence holder from applying for a further licence is a reviewable decision under regulation 676.

Matters taken into account

Regulation 107 provides that the regulator must consider specific and relevant matters before making a decision under regulation 106 to suspend or cancel a high risk work licence.

Notice to and submissions by licence holder

Regulation 108 prescribes what the regulator must do before suspending or cancelling a high risk work licence, including giving the licence holder a written notice of the proposed suspension or cancellation and any proposed disqualification that outlines all relevant allegations, facts and circumstances known to the regulator

Notice of decision

Regulation 109 requires the regulator to notify the licence holder in writing of the decision to cancel or suspend a high risk work licence under regulation 106 within 14 days after making the decision.

Sub-regulation 109(2) prescribes the information which must be included in the written notice.

Immediate suspension

Regulation 110 allows the regulator to immediately suspend a high risk work licence without providing notice under regulation 109 in circumstances where the work carried out under the high risk work licence should cease because the work may involve an imminent serious risk to the health or safety of an person.

Sub-regulation 110(2) prescribes the steps that the regulator must take if it proposes to suspend a licence including providing the licence holder with the reasons for the suspension and the date the suspension takes effect.

Licence holder to return licence document

Regulation 111 provides that a licence holder must return the licence document to the regulator in accordance with a notice received under regulation 109.

The maximum penalty for contravening sub-regulation 111 is $1 250 for an individual and $6 000 for a body corporate.

Regulator to return licence document after suspension

Regulation 112 provides that when the period of licence suspension ends, the regulator must return the licence document to the licence holder within 14 days after the suspension ends.

Division 2 Accreditation of assessors

Subdivision 1 Requirement to be accredited

Accreditation required to assess competency for high risk work licence

Regulation 113 provides that a person must not act as an accredited assessor to assess competency or to issue a notice of satisfactory competence for high risk work licences unless appropriately accredited.

Accredited assessor must act in accordance with accreditation

Regulation 114 specifies that an accredited assessor must act within the scope of their accreditation for conducting an assessment and issuing a notice of satisfactory assessment.

Sub-regulation 114(5) provides that the requirements of the regulation do not apply if the regulator is the accredited assessor.

Subdivision 2 Accreditation process

Regulator may accredit assessors

Regulation 115 allows the regulator to accredit persons to conduct assessments.

Application for accreditation

Regulation 116 sets out the process for an application for accreditation and specifies the information that must be included in the application (sub-regulation 116(2)). Sub-regulation 116(3) requires that the application be accompanied by the relevant fee.

Additional information

Regulation 117 allows the regulator to seek additional information from the applicant if an application for accreditation does not contain sufficient information for the regulator to make a decision about whether or not to grant the accreditation.

Sub-regulation 117(2) provides that the request for additional information must be made in writing and specify the date by which the information is to be given.

Sub-regulation 117(3) provides that the application is taken to be withdrawn if the additional information is not provided by the specified date.

Decision on application

Regulation 118 sets out the matters that the regulator must be satisfied with before deciding to grant or refuse an accreditation. Sub-regulation 118(4) requires the regulator to notify the applicant within 14 days after making a decision to grant the accreditation.

Sub-regulation 118(5) provides that the application is taken to have been refused if the regulator does not make a decision within 120 days after receiving the application or the additional information requested under regulation 117.

A decision to refuse to grant accreditation is a reviewable decision under regulation 676.

Matters to be taken into account

Regulation 119 specifies the relevant matters the regulator must have regard to when determining whether the applicant for accreditation is able to conduct the assessment to which the application relates competently.

Refusal to grant accreditation—process

Regulation 120 specifies the process the regulator must undertake if the regulator proposes to refuse to grant an accreditation.

Conditions of accreditation

Regulation 121 allows the regulator, when granting or renewing an accreditation, to impose conditions the regulator considers appropriate on the accreditation.

Sub-regulation 121(2) lists of some of the conditions which the regulator may impose on accreditation.

Duration of accreditation

Regulation 122 provides that an accreditation takes effect on the day it is granted and expires three years after that day unless it is cancelled earlier.

Accreditation document

Regulation 123 provides that if the regulator grants an accreditation, the applicant must be issued with an accreditation document in the form determined by the regulator and that contains the information specified in this regulation (sub-regulation 123(2)).

Sub-regulation 123(3) allows an assessor, if the assessor is accredited to conduct an assessment in relation to more than one class of high risk work, to be issued one accreditation document in relation to some or all of those classes of high risk work. The accreditation document may also contain a description of the class of work that represents the highest level if the assessor is accredited to conduct assessments in relation to two or more classes of high risk work that represent levels of the same type of work (sub-regulation 123(4)).

Accreditation document to be available

Regulation 124(1) and 124(2) requires the accredited assessor to keep the accreditation document available for inspection by any person in relation to whom the assessor is conducting a competency assessment and for inspection under the Act.

The maximum penalty for contravening sub-regulation 124(1) and 124(2) is $1 250 for an individual and $6 000 for a body corporate.

This requirement does not apply if the accreditation document is not in the accredited assessor's possession because it has been returned to the regulator to be amended under regulation 126.

Subdivision 3 Amendment of accreditation document

Changes to information

Regulation 125 requires the accredited assessor of a high risk work licence to notify the regulator in writing of any change to any material particular given at any time by the assessor to the regulator in relation to the accreditation within 14 days after the assessor becomes aware of the change occurring.

The maximum penalty for contravening regulation 125(1) is $1 250 for an individual and $6 000 for a body corporate.

Accredited assessor to return accreditation document

Regulation 126 provides that if an accreditation is amended, the accredited assessor must comply with the written request of the regulator to return the accreditation document within the time specified in the request.

The maximum penalty for contravening regulation 126 is $1 250 for an individual and $6 000 for a body corporate.

Replacement accreditation document

Regulation 127 sets out the requirements for an accredited assessor to notify the regulator if the original accreditation document is lost, stolen or destroyed and to apply for a replacement licence document.

The maximum penalty for contravening regulation 127(1) is $1 250 for an individual and $6 000 for a body corporate.

Sub-regulation 127(5) provides that if the regulator is satisfied that the original accreditation document was lost, stolen or destroyed, the regulator must issue a replacement accreditation document. If the regulator refuses to issue a replacement accreditation document, the regulator must notify the accredited assessor in writing of this decision, within 14 days after making the decision (sub-regulation 127(6)).

A decision to refuse to replace an accreditation document is a reviewable decision under regulation 676.

Voluntary surrender of accreditation

Regulation 128 provides that an accredited assessor may voluntarily surrender the accreditation document to the regulator. Sub-regulation 128(2) stipulates that voluntary surrender of accreditation results in the expiry of the accreditation document.

Subdivision 4 Renewal of accreditation

Regulator may renew accreditation

Regulation 129 provides that the regulator may renew an accreditation on application by the licence holder.

Application for renewal

Regulation 130 sets out the requirements for an application to renew accreditation. The application must be made before the expiry of the accreditation, include the information referred to in regulation 116(2), and be accompanied by the relevant fee.

Accreditation continues in force until application is decided

Regulation 131 provides that if an accredited assessor has applied to renew an accreditation, the accreditation continues to be valid until the accredited assessor is notified about the decision on the application.

Provisions relating to application

Regulation 132 provides that the requirements relating to:

- providing additional information in support of an application for accreditation under regulation 117,
- the regulator being satisfied about certain matters before granting an accreditation under regulation 118(5),119, 121 and 122 and
- the process for refusing an application for accreditation under regulation 120
- also apply in relation to the requirements related to the renewal of an accreditation.

Subdivision 5 Suspension and cancellation

Regulator may suspend or cancel accreditation

Regulation 133 establishes the power of the regulator to suspend or cancel an accreditation and specifies the additional action the regulator may take in relation to suspending or cancelling an

accreditation. This action includes the variation of conditions of accreditation, including imposing different or additional conditions.

Sub-regulation 133(2) allows the regulator, if they cancel an accreditation to disqualify the assessor from applying for a further accreditation for a specific period.

A decision to suspend or cancel an accreditation, to vary conditions of an accreditation or to disqualify an accredited assessor from applying for a further accreditation is a reviewable decision under regulation 676.

Suspension or cancellation of accreditation

Regulation 134 provides that the regulator may suspend or cancel an accreditation if the regulator is satisfied about certain matters listed in sub-regulation 134(1).

Sub-regulation 134(2) notes that qualified has the same meaning in relation to an accredited assessor as it has in regulation 118 in relation to an applicant for accreditation.

Matters to be taken into account

Regulation 135 provides that the regulator must consider the specific matters listed in the regulation before making a decision under regulation 133 to suspend or cancel an accreditation.

Notice to and submissions by accredited assessor

Regulation 136 sets out what the regulator must do before suspending or cancelling an accreditation. This includes the provision of a written notice to the accredited assessor.

Notice of decision

Regulation 137 requires the regulator to notify the accredited assessor in writing of the decision to cancel or suspend an accreditation under regulation 134 within 14 days after making the decision.

Sub-regulation 137(2) specifies the information that must be included in the written notice.

Immediate suspension

Regulation 138 establishes the power of the regulator to immediately suspend an accreditation if satisfied that a person may be exposed to an imminent serious risk to his or her health or safety if the accreditation were not suspended.

It also sets out the requirements for the regulator to immediately suspend an accreditation without giving notice under regulation 135.

Accredited assessor to return accreditation document

Regulation 139 provides that an accredited assessor must return the licence document to the regulator in accordance with a notice received under regulation 137.

The maximum penalty for contravening regulation 139 is $1 250 for an individual and $6 000 for a body corporate.

Regulator to return accreditation document after suspension

Regulation 140 provides that the regulator must return the accreditation document to the accredited assessor within 14 days after the suspension ends.

Subdivision 6 Agreements with RTOs

Regulator may enter into agreement with RTO

Regulation 141 provides that the regulator may enter into an agreement with a registered training organisation to share information to assist the regulator in relation to the accreditation of assessors.

Part 4.6 Demolition work

Part 4.6 Demolition work provides notification and licensing requirements in relation to demolition work.

Division 1 Notice of demolition work

Notice of demolition work

Regulation 142 requires a PCBU, who proposes to undertake the following demolition work, to give the regulator written notice of the demolition work at least 5 days prior to the commencement of the work:

- demolition of a structure or part thereof which is load bearing or related to the physical integrity of the structure, that is at least 6 metres in height,
- demolition work involving load shifting machinery on a suspended floor,
- demolition work involving explosives.

The maximum penalty for contravening regulation 142 is $1 250 for an individual and $6 000 for a body corporate.

Sub-regulation 142(3) prescribes different notification requirements for emergency service organisations that may have carried out demolition work for the purposes of rescuing a person or providing first aid to a person. These organisations must give the regulator notice as soon as is practicable after carrying out the work.

The maximum penalty for contravening sub-regulation 142(3) is $1 250 for an individual and $6 000 for a body corporate.

Division 2 Licensing of demolition work

Demolition work required to be licensed

Regulation 143 [please complete this clause in accordance with the regulations in your jurisdiction]

Note - See jurisdictional note in the Appendix.

Part 4.6, Division 2, clause 143 - A jurisdiction may insert transitional and savings provisions for the licensing of demolishers pending the regulation of demolishers under the Occupational Licensing National Law.

Part 4.7 General electrical safety in workplaces

Part 4.7 Electrical Safety and Energised Electrical Work requires a PCBU to manage risks to health and safety associated with electrical risks at the workplace and in accordance with Part 3.1 of the regulations.

The Part also includes specific duties in relation to PCBUs:

- with management or control of electrical equipment in a workplace
- who carry out electrical work
- who carry out work in the vicinity of overhead or underground electric lines.

In relation to general electrical safety in the workplace, the Part includes requirements for inspecting and testing electrical equipment in certain high risk environments and requirements to provide and use effective residual current devices in the prescribed circumstances.

Duty holders under this Part may also have health and safety duties under clauses 19, 20, 21 or 28 of the Act. PCBUs may have duties under Part 5 Division 2 of the Act to consult with workers about matters in this Part.

Division 1 Preliminary

Meaning of electrical equipment

Regulation 144 defines the term electrical equipment for the Part.

Meaning of electrical installation

Regulation 145 defines the term electrical installation for the Part, for the avoidance of doubt to clarify that the Part covers electrical installations—which are essentially grouped items of electrical equipment as defined by the regulation.

Meaning of electrical installation

Regulation 146 defines the term electrical work for the Part.

Division 2 General Risk Management

Risk Management

Regulation 147 provides that a PCBU at a workplace must manage risks to health and safety associated with electrical risks at the workplace, in accordance with Part 3.1 of this regulation.

Division 3 Electrical equipment and electrical installations

Electrical equipment and electrical installations to which this division applies

Regulation 148 provides that the duties of a PCBU in relation to electrical equipment or an electrical installation under the Division only apply to electrical equipment or an electrical installation that is under the person's management or control.

Unsafe electrical equipment

Regulation 149 requires a PCBU to ensure that any unsafe electrical equipment at a workplace is disconnected or isolated from its electricity supply and is not reconnected until it is repaired or tested and found to be safe, or is replaced or permanently removed from use.

The maximum penalty for contravening sub-regulation 149(1) is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulation 149(2) describes when this duty applies, that is when electrical equipment is deemed to be unsafe.

Inspection and testing of electrical equipment

Regulation 150 sets out the requirements for when a PCBU must ensure that electrical equipment used in certain high risk environments is regularly inspected and tested by a competent person.

The maximum penalty for contravening sub-regulation 150(1) is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulation 150(2) provides that when equipment is new or unused at a workplace, the PCBU is not required to comply with sub-regulation (1) but must ensure that the equipment is inspected for obvious damage before being used.

The maximum penalty for contravening sub-regulation 150(2) is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulation 150(3) provides that the PCBU must retain any record of testing carried out until the next test, or the equipment is permanently removed from the workplace or disposed of.

The maximum penalty for contravening sub-regulation 150(3) is $1 250 for an individual and $6 000 for a body corporate.

Sub-regulation 150(4) includes requirements for records of testing.

Untested electrical equipment not to be used

Regulation 151 stipulates that a PCBU must ensure, so far as is reasonably practicable, that electrical equipment is not used if the equipment is required to be tested under regulation 150 but has not been tested.

The maximum penalty for contravening regulation 151 is $3 600 for an individual and $6 000 for a body corporate.

Division 4 Electrical Work on energised electrical equipment

Application of Division 4

Regulation 152 provides that division 4 does not apply to work carried out by or on behalf of an 'electricity supply authority' on the electrical equipment, including electric line-associated equipment, controlled or operated by the authority to transform, transmit or supply electricity. The exclusion does not extend to electricity generators.

Persons conducting a business or undertaking to which this division applies

Regulation 153 provides that the duties of a PCBU in relation to 'electrical work' apply to a PCBU who is carrying out the electrical work, except for the duties under regulations 156, 159 and 160 which apply more broadly.

Electrical work on energised electrical equipment-prohibited

Regulation 154 requires PCBUs to ensure that electrical work is not carried out on electrical equipment—including electrical equipment that forms part of an electrical installation—while it is energised (or 'live') unless the requirements in relation to energised electrical work under the division are met.

The maximum penalty for contravening regulation 154 is $6 000 for an individual and $30 000 for a body corporate.

Duty to determine whether equipment is energised

Regulation 155 requires PCBUs proposing to carry out electrical work to ensure that, before the work commences, the equipment is tested by a competent person to determine if it is energised. To be considered 'competent' the electrical worker must be either licensed or registered to carry out the electrical work (including testing) consistent with the applicable licensing laws.

The maximum penalty for contravening regulation 155(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 155(2) requires the PCBU to ensure that each exposed part is treated as energised until it is isolated and determined not to be energised and each high-voltage exposed part is earthed after being de-energised.

This regulation is intended to give effect to the 'test before you touch' principle of electrical safety.

The maximum penalty for contravening sub-regulation 155(2) is $6 000 for an individual and $30 000 for a body corporate.

De-energised equipment must not be inadvertently re-energised

Regulation 156 requires PCBUs to ensure that electrical equipment that has been de-energised so that work can be carried out on it is not inadvertently re-energised while the work is being carried out.

The maximum penalty for contravening regulation 156 is $6 000 for an individual and $30 000 for a body corporate.

Electrical work on energised electrical equipment – when permitted

Regulation 157 outlines the exceptions when PCBUs may carry out work on electrical equipment while it is energised.

The maximum penalty for contravening regulation 157 is $6 000 for an individual and $30 000 for a body corporate.

Preliminary Steps

Regulation 158 sets out the preliminary steps PCBUs must take before carrying out energised electrical work that is permitted under regulation 157. It includes (among other things) a requirement that a risk assessment be carried out by a competent person and recorded.

The maximum penalty for contravening regulation 158 is $6 000 for an individual and $30 000 for a body corporate.

Unauthorised access to equipment being worked on

Regulation 159 requires PCBUs to ensure that only persons authorised by the PCBU enter the immediate area where energised electrical work is being carried out.

The maximum penalty for contravening regulation 159 is $6 000 for an individual and $30 000 for a body corporate.

Contact with equipment being worked on

Regulation 160 requires PCBUs to ensure that—while energised electrical work is being carried out—persons (including the person carrying out the work) are prevented from inadvertently contacting an exposed energised component of the electrical equipment

The maximum penalty for contravening regulation 160 is $6 000 for an individual and $30 000 for a body corporate.

How the work is to be carried out

Regulation 161 sets out requirements for carrying out energised electrical work, including competency requirements for the electrical worker who is to carry out the work, requirements in relation to equipment used in carrying out the work (including PPE) and requirements for a safety observer in the prescribed circumstances.

Regulation 161 also requires work to be carried out in accordance with a safe work method statement (SWMS) prepared for the work. The requirements for safe work method statements in sub-regulation 161(3) are aligned as far as possible with equivalent requirements under the construction regulations.

The maximum penalty for contravening regulation 161(1) is $6 000 for an individual and $30 000 for a body corporate.

The maximum penalty for contravening regulation 161(2) is $6 000 for an individual and $30 000 for a body corporate.

Record keeping

Regulation 162 sets out record keeping and access requirements in relation to risk assessments and safe work method statements prepared under this Part.

The maximum penalty for contravening sub-regulations 162(2), 162(3) and 162(5) is $1 2500 for an individual and $6 000 for a body corporate.

The maximum penalty for contravening sub-regulation 162(4) (which deals with access requirements) is $3 600 for an individual and $18 000 for a body corporate.

Division 5 Electrical equipment and installations and construction work-additional duties

Duty of person conducting business or undertaking

Regulation 163 requires PCBUs that carry out construction work to comply with AS/NZS 3012:2010.

Sub-regulations 163(2) and 163(3) set out interpretation rules if the AS/NZS is inconsistent with key definitions or requirements under the Part.

The maximum penalty for contravening sub-regulation 163(1) is $6 000 for an individual and $18 000 for a body corporate.

Division 6 Residual current devices

Use of socket outlets in hostile operating environment

Regulation 164 has a delayed implementation date of 1 January 2013. It sets out requirements for residual current devices (RCDs) in higher risk environments, as defined in sub-regulation 164(1). The duty to ensure an appropriate RCD is used in these environments is qualified by what is reasonably practicable. For example the RCD may be either portable or non-portable depending what is reasonably practicable in the circumstances.

The maximum penalty for contravening this requirement is $6 000 for an individual and $30 000 for a body corporate.

If an RCD is required under sub-regulation 164(2) then sub-regulation 164(3) sets out minimum requirements in relation to the tripping current the RCD must have if electricity is supplied to the equipment through a socket outlet not exceeding 20 amps.

Sub-regulation 164(4) sets out the circumstances in which an RCD is not required.

Testing of residual current devices

Regulation 165 requires a person with management or control of a workplace to take all reasonable steps to ensure that RCDs used at the workplace are tested regularly by a competent person to ensure the devices are operating effectively. It also requires records of all such testing (other than a daily test) to be kept until the device is next tested or is permanently removed from use.

The maximum penalty for contravening the substantive duty in regulation 165(1) is $3 600 for an individual and $18 000 for a body corporate.

The maximum penalty for contravening the record-keeping requirement in sub-regulation 165(2) is $1 250 for an individual and $6 000 for a body corporate.

Division 7 Overhead and underground electric lines

Duty of person conducting business or undertaking

Regulation 166 requires PCBUs to ensure, so far as is reasonably practicable, that no person, plant or thing at the workplace comes within an unsafe distance of an overhead or underground electric line. Further provision on what constitutes an ‘unsafe distance’ may be made separately under general electrical safety laws, relevant codes of practice or guidance material.

Sub-regulation 166(2) sets out requirements for PCBUs if it is not reasonably practicable to ensure the safe distance is observed including a risk assessment requirement. The provision requires the relevant work to be carried out in accordance with any control measures determined in accordance with the risk assessment, and also any relevant requirement of an electricity supply authority with responsibility for the electric line.

The maximum penalty for contravening regulation 166 is $6 000 for an individual and $30 000 for a body corporate.

Part 4.8 Diving Work

Part 4.8 Diving work applies to a person carrying out a business or undertaking involving diving work at a workplace to ensure:

- the fitness and competence of persons who carry out general diving work and high risk diving work; and
- the health and safety of persons who carry out general diving work and high risk diving work; and
- the health and safety of other persons at workplaces where general diving work or high risk diving work is carried out.

Part 4.8 prohibits workers from carrying out specified diving work unless relevant competency requirements are met.

Duty-holders under this Part may also have health and safety duties under clause 19, 20, 21 or 28 of the Act. PCBUs may have duties under Part 5 Division 2 of the Act to consult with workers about matters in this Part. This Part prescribes required qualifications for clause 44 of the Act. Clause 27 of the Act applies to officers in respect of this Part.

There are additional regulations about management of risk in Part 2.1 – Risk Management, about provision of information in Part 2.2 – General workplace management and about construction work involving diving work in Chapter 6 – Construction Work.

Defined terms in Chapter 1 which are relevant to this Part include incidental diving work, limited diving and limited scientific diving work.

Division 1 Preliminary

Purpose of Part 4.8

Regulation 167 provides that the purpose of Part 4.8 of the regulations is to impose duties on a person carrying out a business or undertaking at a workplace to ensure the fitness, competence, and health and safety of persons who carry out general diving work and high risk diving work, as well as the health and safety of other persons at workplaces where general diving work or high risk diving work is carried out.

Division 2 General diving work—Fitness and competence of worker

Person conducting business or undertaking must ensure fitness of workers

Regulation 168 requires a PCBU at a workplace not to direct or allow a worker to carry out (or undergo training for) general diving work unless the worker holds a current certificate of medical fitness. Sub-regulation 168(2) requires a PCBU not to direct or allow a worker to carry out diving work unless the diving work or training complies with any conditions on the current certificate of medical fitness of the worker.

The maximum penalty for contravening regulation 168 is $6 000 for an individual and $30 000 for a body corporate.

Certificate of medical fitness

Regulation 169 requires that a certificate of medical fitness is issued by a registered medical practitioner with training in underwater medicine. Regulation 169 stipulates what the certificate must state, including any conditions imposed on the certificate holder.

Duty to keep certificate of medical fitness

Regulation 170 requires a PCBU to keep the certificate of medical fitness of a worker who carries out general diving work for 1 year after the work is carried out.

The maximum penalty for contravening regulation 170 is $1 250 for an individual and $6 000 for a body corporate.

Competence of worker—general diving work

Regulation 171 stipulates that a person must not carry out general diving work (other than incidental diving work and limited scientific diving work) unless that person has been certified as having relevant competencies for that type of work.

Sub-regulation 171(3) clarifies that relevant competencies means the competencies specified in AS/NZS 2815 (Training and certification of occupational divers) that are relevant to the type of general diving work.

Competence of worker—general diving work — knowledge and skill

Regulation 171A states that the person must not carry out general diving work (including incidental diving work and limited scientific diving work) unless they have, through training, qualification or experience, acquired sound knowledge and skill in relation to the listed issues.

Competence of worker— incidental diving work

Regulation 172 requires that a person must not carry out incidental diving work unless the person has the knowledge and skill referred to in regulation 171A, has relevant diving experience and is supervised by a competent person.

Sub-regulation 172(2) specifies the meaning of relevant diving experience for this regulation.

Competence of worker—limited scientific diving work

Regulation 173(1)(a) prescribes that a person must not carry out limited scientific diving work unless the person has the training, qualification or experience referred to in regulation 171A. This requirement applies to Australian citizens, permanent residents and divers not permanently resident in Australia (non-resident divers). Regulation 173(1)(b) requires non-resident divers undertaking limited scientific diving to have additional relevant diving experience, which includes relevant experience obtained outside Australia.

Sub-regulation 173(2) specifies the meaning of relevant diving experience for this regulation.

Competence of competent person supervising general diving work

Regulation 174 specifies that a person appointed under regulation 177 must not perform any function associated with that appointment unless the person has specified qualifications and experience in the type of diving work to be supervised.

Evidence of competence—duty of person conducting business or undertaking

Regulation 175 requires that a PCBU must not direct or allow a worker to carry out general diving work unless the person sees written evidence that the worker has the relevant competence. The PCBU must keep this evidence for at least 1 year after the diving work is performed.

The maximum penalty for contravening regulation 175(1) is $1 250 for an individual and $6 000 for a body corporate.

Sub-regulation 175(2) provides that a PCBU must not direct or allow a person appointed as a competent person to supervise diving work (under regulation 177) to supervise diving work unless the PCBU sees written evidence that the person appointed has the competence required under regulation 174. The PCBU must keep this evidence for at least 1 year after the last occasion that supervision work is performed.

The maximum penalty for contravening regulation 175(2) is $1 250 for an individual and $6 000 for a body corporate.

Sub-regulation 175(3) provides that the PCBU must keep the written evidence for a specified time.

The maximum penalty for contravening regulation 175(3) is $1 250 for an individual and $6 000 for a body corporate.

Division 3 Managing risks—general diving work

Management of risks to health and safety

Regulation 176 requires a PCBU to manage risks to health and safety associated with general diving work, which includes the need for a risk assessment which is conducted by a competent person and recorded in writing (sub-regulation 176(2)).

The maximum penalty for contravening sub-regulation 176(2) is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulation 176(3) requires the person to ensure the risk assessment conducted is recorded in writing.

The maximum penalty for contravening regulation 176(3) is $1 250 for an individual and $6 000 for a body corporate.

Appointment of competent person to supervise diving work

Regulation 177 requires a PCBU to appoint one or more competent persons to supervise general diving work carried out in the business or undertaking, and to perform other functions required in Division 3 of part 4.8 of this regulation.

The maximum penalty for contravening regulation 177 is $6 000 for an individual and $30 000 for a body corporate.

Additional control—dive plan

Regulation 178 states that a PCBU must not direct or allow general diving work to be carried out unless a dive plan has been prepared by a competent person for the dive (or for a similar prior dive), and includes a specified list of matters which the dive plan must cover (sub-regulation 178(2)).

The maximum penalty for contravening regulation 178 is $6 000 for an individual and $30 000 for a body corporate.

Dive plan must be complied with

Regulation 179 requires a PCBU to ensure, so far as is reasonably practicable, that general diving work is carried out in accordance with the dive plan prepared for that work, and that a competent person is appointed (under regulation 177) to brief workers on the dive plan before commencing work under the plan (sub-regulation 179(2)).

The maximum penalty for contravening regulation 179 is $6 000 for an individual and $30 000 for a body corporate.

Additional control—dive safety log to be kept

Regulation 180 requires a PCBU to keep a dive safety log that contains specified information about each dive carried out by a worker. The list includes general information, and specifies particular additional information where a repetitive factor is involved, or if EANx or mixed gas is used instead of air.

The maximum penalty for contravening regulation 180 is $1 250 for an individual and $6 000 for a body corporate.

Use of dive safety log

Regulation 181 requires a PCBU, in connection with the general diving work, to:

- ensure that, after each dive, the return of each diver is verified in the dive safety log, by both the diver and the competent person appointed under regulation 177 to supervise the diving work
- ensure that the competent person appointed under regulation 177 to supervise the diving work makes and verifies entries in the dive safety log of the number of workers and other persons, if diving from a vessel, before the dive work commences and before the vessel leaves the location after the dive work is completed, and
- ensure that a dive safety log is kept for at least 1 year after the last entry is made.

The maximum penalty for contravening regulation 181 is $1 250 for an individual and $6 000 for a body corporate.

Sub-regulation 181(5) stipulates that the dive safety log is not verified unless it is signed or by entering the verifier's unique identifier.

Record keeping

Regulation 182 states that if a PCBU prepares a risk assessment or dive plan (under regulations 176 or 178), they must keep the risk assessment for at least 28 days after the work is completed and the dive plan until the dive work is completed (sub-regulation 182(2)).

Sub-regulation 182(3) requires that, if a notifiable incident occurs, the PCBU musk keep the relevant documents for at least 2 years after the incident occurs.

The maximum penalty for contravening sub-regulations 182(2) and 182(3) is $1 250 for an individual and $6 000 for a body corporate.

Sub-regulation 182(4) provides that the PCBU must make the record readily accessible to any worker involved in the work, and available for inspection under the Act.

The maximum penalty for contravening sub-regulation 182(4) is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulation 182(5) provides that the PCBU must make the record available for inspection under the Act.

The maximum penalty for contravening sub-regulation 182(5) is $1 250 for an individual and $6 000 for a body corporate.

Division 4 High risk diving work

Duties of person conducting business or undertaking

Regulation 183 requires a PCBU to ensure that the fitness and competence of persons carrying out high risk diving work, and the undertaking of that high risk diving work, meets the requirements of AS/NZS 2299.1:2015.

The maximum penalty for contravening regulation 183 is $6 000 for an individual and $30 000 for a body corporate.

Duty of worker—competence

Regulation 184 requires that a worker must not carry out high risk diving work unless the worker has the qualifications, knowledge, skills and experience required by AS/NZS 2299.1:2015 for high risk diving work.

Chapter 5 Plant and structures

This Chapter imposes duties on designers, manufacturers, importers and suppliers of plant, in order to ensure health and safety in respect of subsequent use of plant. It imposes duties on PCBUs that commission plant or structures to comply with designer or manufacturer information, and relevant health and safety instructions in doing so.

It imposes complementary duties on PCBUs with management and control of plant, as well as imposing a range of additional control measures for specific types of plant. It provides for the registration of plant and plant designs, and imposes additional duties in respect of plant and plant designs that are required to be registered.

Duty holders under this Chapter may have health and safety duties under clauses 21, 22, 23, 24, 25 and 26 of the Act, and duties under Part 5 Division 1 and Division 2 of the Act to consult with other duty-holders and workers about matters in this Part. This Chapter requires authorisation of plant and plant design for clause 42 of the Act. clause 27 of the Act applies to officers in respect of this Part.

There are additional regulations about the provision of information in Part 2.2 – General Workplace Management. There are additional regulations imposing duties on designers, manufacturers and suppliers in respect of plant and structures in Part 4.3 – Confined spaces and imposing duties on designers of structures and persons conducting a business or undertaking that commission a structure in Chapter 6 – Construction work.

Defined terms in Chapter 1 that are relevant to this Chapter include boiler and vehicle hoist, amusement device, Boiler, Boom-type elevating work platform, building maintenance unit, Competent person, Concrete placement unit with delivery boom, crane, earthmoving machinery, fault , gas cylinder, hoist, Industrial lift truck, industrial robot, lift , maintain , mobile crane, person with management and control of plant at a workplace , plant, presence-sensing safeguarding system, pressure equipment, scaffold , scaffolding work , self-erecting tower crane, suspended scaffold, tower crane, tractor, and work box.

Part 5.1 General duties for plant and structures

The note to Part 5.1 states that, if a jurisdiction enacts Schedule 1 – Application of Act to dangerous goods and high risk plant, this Part will extend to plant outside the workplace as provided for in that Schedule.

Division 1 Preliminary

Application of Part 5.1 to plant

Regulation 185 provides that this Part applies to all plant, except plant that relies exclusively on manual power for its operation and is designed to be primarily supported by hand. The regulation also specifies that this Part applies to explosive power tools designed to be supported by hand (sub-regulation 185(3)).

Application of Part 5.1 to structures

Regulation 186 provides that this Part applies to structures as provided in this Part.

Division 2 Duties of persons conducting businesses or undertakings that design plant

Provision of information to manufacturer

Regulation 187 requires a designer of plant to ensure that, when the design is made available to the manufacturer, the manufacturer is provided with information to enable the plant to be manufactured in accordance with the design specifications. The regulation also lists other information about the plant that must be made available to the manufacturer if applicable and notes that a designer also has duties under clause 22 of the Act.

The maximum penalty for contravening regulation 187 is $3 600 for an individual and $18 000 for a body corporate.

Hazard identified in design during manufacture

Regulation 188 provides that, if a manufacturer of plant advises the designer of the plant that there is a hazard in the design for which there is no control measure, the designer must revise the information originally supplied to the manufacturer to eliminate or if that is not reasonably practicable, minimise the risk, or notify the manufacturer in writing if the designer considers that it is unnecessary to revise the information. The regulation notes that a designer also has duties under clause 22 of the Act.

The maximum penalty for contravening regulation 188 is $3 600 for an individual and $18 000 for a body corporate.

Guarding

Regulation 189 provides that, if a designer of plant uses guarding to control risk, the designer must ensure, so far as is reasonably practicable, that the guarding will prevent access to the danger point or danger area of the plant.

Sub-regulation 189(3) requires the designer to ensure that specific guarding is provided for circumstances specified in the regulation.

Sub-regulation 189(4) also requires the designer to ensure that guarding will withstand impact or shock, that it is difficult to bypass or disable, and that, if the plant contains moving parts that may break or be ejected, guarding will control any risks.

Sub-regulation 189(6) requires the designer to ensure that guarding can be removed for repair, servicing and maintenance when the plant is not in normal operation, and that the plant cannot be restarted unless the guarding is replaced.

The maximum penalty for contravening regulation 189 is $6 000 for an individual and $30 000 for a body corporate.

Operational controls

Regulation 190 lists design requirements for plant operational controls. If the need to operate plant during maintenance or cleaning cannot be eliminated, the designer is required to design operator's controls that permit operation of the plant while a person is undertaking the maintenance or cleaning of the plant, that cannot be operated by anyone other than the person maintaining or cleaning the plant, and that will allow the operation of the plant in such a way that any risks to any person carrying out maintenance and cleaning will be eliminated so far as is reasonably practicable or if that is not reasonably practicable, minimised so far as is reasonably practicable.

The maximum penalty for contravening regulation 190 is $6 000 for an individual and $30 000 for a body corporate.

Emergency stop controls

Regulation 191 outlines specific requirements for emergency stop controls on plant. Sub-regulation 191(1) requires emergency stop controls fitted on plant that is designed to be operated by more than one person to be of the 'stop and lock off' type so that the plant cannot be restarted unless the stop controls are reset after use.

Sub-regulation 191(2) lists additional requirements for the design of emergency stop controls.

The maximum penalty for contravening Regulation 191 is $6 000 for an individual and $30 000 for a body corporate.

Warning devices

Regulation 192 provides that, if the design of plant includes an emergency warning device, or it is necessary to include an emergency warning device to minimise risk, so far as is reasonably practicable, the designer must ensure it is positioned to work to best effect.

The maximum penalty for contravening Regulation 192 is $6 000 for an individual and $30 000 for a body corporate.

Division 3 Duties of persons conducting businesses or undertakings that manufacture plant

Control of risk

Regulation 193 requires a manufacturer of plant to ensure that the plant is manufactured, inspected and tested, as required, in accordance with the information provided by the designer of the plant under the Act and the regulations.

Sub-regulation 193(2) to 193(4) sets out the steps a manufacturer must take when a hazard is identified in the design of the plant during the manufacturing process for which the designer has not provided a control measure.

Guarding

Regulation 194 requires a manufacturer of plant to ensure that guarding used to control risk is of solid construction and is securely mounted so as to resist impact or shock.

194(2) also requires a manufacturer to ensure that guarding is removable to allow repair, servicing and maintenance when the plant is not in normal operation, and that the plant cannot be restarted unless the guarding is replaced.

The maximum penalty for contravening regulation 194 is $6 000 for an individual and $30 000 for a body corporate.

Information must be obtained and provided

Regulation 195 ensures the communication of important information on the safe operation of plant from a designer, to a manufacturer, supplier and finally to the person to whom the plant is supplied. Regulation 195 requires a manufacturer of plant to take all reasonable steps to obtain the information the designer of plant is required to provide under clause 22 (4)(a) and (c) of the Act and regulations 187 and 188 of the regulations..

The regulation also requires the manufacturer to provide the information received from the designer under the Act and regulation 187 to the person being supplied with the plant, at the time of supply. If the manufacturer identifies a hazard during the manufacturing process, the manufacturer must ensure that the person to whom the plant is supplied receives the information the designer is required to provide under clause 22(4) of the Act and regulation 188.

The maximum penalty for contravening regulation 183 is $3 600 for an individual and $6 000 for a body corporate.

Division 4 Duties of persons conducting businesses or undertakings that import plant

Information to be obtained and provided by importer

Regulation 196 requires an importer of plant to take all reasonable steps to obtain the information to be provided by a manufacturer, and the information to be provided by the designer to the manufacturer, and to give that information to any person to whom the importer supplies the plant.

The maximum penalty for contravening regulation 196 is $3 600 for an individual and $18 000 for a body corporate.

Control of risk

Regulation 197 requires an importer of plant to ensure that the plant is inspected, having regard to the information provided by the manufacturer, and if that information requires the plant to be tested, that it is tested in accordance with the information. The regulation also provides that, if any hazards are identified, the importer must not supply the plant until the risks have been eliminated. If it is not reasonably practicable to eliminate the risks, the importer must advise the person to whom the plant is supplied of the risks and take all reasonable steps to ensure that the designer and manufacturer are consulted regarding any alteration made to the plant to control the risk.

The maximum penalty for contravening regulation 197 is $6 000 for an individual and $30 000 for a body corporate.

Division 5 Duties of persons conducting businesses or undertakings that supply plant

Information to be obtained and provided by supplier

Regulation 198 requires a supplier of plant to take all reasonable steps to obtain the information to be provided by the manufacturer, and to ensure that the person to whom the plant is supplied is given the information when the plant is supplied.

The maximum penalty for contravening regulation 198 is $3 600 for an individual and $18 000 for a body corporate.

Supply of second-hand plant—duties of supplier

Regulation 199 requires a supplier of second-hand plant to ensure, so far as is reasonably practicable, that any faults in the plant are identified.

Sub-regulation 199(2) requires the supplier to ensure that written notice is provided to the person being supplied, before the plant is supplied, advising of the condition of the plant, any faults identified, and if appropriate, that the plant should not be used until the faults are rectified. This requirement does not apply to plant to be used as scrap or spare parts.

The maximum penalty for contravening regulation 199 is $6 000 for an individual and $30 000 for a body corporate.

Second-hand plant to be used for scrap or spare parts

Regulation 200 requires a supplier of plant to be used for scrap or spare parts to inform the person being supplied, before the plant is supplied that the plant is being supplied for scrap or spare parts and in its current form is not to be used as plant.

The maximum penalty for contravening regulation 200 is $3 600 for an individual and $18 000 for a body corporate.

Division 6 Duties of persons conducting businesses or undertakings that install, construct or commission plant or structures

Duties of persons conducting businesses or undertakings that install, construct or commission plant

Regulation 201 requires a PCBU that installs, constructs or commissions plant to ensure that the plant is installed, constructed or commissioned having regard to the information provided by the designer, manufacturer importer or supplier of the plant under the Act and the regulations, or instructions provided by a competent person, to the extent that these instructions relate to health and safety.

The maximum penalty for contravening regulation 200 is $6 000 for an individual and $30 000 for a body corporate.

Duties of persons conducting businesses or undertakings that install, construct or commission structures

Regulation 202 requires a PCBU that installs, constructs or commissions a structure to ensure that the structure is installed, constructed or commissioned having regard to the information provided by the designer, manufacturer, importer or supplier of the structure under the Act and the regulations, or instructions provided by a competent person, to the extent that these instructions relate to health and safety.

The maximum penalty for contravening regulation 202 is $6 000 for an individual and $30 000 for a body corporate.

Division 7 General duties of a person conducting a business or undertaking involving the management or control of plant

A note to Division 7 states that a person with management or control of plant at a workplace is the PCBU at the workplace to the extent that the business or undertaking involves the management or control of plant in whole or in part at the workplace**.**

Subdivision 1 Management of risks

Management of risks to health and safety

Regulation 203 requires a person with management or control of plant to manage risks to health and safety associated with plant in accordance with Part 3.1 of the regulation.

Subdivision 2Additional control measures for general plant

Control of risks arising from installation or commissioning

Regulation 204 provides that a person with management or control of plant at a workplace must not commission the plant unless the person has established, so far as is reasonably practicable, that the plant is without risks to the health and safety of any person.

Sub-regulation 204(2) provides that the PCBU also must not decommission or dismantle the plant unless this can be carried out, so far as is reasonably practicable, without risks to health and safety.

A person with management or control of plant at the workplace must ensure that a person who installs, assembles, constructs, commissions or decommissions or dismantles the plant is a competent person, and that the person is provided with the information available for eliminating or minimising risks to health or safety (sub-regulation 204(3) and 204(4)).

Sub-regulation 204(5) requires the processes for the installation, construction, commissioning, decommissioning and dismantling to include inspections that ensure, so far as is reasonably practicable, that risks associated with these activities are monitored.

The maximum penalty for contravening regulation 204 is $6 000 for an individual and $30 000 for a body corporate.

Preventing unauthorised alterations to or interference with plant

Regulation 205 requires the person with management or control of plant at a workplace to, so far as is reasonably practicable, prevent alterations to or interference with the plant that are not authorised by the person.

The maximum penalty for contravening regulation 205 is $6 000 for an individual and $30 000 for a body corporate.

Proper use of plant and controls

Regulation 206 requires the person with management or control of plant at a workplace to take reasonable steps to ensure that plant is used only for the purpose for which it was designed, unless the person has determined that the proposed use does not increase the risk to health or safety. In making that determination, the person must ensure that the risk is assessed by a competent person (sub-regulation 206(2)).

Sub-regulation 206(3) also requires the person to also take reasonable steps to ensure that health and safety features and warning devices are used in accordance with the instructions and information provided under regulation 39.

The maximum penalty for contravening regulation 206 is $6 000 for an individual and $30 000 for a body corporate.

Plant not in use

Regulation 207 requires the person with management or control of plant at a workplace to ensure, so far as is reasonably practicable, that plant that is not in use does not create a risk to the health or safety of any person.

The maximum penalty for contravening regulation 207 is $6 000 for an individual and $30 000 for a body corporate.

Guarding

Regulation 208 provides that, if guarding is used to control risk associated with plant at a workplace, that the person with management or control of the plant must ensure, so far as is reasonably practicable, that the guarding will prevent access to the area of the plant requiring guarding, by using the guarding specified in the regulation for specific circumstances (sub-regulation 208(2)).

The regulation also requires the person with management or control of a workplace to ensure that the guarding is of solid construction and is securely mounted so as to resist impact or shock, that the guarding is difficult to bypass or disable, that it does not create risks in itself and that it is properly maintained (sub-regulation 208(3)). If the plant contains moving parts that may break or be ejected, the person must ensure that the guarding will control any risk from those broken or ejected parts, as far as is reasonably practicable (sub-regulation 208(4)).

Sub-regulation 208(5) requires the person with management or control of the plant to ensure that guarding can be removed for maintenance and cleaning when the plant is not in normal operation, and that the plant cannot be restarted unless the guarding is replaced.

The maximum penalty for contravening regulation 208 is $6 000 for an individual and $30 000 for a body corporate.

Guarding and insulation from heat and cold

Regulation 209 requires the person with management or control of plant at a workplace to ensure, so far as is reasonably practicable, that any pipe or other part of the plant associated with heat or cold is guarded or insulated so that the plant is without risks to health and safety.

The maximum penalty for contravening regulation 209 is $6 000 for an individual and $30 000 for a body corporate.

Operational controls

Regulation 210 lists requirements to be met by the person with management or control of plant at a workplace for plant operational controls. If the need to operate plant during maintenance or cleaning cannot be eliminated, the person with management or control must ensure that the operator's controls cannot be operated by anyone other than the person maintaining or cleaning the plant, or if this is not possible, a person authorised by the person with management or control and that will allow the operation of the plant in such a way that any risks to any person carrying out maintenance and cleaning will be eliminated so far as is reasonably practicable or if that is not reasonably practicable, minimised so far as is reasonably practicable (sub-regulation 210(2)).

The maximum penalty for contravening regulation 210 is $6 000 for an individual and $30 000 for a body corporate.

Emergency stops

Regulation 211 outlines specific requirements for emergency stop controls on plant. It requires emergency stop controls fitted on plant that is designed to be operated by more than one person to be of the 'stop and lock off' type so that the plant cannot be restarted unless the stop controls are reset after use. The regulation also lists additional requirements for the design of emergency stop controls (sub-regulation 211(2)).

The maximum penalty for contravening regulation 211 is $6 000 for an individual and $30 000 for a body corporate.

Warning devices

Regulation 212 requires the person with management or control of the plant to ensure that, if plant includes an emergency warning device, it is positioned on the plant to work to best effect.

The maximum penalty for contravening regulation 212 is $6 000 for an individual and $30 000 for a body corporate.

Maintenance and inspection of plant

Regulation 213 requires the person with management or control of plant to ensure that the maintenance, inspection and, if necessary, testing of the plant is carried out by a competent person:

- in accordance with the manufacturer's recommendations, or
- if there are no manufacturer's instructions, in accordance with the recommendations of a competent person, or
- in relation to inspection, if it is not reasonably practicable to carry out the inspection in accordance with the manufacturer's instructions or in accordance with the recommendations of a competent person, annually (sub-regulation 213(2)).

The maximum penalty for contravening regulation 213 is $3 600 for an individual and $18 000 for a body corporate.

Subdivision 3 Additional control measures for certain plant

This subdivision notes that the person with management or control of plant at a workplace is the PCBU at a workplace to the extent that the business or undertaking involves the management or control of plant in whole or in part at the workplace.

Powered mobile plant—general control of risk

Regulation 214 provides that the person with management or control of powered mobile plant at a workplace must, so far as is reasonably practicable, manage the risks to health and safety of:

- the plant overturning, or
- things falling on the operator of the plant, or
- the operator being ejected from the plant, or
- the plant colliding with any person or thing, or
- mechanical failure of pressurised elements of plant that may release fluids that pose a risk to health and safety.

Powered mobile plant—specific control measures

Regulation 215 requires a person with management or control of powered mobile plant at a workplace to ensure, so far as is reasonably practicable, that a suitable combination of operator protective devices for the plant is provided, maintained and used (sub-regulation 215(2)).

Sub-regulation 215(3) requires the person with management or control of powered mobile plant at a workplace must ensure, so far as is reasonably practicable, that no one other than the operator rides on the plant unless the person is provided with a level of protection equivalent to that provided to the operator. The person with management or control must also ensure that the plant does not collide with pedestrians or other powered mobile plant (sub-regulation 215(4)).

Sub-regulation 215(5) provides that, if there is a possibility of the plant colliding with pedestrians or other powered mobile plant, it must have a warning device that will warn persons who may be at risk from the movement of the plant.

The maximum penalty for contravening regulation 215 is $6 000 for an individual and $30 000 for a body corporate.

Roll-over protection on tractors

Regulation 216 requires the person with management or control of a tractor at a workplace to ensure that the tractor is not used unless it is securely fitted with a rollover protective structure.

Sub-regulation 216(2) provides that, if a tractor is used in a place that is too low for the tractor to work while it is fitted with a roll-over protective structure, the structure may be lowered or removed while the tractor is used in such a situation only if other measures to minimise the risk of roll-over are in place.

The maximum penalty for contravening sub-regulation 216(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 216(3) provides that this regulation does not apply if the tractor is:

- installed in a fixed position, and in a manner which would no longer permit it to be used as powered mobile plant; or
- less than 560 kilograms or 15 000 kilograms or more in mass; or
- being used for a historical purpose or activity.

Sub-regulation 216(4) includes definitions of roll over protective structure and historical purpose or activity, and notes that the requirements in regulations 214 and 215 also apply to a tractor.

Industrial lift trucks

Regulation 218 provides that the person with management or control of an industrial lift truck at a workplace must ensure that the truck is equipped with lifting attachments suitable for the load to be lifted or moved by the truck, and that it is operated in a manner that ensures that the risks to the operator of the truck and other persons at or near the workplace are eliminated so far as is reasonably practicable, and if that is not reasonably practicable minimised so far as is reasonably practicable.

Sub-regulation 218(2) requires the person with management or control of an industrial lift truck at a workplace to ensure that the industrial lift truck is not used to carry a passenger unless it is designed to do so, and that the passenger seat complies with the requirements specified in the regulation (sub-regulation 218(3)).

The maximum penalty for contravening regulation 218 is $6 000 for an individual and $30 000 for a body corporate.

Plant that lifts or suspends loads

Regulation 219 requires the person with management or control of plant used to lift or suspend persons or things at the workplace to ensure, so far as is reasonably practicable, that the plant used is specifically designed to lift or suspend the load.

Sub-regulation 219(3) provides that, if it is not reasonably practicable to use plant specifically designed to lift or suspend the load, the person must ensure that:

- the plant used does not cause a greater risk than if specifically designed plant were used; and
- if the plant is lifting or suspending persons, the use of the plant complies with regulation 220.

Sub-regulation 219(4) to 219(7) specify how lifting and suspension of loads is to be carried out.

The maximum penalty for contravening regulation 219 is $6 000 for an individual and $30 000 for a body corporate.

Exception—Plant not specifically designed to lift or suspend a person

Regulation 220 provides an exception to the requirement in regulation 219 that a person with management or control of plant at a workplace use plant specifically designed to lift or suspend a

load. The exception applies where specifically designed plant cannot be used and where it does not create a greater risk than if specifically designed plant were used.

Sub-regulation 220(1) provides that the person with management or control of this type of plant at a workplace must ensure that:

- persons are lifted or suspended in a work box that is securely attached to the plant, and
- persons in the work box remain substantially within the work box while they are being lifted or suspended, and
- if there is a risk of a person falling from a height, a safety harness is provided and worn by the person in order to prevent, so far as is reasonably practicable, injury as a result of the fall, and
- means are provided to enable the persons being lifted or suspended to safely exit from the plant if it fails in its normal operation.

Sub-regulation 220(2) provides that the regulation does not apply to plant used in connection with stunt work, acrobatics or theatrical performances, which are governed by regulation 20, which sets out a hierarchy of control measures to be used.

Plant used in connection with tree lopping

Regulation 221 provides that the requirements under sub-regulation 220(1)(a) and 220(1)(b) to use a work box to lift or suspend people and to ensure persons remain in the work box do not apply in connection with tree lopping if:

- a risk assessment shows that lifting or suspending a person in a harness with a crane to place the person in a tree to carry out tree lopping does not create a greater risk to health or safety than using plant specifically designed to lift a person or to climb a tree, and
- the tree lopping is carried out by a person who is competent in the use of a harness, and
- a crane is used to put the competent person in the tree to lop it, and
- the crane has safety mechanisms that would prevent the competent person from inadvertently falling, and
- while attached to the crane, the competent person is in visual, audio or radio communication with the crane operator.

Sub-regulation 221(2) defines harness for the purposes of the regulation.

Industrial robots

Regulation 222 requires the person with management or control of an industrial robot or other remotely or automatically energised plant at a workplace not to direct or allow a worker to work in the immediate vicinity of the plant if it could start without warning and cause a hazard, unless suitable control measures are in place to control the risks to health and safety.

The regulation also provides that, if the remote or automatic energising of the plant could lead to risks to health and safety, the person must ensure that access to the area in the immediate vicinity of the plant is controlled at all times as specified in the regulation (sub-regulation 222(3)).

The maximum penalty for contravening regulation 222 is $6 000 for an individual and $30 000 for a body corporate.

Lasers

Regulation 223 requires the person with management or control at a workplace of laser equipment that may create a risk to health and safety to ensure that laser equipment intended for use on plant is designed, constructed and installed so as to prevent accidental irradiation (sub-regulation 223(2)).

Sub-regulation 223(3) requires the person to ensure laser equipment on plant is protected so that any operator of the plant or other person is not exposed to the radiation specified in the regulation.

In addition, the person must ensure that the visual equipment used for the observation or adjustment of laser equipment on plant causes no risk to health or safety from laser rays (sub-regulation 223(4)). The person must also ensure that the workers operating the laser equipment are trained in the proper operation of the equipment (sub-regulation 223(5)).

Sub-regulation 223(6) requires the person to ensure that Class 3B and Class 4 lasers (within the meaning of AS 2397 Safe Use of Lasers in the Building and Construction Industry) are not used in construction work.

The maximum penalty for contravening regulation 223 is $6 000 for an individual and $30 000 for a body corporate.

Pressure equipment

Regulation 224 requires the person with management or control of pressure equipment at a workplace to ensure the equipment is inspected regularly by a competent person, and that any gas cylinder inspected is marked with a current inspection mark to show the most recent inspection.

Sub-regulation 224(2) also stipulates that the person with management or control of gas cylinders at a workplace that is a gas cylinder filling station must ensure that:

- a gas cylinder is not filled with gas unless it bears a current inspection mark; and
- each gas cylinder is only filled with gas for which that cylinder is designed.

The maximum penalty for contravening regulation 224 is $3 600 for an individual and $18 000 for a body corporate.

Scaffolds

Regulation 225 applies to:

- a suspended scaffold; and
- a cantilevered scaffold; and
- a spur scaffold; and
- a hung scaffold; and
- any other scaffold from which a person or thing could fall more than 4 metres.

Sub-regulation 225(2) provides that the person with management or control of a scaffold at a workplace must ensure that the scaffold is not used unless the person receives written confirmation from the competent person who inspected the scaffold that construction of the scaffold has been completed.

Sub-regulation 225(3) then specifies that the person with management or control of a scaffold at a workplace must ensure that the scaffold and its supporting structure are inspected by a competent person at the times specified in the regulation.

If an inspection indicates that a scaffold at a workplace, or its supporting structure, creates a risk to health or safety, the regulation requires the person with management or control of the scaffold, to ensure that any necessary work is carried out, and that the scaffold and its supporting structure are inspected by a competent person before the scaffold is used again (sub-regulation 225(4)).

Sub-regulation 225(5) requires the person with management or control of a scaffold at a workplace to prevent authorised access to the scaffold while it is incomplete or unattended, for example, by using danger tags.

The maximum penalty for contravening regulation 225 is $6 000 for an individual and $30 000 for a body corporate.

Plant with presence sensing safeguarding system—records

Regulation 226 requires the person with management or control of plant with a presence sensing safeguarding system at a workplace to keep a record of safety integrity tests, inspections, maintenance, commissioning, decommissioning, dismantling and alterations of the plant for the periods specified in the regulation. The records must be made available for inspection under the Act and made readily available to any person when the person with management or control of the plant relinquishes control (sub-regulations 226(3) and (4)).

The maximum penalty for contravening regulation 226 is $1 250 for an individual and $6 000 for a body corporate.

Part 5.2 Additional duties relating to registered plant and plant designs

The note to Part 5.2 states that the person with management or control of plant at a workplace is the PCBU to the extent that the business or undertaking involves the management or control of plant in whole or in part at the workplace. The note also states that Part 5.2 applies in addition to Part 5.1, and specifies that, in this Part, plant includes a structure, as in the definition of plant in sub-regulation 5(1).

Division 1 Application of Part 5.2

Application of Part 5.2

Regulation 227 states that Part 5.2 applies to plant that is required to be registered under Part 5.3 or plant the design of which is required to be registered under Part 5.3.

Division 2 Duty of person conducting a business or undertaking who designs plant to record plant design

Records and information

Regulation 228 states that, if the design of plant requires registration under Part 5.3, the designer of the plant must make a record containing the method used to determine the control measures for the plant, and the control measures resulting from that determination, and copies of the information specified in the regulation.

The maximum penalty for contravening regulation 228 is $1 250 for an individual and $6 000 for a body corporate.

Record of standards or engineering principles used

Regulation 229 states that, if the design of the plant is required to be registered under Part 5.3, the designer of the plant must record any published technical standard, or any part of a published technical standard, used to design the plant, or if none were used, any engineering principles used to design the plant (sub-regulation 229(2)).

The maximum penalty for contravening regulation 229 is $1 250 for an individual and $6 000 for a body corporate.

Records to be available for inspection

Regulation 230 requires a designer of plant to keep the records made under regulations 228 and 229 available for inspection under the Act, available for inspection by the design verifier of the plant design, and for the design life of the plant.

The maximum penalty for contravening regulation 230 is $1 250 for an individual and $6 000 for a body corporate.

Division 3 Duties of a person conducting a business or undertaking

Duty of persons conducting businesses or undertakings that manufacture plant

Regulation 231 provides that a manufacturer must not supply plant specified in Part 1 of Schedule 5 unless the design of that plant is registered under Part 5.3.

The maximum penalty for contravening regulation 231 is $6 000 for an individual and $30 000 for a body corporate.

Duty of persons conducting businesses or undertakings that import plant

Regulation 232 states that an importer must not supply plant specified in Part 1 of Schedule 5 unless the design of that plant is registered under Part 5.3.

The maximum penalty for contravening regulation 232 is $6 000 for an individual and $30 000 for a body corporate.

Duty of persons conducting businesses or undertakings that supply plant

Regulation 233 states that a supplier must not supply plant specified in Part 1 of Schedule 5 unless the design of that plant is registered under Part 5.3

The maximum penalty for contravening regulation 233 is $6 000 for an individual and $30 000 for a body corporate.

Duty of persons conducting businesses or undertakings that commission plant

Regulation 234 states that a PCBU that commissions plant must not commission an item of plant that is specified in Part 2 of Schedule 5 for use in a workplace unless that item of plant is registered under Part 5.3.

Sub-regulation 234(3) then states that this regulation does not prevent a PCBU that commissions plant from performing any necessary adjustments, tests or inspections as part of the commissioning process before the plant is commissioned at a workplace.

The maximum penalty for contravening regulation 234 is $6 000 for an individual and $30 000 for a body corporate.

Division 4 Duties of a person conducting a business or undertaking involving the management or control of plant

Subdivision 1 Control measures for registered plant

Major inspection of registered mobile cranes and tower cranes

Regulation 235 requires the person with management or control of a registered mobile crane or tower crane at a workplace to ensure that a major inspection is carried out by a competent person, or someone supervised by a competent person. This regulation requires that the crane must receive a major inspection:

- at the end of the design life recommended by the manufacturer for the crane; or
- if there are no manufacturer's recommendations, in accordance with the recommendations of a competent person; or
- if it is not reasonably practicable to inspect the crane at the end of its design life, or in accordance with the recommendations of a competent person, then every 10 years from the date that the crane was first commissioned or first registered, whichever occurs first.

Sub-regulation 235(4) defines competent person for the purposes of this regulation.

Sub-regulation 235(6) defines major inspection for the purposes of this regulation.

The maximum penalty for contravening regulation 235 is $3 600 for an individual and $18 000 for a body corporate.

Lifts

Regulation 236 provides that the person with management or control of a lift at a workplace (including maintenance of a lift) must ensure, if there is a risk that people could fall down the lift well, that secure barriers are in place to prevent people falling, and secure working platforms or equivalent arrangements are provided to prevent a person working in the lift well from falling.

Sub-regulation 236(2) also requires the person with management or control of a lift to ensure there is a safe means of entry to and exit from the base of the lift well. In addition, the person with management or control of a lift must ensure a sign is fixed prominently in the lift stating the safe working load specified in the design of the lift (sub-regulation 236(3)).

The maximum penalty for contravening regulation 236 is $3 600 for an individual and $18 000 for a body corporate.

Records of plant

Regulation 237 applies to plant that is required to be registered under Part 5.3.

Sub-regulation 237(2) requires the person with management or control of the plant at the workplace to keep a record of all tests, inspections, maintenance, commissioning, decommissioning, dismantling and alterations of the plant for the period of time specified in the regulation. The regulation specifies that the person must keep the record available for inspection under the Act and make it available to any person to whom the person relinquishes control of the plant (sub-regulation 237(4) and (5)).

The maximum penalty for contravening regulation 237 is $1 250 for an individual and $6 000 for a body corporate.

Subdivision 2 Control measures for amusement devices

Operation of amusement devices

Regulation 238 requires the person with management or control of an amusement device or passenger ropeway at a workplace to ensure that the amusement device or ropeway is operated only by a person who has been provided with instruction and training in the proper operation of the device.

Sub-regulation 238(2) requires the person to ensure that:

- the amusement device or passenger ropeway is checked before it is operated on each day when is to be operated; and
- the amusement device or passenger ropeway is operated without passengers on each day when it is to be operated with passengers, before being operated with passengers; and
- the daily checks and operation of the amusement device or passenger ropeway without passengers are properly and accurately recorded in the log book for the amusement device.

The maximum penalty for contravening regulation 238 is $6 000 for an individual and $30 000 for a body corporate.

Storage of amusement devices and passenger ropeways

Regulation 239 requires the person with management or control of an amusement device or passenger ropeway at a workplace to ensure that the device is stored without risk to health and safety and that the person who stores the device is a competent person or supervised by a competent person.

The maximum penalty for contravening regulation 239 is $3 600 for an individual and $18 000 for a body corporate.

Maintenance, inspection and testing of amusement device and passenger ropeways

Regulation 240 provides that the person with management or control of an amusement device or passenger ropeway at a workplace must ensure that a competent person carries out the maintenance, repair, inspection and, if necessary, testing of the amusement device or ropeway in accordance with the designer's and/or the manufacturer's recommendations or in accordance with the maintenance manual if a competent person has prepared a manual for the amusement device or ropeway

Sub-regulation 240(2) states that a person is not competent to carry out a detailed inspection of an amusement device or passenger ropeway that includes an electrical installation unless the person is qualified, or is assisted by a person who is qualified, to inspect electrical installations.

The maximum penalty for contravening regulation 240 is $6 000 for an individual and $30 000 for a body corporate.

Annual inspection of amusement device and passenger ropeways

Regulation 241 requires the person with management or control of an amusement device or passenger ropeway at a workplace to ensure that a detailed inspection of the device is carried out at least once every 12 months by a competent person (sub-regulation 241(1)).

Sub-regulation 241(2) lists the checks that must be carried out at the annual inspection, and includes a requirement for a detailed inspection of the amusement device or passenger ropeways to ensure compliance with the Act and the regulations.

The regulation also provides that the regulator may extend the date for an inspection by up to 35 days if an inspection is scheduled to coincide with the same event each year (sub-regulation 241(3)). If the date is extended, under the regulation the new date is the date from which future annual inspections are determined (sub-regulation 241(4)).

Sub- regulation 241(5) then defines 'competent person' for the purpose of this regulation.

The maximum penalty for contravening sub-regulation 241(1) is $6 000 for an individual and $30 000 for a body corporate.

Log book and manuals for amusement device

Regulation 242 requires the person with management or control of an amusement device at a workplace must, in addition to keeping records as required under regulation 237, record the dates and details of the erection or storage of the amusement device in the log book for the amusement device, and ensure the log book and operating and maintenance manuals are kept with the amusement device.

Sub-regulation 242(2) then requires the person with management or control of an amusement device at a workplace to provide people involved in the commissioning, installation, use, storage and testing, de-commissioning, dismantling and disposal, of an amusement device with the log book and the operating and maintenance manuals for the amusement device.

The maximum penalty for contravening regulation 242 is $1 250 for an individual and $6 000 for a body corporate.

Part 5.3 Registration of plant designs and items of plant

The note to Part 5.3 states that, in this Part, 'plant' includes a structure, and refers to the definition of 'plant'.

Division 1 Plant designs to be registered

Plant design to be registered

Regulation 243 states that the design of plant specified in Part 1 of Schedule 5 (List of plant requiring registration of design) must be registered under this Part.

Altered plant designs to be registered

Regulation 244 states that if the design of plant specified in Part 1 of Schedule 5 and registered under this Part is altered, the altered design must be registered under this Part. clause 42 of the Act refers to the requirements to authorise plant design. The regulation notes that a reference to the alteration of a design means an alteration that may affect health or safety (sub-regulation 244(2)).

Regulation 244 does not apply in relation to a tower crane or a gantry crane if:

- the crane is relocated for use in a different workplace,
- the design of 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
- the design of the crane is not altered in any other way.

Recognition of designs registered by corresponding regulator

Regulation 245 relates to the recognition of designs registered elsewhere in Australia. It specifies that a design of plant, or an altered design of plant, registered by a corresponding regulator under a corresponding Work Health and Safety law, is not required to be registered under this Part.

Division 2 Items of plant to be registered

Items of plant to be registered

Regulation 246 states that the items of plant specified in Part 2 of Schedule 5 ('List of plant items requiring registration') must be registered under this Part. The purpose of registering an item of plant is to ensure that it is inspected by a competent person and is safe to operate (sub-regulation 246(2)).

Recognition of plant registered by corresponding regulator

Regulation 247 states that an item of plant registered by a corresponding regulator under a corresponding Work Health and Safety law is not required to be registered under this Part.

Division 3 Registration process for plant designs

Application of Division 3

Regulation 248 states that this Division applies to the registration of a plant design specified in Part 1 of Schedule 5 as requiring registration.

Who can apply to register a plant design

Regulation 249 provides that a PCBU that designs an item of plant may apply to the regulator for the registration of a design of an item of plant. Sub-regulation 249(2) also provides that a person with management or control of an item of plant may apply to the regulator for the registration of the design of that item of plant.

Application for registration

Regulation 250 sets out requirements for how an application for registration of a plant design must be made and the information required. The regulation also provides that any drawings or other documents provided with the application must be capable of being kept in electronic form and the application must be accompanied by the relevant fee (sub-regulation 250(3) and 250(4)).

Design verification statement

Regulation 251 specifies the content and the inclusions required in the design verification statement for a design of plant.

Who can be the design verifier

Regulation 252 specifies who is eligible to be a design verifier for a design of plant. The regulation states that a person is eligible to be a design verifier if the person is a competent person and providing that they were not involved in the production of the design.

Duty of design verifier

Regulation 253 states that a design verifier of a design of plant specified in Part 1 of Schedule 5 must document the design verification process and the results of that process.

The maximum penalty for contravening regulation 253 is $3 600 for an individual and $18 000 for a body corporate.

Design verification statements not to be made in certain circumstances

Regulation 254 specifies that a person must not make design verification statements for a design of plant specified in Part 1 of Schedule 5 if the person is not eligible to be a design verifier for that design, or if the person has not carried out a verification of the design.

The maximum penalty for contravening regulation 254 is $3 600 for an individual and $18 000 for a body corporate.

Additional information

Regulation 255 provides the regulator with the power to ask an applicant to provide additional information so that the regulator an make a decision on whether or not to grant the registration. The regulator may make more than one request for additional information under this regulation.

Sub-regulation 255(3) also provides that if the applicant does not provide the additional information by the date specified, the application is taken to be withdrawn.

Decision on application

Regulation 256 specifies the circumstances in which the regulator must grant or refuse to grant the design registration. Sub-regulation 256(5) also provides that if the regulator does not make a decision within 120 days after receiving the application or additional information requested under regulation 255, the regulator is taken to have refused the application. A note outlines that a refusal to grant a registration under this regulation is a reviewable decision.

Refusal of registration—process

Regulation 257 sets out the process the regulator must follow if an application for registration is to be refused.

A decision to refuse a registration is a reviewable decision under regulation 676.

Conditions of registration

Regulation 258 enables the regulator to impose conditions, which it considers appropriate, on the registration of plant design when granting the registration. A note states that a person must comply with the conditions of registration, and provides that a decision to impose a condition on a registration is a reviewable decision.

Registration of plant design granted for unlimited duration

Regulation 259 provides that a registration of a plant design is granted for an unlimited duration.

Plant design registration number

Regulation 260 sets out the obligations to be met relating to the plant design registration number issued by the regulator if the regulator registers a plant design.

The maximum penalty for contravening regulation 260 is $1 250 for an individual and $6 000 for a body corporate.

Registration document

Regulation 261 sets out the requirements for the content of the registration document issued by the regulator when registering plant design.

Registration document to be available

Regulation 262 requires a registration holder to keep the registration document available for inspection under the Act, other than when the registration document is not in the registration holder's possession as provided for under regulation 287 or 288.

The maximum penalty for contravening regulation 262(1) is $1 250 for an individual and $6 000 for a body corporate.

Disclosure of design information

Regulation 263 prohibits the regulator from disclosing to any person any confidential information provided by an applicant for registration of a design of an item of plant, except in the circumstances set out in this regulation. Sub-regulation 263(3) provides that the regulator may provide a copy of the design verification statement to the people specified in the regulation.

Sub-regulation 263(4) states that if the registration holder for the design of the plant cannot be located or no longer exists, the regulation allows the regulator to provide the person with management or control of plant with the minimum information about the plant design necessary for the safe operation of the plant.

Division 4 Registration process for an item of plant

Application of Division 4

Regulation 264 provides that this Division applies to the registration of an item of plant specified in Part 2 of Schedule 5 as requiring registration.

Who can apply to register an item of plant

Regulation 265 provides that a person with management or control of an item of plant may apply to the regulator for the registration of that item of plant.

Application for registration

Regulation 266 sets out the requirements for an application for registration of an item of plant. The regulation also provides that the application must be accompanied by the relevant fee (sub-regulation 266(3)).

When is a person competent to inspect plant

Regulation 267 sets out the qualifications required for a person to be competent to inspect an item of plant.

Additional information

Regulation 268 enables the regulator to ask an applicant to provide additional information so that the regulator can make a decision on whether or not to grant the registration. The regulator is allowed to make more than one request for additional information under this regulation (sub-regulation 268(4)). This regulation also provides that if the applicant does not provide the additional information by the date specified, the application is taken to be withdrawn (sub-regulation 268(3)).

Decision on application

Regulation 269 specifies the circumstances in which the regulator must grant or refuse to grant the registration. Sub-regulation 269(3) requires the regulator to refuse to grant a registration if the regulator is satisfied that the applicant has given information that is false or misleading in a material

particular, or failed to give any material information. If the regulator decides to grant the registration, it must notify the applicant within 14 days after making the decision (sub-regulation 269(4)).

Sub-regulation 269(5) also provides that if the regulator does not make a decision within 120 days after receiving the application, or additional information requested under regulation 268, the regulator is taken to have refused the application. A refusal to grant a registration is a reviewable decision.

Refusal of registration—process

Regulation 270 sets out the process the regulator must follow if the regulator proposes to refuse to grant an application for registration. A refusal to grant a registration is a reviewable decision under regulation 676.

Conditions of registration

Regulation 271 enables the regulator to impose conditions on the registration of an item of plant. The person must comply with the conditions of registration. A decision to impose a condition on a registration is a reviewable decision.

Duration of registration

Regulation 272 provides that a registration of an item of plant takes effect on the day it is granted and expires 5 years after that day.

Plant registration number

Regulation 273 provides that, if the regulator registers an item of plant, the regulator must issue a plant registration number to the registration holder within 14 days after the registration, to give to the person with management or control of the plant at a workplace (sub-regulation 273(3)). The person with management or control of the plant must ensure that the registration number is marked on the item of plant (sub-regulation 273(4)).

The maximum penalty for contravening regulation 273(3) and 273(4) is $1 250 for an individual and $6 000 for a body corporate.

Registration document

Regulation 274 sets out the contents required in the registration document to be issued by the regulator if the regulator registers an item of plant. The regulation provides that the registration document must be issued to the applicant within 14 days after the regulator makes the decision.

Registration document to be available

Regulation 275 requires a registration holder of an item of plant to keep the registration document available for inspection under the Act, except when the registration document is not in the registration holder's possession, in the circumstances set out in regulations 287 and 288.

The maximum penalty for contravening regulation 275 is $1 250 for an individual and $6 000 for a body corporate.

Regulator may renew registration

Regulation 276 enables the regulator to renew the registration of an item of plant.

Application for renewal

Regulation 277 sets out how an application for renewal of registration of an item of plant must be made and the information required. The regulation requires the application for renewal to be accompanied by a declaration that the plant has been maintained, inspected and tested in accordance with Regulation 213. The regulation also provides that the application must be accompanied by the relevant fee (sub-regulation 277(3)).

Registration continues in force until application is decided

Regulation 278 states that, if a registration holder applies under regulation 277 for the renewal of a registration, the registration is taken to continue in force from the day it would, apart from this regulation, have ended until the registration holder is given notice of the decision on the application.

Decision on application

Regulation 279 requires the regulator to renew the registration of an item of plant, provided the regulator is satisfied that the application for renewal has been made in accordance with this Division and the plant has been maintained and inspected in accordance with regulation 213.

Sub-regulation 279(2) outlines the instances where regulation 268, 269, except sub-regulation 279(5), 270, 271 and 272 apply.

This regulation notes that a refusal to grant a registration is a reviewable decision.

Status of registration during review

Regulation 280 outlines the status of a registration of an item of plant during an internal and external review. It outlines what should happen if the regulator gives a registration holder written notice before the registration of the plant expires, that the regulator proposes to refuse to renew the registration, and the registration holder seeks an internal or external review.

Division 5 Changes to registration and registration documents

Application of Division

Regulation 281 provides that this Division applies to the registration of a plant design and the registration of an item of plant.

Changes to information

Regulation 282 requires a registration holder to give the regulator written notice of any change to specified information the registration holder has given to the regulator within 14 days after the registration holder becomes aware of the change (sub-regulation 282(1)).

Sub-regulation 282(3) also requires a registration holder for an item of plant to give written notice to the regulator if the item of plant is altered such that the plant requires new control measures; or if the plant is usually fixed and is relocated; or if the registration holder no longer has management or control of the item of plant.

The maximum penalty for contravening sub-regulation 282(1) is $1 250 for an individual and $6 000 for a body corporate.

Amendment of registration imposed by regulator

Regulation 283 enables the regulator, on its own initiative, to amend a registration, including by varying or deleting a condition, or imposing a new condition on the registration. The regulation also specifies the process to be followed by the regulator before amending a registration (sub-regulation 283(2)). A decision to amend a registration is a reviewable decision.

Amendment on application by registration holder

Regulation 284 enables the regulator to amend a registration at the request of the registration holder. Sub-regulation 284(5) also specifies the process the regulator must follow if the regulator proposes to refuse to amend the registration.

A refusal to make the amendment applied for, or to make a different amendment, is a reviewable decision.

Minor corrections to registration

Regulation 285 enables the regulator to make minor amendments to a registration, including correcting an obvious error, or changing an address.

Regulator to provide amended registration document

Regulation 286 requires the regulator, if it amends a registration and considers that the registration document requires amendment, to give the registration holder an amended registration document within 14 days of making the decision.

Registration holder to return registration document

Regulation 287 requires a registration holder to return the registration document to the regulator for amendment at the written request of the regulator within the time specified in the request.

The maximum penalty for contravening regulation 287 is $1 250 for an individual and $6 000 for a body corporate.

Replacement registration document

Regulation 288 requires a registration holder to give notice to the regulator if the registration document is lost, stolen or destroyed.

The maximum penalty for contravening sub-regulation 288(1) is $1 250 for an individual and $6 000 for a body corporate.

Sub-regulation 288(3) sets out the requirements for an application for a replacement document, and provides that the regulator may issue a replacement registration document if satisfied that it has been lost, stolen, or destroyed. If the regulator refuses to issue a replacement document, it must give the registration holder written notice of the decision with reasons within 14 days of making the decision (sub-regulation 288(6)).

A refusal to issue a replacement registration document is a reviewable decision under regulation 676.

Division 6—Cancellation of registration

Application of Division

Regulation 288A sets out that this Division relates to the registration of the design of plant and the registration of plant.

Regulator may cancel registration

Regulation 288B allows for the regulator to cancel a registration. The grounds for cancellation include if the regulator is satisfied that:

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

A decision to cancel a registration is a reviewable decision under regulation 676.

Cancellation process

Regulation 288C requires the regulator to provide the registration holder with written notice of the proposal to cancel the registration and the reasons for it.

This regulation also sets out the cancellation process which includes an opportunity for the registration holder to make a submission to the regulator in relation to the proposed cancellation

within a specified period. The regulator must consider any submission made within the specified period in making their decision. The regulator must notify the registration holder, in writing, within 14 days of the regulator making their decision.

A decision to cancel a registration is a reviewable decision under regulation 676.

Registration holder to return registration document

Regulation 288D requires the registration holder who receives a cancellation notice under regulation 288C to return the registration document to the regulator within the timeframe specified in the regulator's written request.

The maximum penalty for contravening regulation 288D is $1 250 for an individual and $6 000 for a body corporate.

Chapter 6 Construction work

This Chapter imposes duties relating to construction work within the meaning of regulation 289, and high risk construction work within the meaning of regulation 291. It requires PCBUs that commission construction work in relation to a structure to consult with the designer, and requires designers of structures to provide a written report regarding health and safety.

It requires PCBUs to control risks associated with construction work and high risk construction work and imposes duties in respect to safe work method statements, excavation work and trenches. It imposes duties on principal contractors including preparation of a written WHS management plan, signage obligations and requirements to ensure compliance with other regulations at the workplace. It imposes duties on PCBUs, workers and persons about general induction training.

Duty-holders under this Chapter may also have health and safety duties under clause 19, 20, 21, 22, 26, 28 or 29 of the Act, and duties under Part 5 Division 1 and Division 2 of the Act to consult with other duty-holders and workers about matters in this Chapter. This Chapter prescribes required qualifications for clause 44 of the Act. clause 27 of the Act applies to officers in respect of this Chapter.

There are additional regulations about management of risk in Part 3.1 – Risk management, about workplace environmental conditions and provision of information in Part 3.2 – General workplace management. There are additional regulations imposing duties on designers in Part 4.3 – Confined spaces and on designers and PCBUs who commission a structure in Chapter 5 – Plant and Structures. There are additional regulations which may apply to high risk construction work in Part 4.3 – Confined spaces, Part 4.4 – Falls, Part 4.7 – Electrical safety and Energised Electrical work, Part 4.8 – diving work, Chapter 5 – Plant and Structures, Part 7.1 – Hazardous chemicals, and Chapter 8 – Asbestos.

Part 6.1 Preliminary

Part 6.1 sets out the meaning of terms used in this part. Terms defined include construction work, structure, high risk construction work. Construction project, and principal contractor.

Meaning of construction work

Regulation 289 sets out the meaning of construction work. Some activities are excluded from the definition of construction work by sub-regulation 289(3). This includes activities such as the manufacture of plant, the construction or assembly of a structure that once constructed or assembled is intended to be transported to another place, testing, or mining in the exploration for or extraction of minerals.

Meaning of structure

Regulation 290 states that the meaning of structure has the same meaning as it has in the Act. However, this definition of structure does not apply to plant unless the conditions stated in the regulation exist including that the plant is a pipe or a pipeline, an underground tank, is designed or used to provide support, access or containment during work in connection with construction work (sub-regulation 290(2)).

Meaning of high risk construction work

Regulation 291 provides the meaning of high risk construction work. Construction work that is high risk is construction work that involves a risk of a person falling more than 2 metres, is carried out on a telecommunications tower, or construction work that involves the demolition of an element of a structure that is load-bearing or otherwise related to the physical integrity of the structure.

Meaning of construction project

Regulation 292 explains that a construction project is a project that involves construction work where the cost of the construction work is $250 000 or more.

Meaning of principal contractor

Regulation 293 provides that the principal contractor for a construction project is:

- the PCBU that commissions the construction project, or
- a person engaged by the PCBU to have management or control of the workplace and to discharge the duties of a principal contractor.

Sub-regulation 293(3) also states that the principal contractor for a construction project in relation to residential premises is the PCBU directly or indirectly engaged by the owner of the premises to undertake a construction project and who has management or control of the workplace.

Sub-regulation 293(4) clarifies that there is only one principal contractor for a construction project at any specific time.

Part 6.2 Duties of designer of structure and person who commissions construction work

Part 6.2 clarifies the duties of designers of structures and a PCBU who commissions construction work in relation to that structure.

Person who commissions work must consult with designer

Regulation 294 provides that a PCBU who commissions construction work in relation to a structure and the designer of the structure, or part of the structure must ensure that risks to health and safety arising from the design during construction are eliminated so far as is reasonably practicable. If this is not possible they must minimise the risk to health and safety so far as is reasonably practicable.

The maximum penalty for contravening regulation 294 is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulation 294(2) states that consultation must include giving the designer any information that the person who commissions the construction work has in relation to the hazards and risks at the workplace where the construction work is to be carried out.

Designer must give safety report to person who commissions design

Regulation 295 requires the designer of a structure or any part of a structure that is to be constructed to give a written safety report to the PCBU who commissioned the design. The report must address the matters specified in the regulation.

Sub-regulation 295(2) provides that where the PCBU who commissions a construction project did not commission the design of the project, the PCBU must take all reasonable steps to obtain a copy of the written report in relation to that design.

The maximum penalty for contravening regulation 295 is $3 600 for an individual and $18 000 for a body corporate.

Person who commissions project must give information to principal contractor

Regulation 296 provides that if a PCBU that commissions a construction project engages a principal contractor for the construction project, the PCBU must give the principal contractor any information about hazards and risks at or in the vicinity of the workplace where the construction work is to be carried out.

The maximum penalty for contravening regulation 296 is $3 600 for an individual and $18 000 for a body corporate.

Part 6.3 Duties of Person Conducting Business or Undertaking

Part 6.3 sets out the duties of a PCBU carrying out construction work. As a principal contractor is also a PCBU, this part also applies to a principal contractor. It specifies the requirements for safe work method statements and excavation work.

Division 1 General

Management of risks to health and safety

Regulation 297 requires a PCBU to manage risks associated with carrying out construction work in accordance with Part 3.1 of the regulations.

Security of workplace

Regulation 298 provides that a person with management or control of a workplace at which construction work is carried out must have regard to all relevant matters to ensure, so far as is reasonably practicable, that the workplace is secured from unauthorised access.

The maximum penalty for contravening regulation 298 is $3 600 for an individual and $18 000 for a body corporate.

Division 2 High risk construction work—safe work method statements

Safe work method statement required for high risk construction work

Regulation 299 provides that a PCBU that carries out high risk construction work must prepare, or ensure that another person has prepared, a safe work method statement before the work is carried out. Sub-regulation 299(2) requires the safe work method statement to include certain information prescribed in the regulation, and be written in a way that can be accessed and understood by the people who will use it (sub-regulation 299(3)).

The maximum penalty for contravening regulation 299 is $6 000 for an individual and $30 000 for a body corporate.

Compliance with safe work method statement

Regulation 300 states that a PCBU that carries out high risk construction work must put in place arrangements to ensure that the high risk construction work is carried out in accordance with the safe work method statement.

Sub-regulation 300(2) also specifies that the PCBU must ensure that the work is stopped immediately or as soon as it is safe to do so. Work is to be resumed only in accordance with the safe work method statement.

The maximum penalty for contravening regulation 300 is $6 000 for an individual and $30 000 for a body corporate.

Safe work method statement—copy to be given to principal contractor

Regulation 301 requires a PCBU that carries out high risk construction work in connection with a construction project to ensure that a safe work method statement is given to the principal contractor before the high risk construction work starts.

The maximum penalty for contravening regulation 301 is $1 250 for an individual and $6 000 for a body corporate.

Review of safe work method statement

Regulation 302 provides that a PCBU must ensure a safe work method statement is reviewed and revised as necessary if relevant control measures under regulation 38 are revised.

The maximum penalty for contravening regulation 302 is $3 600 for an individual and $18 000 for a body corporate.

Safe work method statement must be kept

Regulation 303 states that a PCBU must keep a copy of the safe work method statement until the high risk construction work to which it relates is completed. However, the PCBU must keep the

statement for a period of two years if a notifiable incident occurs in connection with the high risk construction work to which the statement relates (sub-regulation 303(2)).

The maximum penalty for contravening sub-regulation 303(1) and 303(2) is $1 250 for an individual and $6 000 for a body corporate.

The copy of the statement must be readily accessible to any worker engaged by the PCBU to carry out the high risk construction work and be available for inspection under the Act (sub-regulation 303(3) and 303(4)).

The maximum penalty for contravening regulation 303(3) is $3 600 for an individual and $18 000 for a body corporate. The maximum penalty for contravening Regulation 303(4) is $1 250 for an individual and $6 000 for a body corporate.

Division 3 Excavation Work

Excavation work—underground essential services information

Regulation 304 applies to a part of a workplace where excavation work is being carried out and any adjacent areas. It sets out requirements for a person with management or control of the workplace in relation to obtaining and providing to other people current underground essential services information before directing or allowing excavation work to start.

The regulation states how the information is to be used, and when the information is to be made available for inspections.

The regulation also provides the meaning of underground essential services and underground essential services information in this regulation.

The maximum penalty for contravening regulation 304 is $3 600 for an individual and $18 000 for a body corporate.

Management of risk to health and safety associated with excavation work

Regulation 305 prescribes that a PCBU must manage the risks to health and safety in accordance with Part 3.1, before directing or allowing excavation work to start. Sub-regulation 305(3) specifies some of the matters that the PCBU must consider when managing risks to health and safety associated with excavation work including the nature of the excavation, the range of possible methods of carrying out the work, and the means of entry into and exit from the excavation, if applicable.

Additional controls—trenches

Regulation 306 specifies the additional control measures a PCBU who proposes to excavate a trench at least 1.5m deep must put in place. This includes:

- ensuring the work area is secured to prevent unauthorised access; and
- ensuring all sides of the trench are adequately supported by shoring, benching or battering to minimise the risk to any person from the collapse of the trench, unless a geotechnical engineer has provided written advice that all sides of the trench are safe from collapse.

The maximum penalty for contravening regulation 306 is $6 000 for an individual and $30 000 for a body corporate.

Part 6.4 Additional Duties of Principal Contractor

Part 6.4 imposes additional duties on a principal contractor for a construction project. These duties are in addition to those imposed by the Act and the regulations on a person with management or control of a workplace.

Application of Part 6.4

Regulation 307 applies in relation to a construction project and imposes duties on the principal contractor for the project that are additional to the duties imposed under Part 6.3.

Specific control measure—signage identifying principal contractor

Regulation 308 provides that the principal contractor for a construction project must install signs that are clearly visible from outside the workplace and include specified information.

The maximum penalty for contravening regulation 308 is $3 600 for an individual and $18 000 for a body corporate.

WHS management plan—preparation

Regulation 309 requires the principal contractor for a construction project to prepare a written WHS management plan for the workplace before work on the project starts.

The maximum penalty for contravening sub-regulation 309(1) is $6 000 for an individual and $30 000 for a body corporate.

The WHS management plan must include specific information prescribed in sub-regulation 309(2).

WHS management plan—duty to inform

Regulation 310 prescribes that the principal contractor for a construction project should inform each person who is to carry out construction work in connection with the project about the content of the WHS management plan and the person's right to inspect the WHS plan under regulation 313.

The maximum penalty for contravening regulation 310 is $3 600 for an individual and $18 000 for a body corporate.

WHS management plan—review

Regulation 311 prescribes that a principal contractor for a construction project must:

- review and, if necessary, revise the WHS management plan to ensure it remains current; and
- ensure, so far as is reasonably practicable, that each person carrying out construction work in connection with the project is made aware of any changes to the WHS management plan (sub-regulation 311(2)).

The maximum penalty for contravening regulation 311 is $3 600 for an individual and $18 000 for a body corporate.

High risk construction work—safe work method statements

Regulation 312 requires the principal contractor of a construction project to take all reasonable steps to obtain a copy of the safe work method statement relating to high risk construction work before the work commences.

The maximum penalty for contravening regulation 312 is $3 600 for an individual and $18 000 for a body corporate.

This regulation notes that the WHS management plan contains arrangements for cooperation between PCBUs at the construction project workplace, including in relation to the preparation of SWMS.

Copy of WHS management plan must be kept

Regulation 313 states that a principal contractor for a construction project must keep a copy of the WHS management plant until the project to which it relates is completed. However, under sub-regulation 313(2) the principal contractor must keep the WHS management plan for a period of two years if a notifiable incident occurs in connection with the construction project to which the plan relates.

The maximum penalty for contravening sub-regulation 313(1) and 313(2) is $1 250 for an individual and $6 000 for a body corporate.

Sub-regulation 313(3) provides that a copy of the plan must be readily accessible to any person who is to carry out construction work in connection with the project.

The maximum penalty for contravening sub-regulation 313(3) is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulation 313(4) provides that a copy of the plan must be available for inspection under the Act.

The maximum penalty for contravening sub-regulation 313(4) is $1 250 for an individual and $6 000 for a body corporate.

Sub-regulation 313(5) provides the definition of WHS management plan for the purpose of this regulation.

Further health and safety duties—specific regulations

Regulation 314 provides that the principal contractor for a construction project must put in place arrangements for ensuring compliance at the workplace with the provisions in the Regulation in relation to the:

- General working environment (Division 2 of Part 3.2)
- Provision of first aid (Division 3 of Part 3.2)
- Preparation and implementation of emergency plans (Division 4 of part 3.2)
- Provision and use of personal protective equipment (Division 5 of Part 3.2)
- Managing risks from airborne contaminants (Division 7 of Part 3.2)
- Managing risks from hazardous atmospheres (Division 8 of Part 3.2)
- Storage of flammable or combustible substances (Division 9 of Part 3.2)
- Falling objects (Division 10 of Part 3.2)
- Falls (Part 4.4)

The maximum penalty for contravening regulation 314 is $6 000 for an individual and $30 000 for a body corporate.

Further health and safety duties—specific risks

Regulation 315 provides that the principal contractor for a construction project must, in accordance with Part 3.1, manage risks to health and safety in relation to the matters stated in this regulation.

Part 6.5 General Construction Induction Training

Part 6.5 sets out the requirements for general construction induction training.

Division 1 General construction induction training requirements

Duty to provide general construction induction training

Regulation 316 provides that a PCBU must ensure that general construction induction training is provided to a worker engaged by the person who is to carry out construction work if the worker has not successfully completed general construction induction training, or has successfully completed general construction induction training more than 2 years previously and has not carried out construction work in the preceding 2 years.

The maximum penalty for contravening sub-regulation 316 is $3 600 for an individual and $18 000 for a body corporate.

Duty to ensure worker has been trained

Regulation 317 provides that a PCBU must not allow or direct a worker to carry out construction work unless the worker has met the training and working requirements specified in this regulation.

The maximum penalty for contravening sub-regulation 317(1) is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulation 317(2) provides that a PCBU must ensure that the worker holds a general construction induction training card or the appropriate certification that was issued within the preceding 60 days.

Recognition of general construction induction training cards issued in other jurisdictions

Regulation 318 allows a person to use a current general construction induction card that was issued in another jurisdiction. Sub-regulation 318(2) notes that this regulation does not apply to a card that is suspended or cancelled or has expired in the corresponding jurisdiction.

Division 2 General construction induction training cards

Issue of card

Regulation 319 allows a person who has successfully completed general construction induction training to apply to the regulator for a general construction induction card.

The application must be made in the manner and form required by the regulator, and be accompanied by the relevant fee (sub-regulations 319(2) and 319(4)).

Sub-regulations 319(6) to 319(8) set out the decision making process for the regulator. The regulator must issue a general construction induction training card to the applicant if the regulator is satisfied with certain things. If the regulator has not made a decision on the application within 60 days then the applicant is taken to hold a general construction induction training card until a decision is made.

Content of card

Regulation 320 sets out the information that must be included on a general construction induction training card.

Replacement card

Regulation 321 allows a card holder to apply to the regulator for a replacement general construction induction training card if the original card is lost, stolen or destroyed.

If the regulator is satisfied that the card was lost, stolen or destroyed, the regulator may issue a replacement card (sub-regulation 321(4)).

Refusal to issue or replace card

Regulation 322 states the circumstances in which the regulator may refuse to issue a general construction induction training card or a replacement general construction induction training card.

A decision to refuse to replace a card is a reviewable decision under regulation 676.

Cancellation of card—grounds

Regulation 323 identifies the grounds in which the regulator may cancel a general construction induction training card that was issued by the regulator.

Cancellation of card—process

Regulation 324 sets out the process that the regulator must follow before cancelling a general construction induction training card.

Sub-regulation 324(2) states the information that must be provided to the card holder in writing if the regulator has made a decision to cancel a general construction induction training card.

RTO may enter agreement to issue cards

Regulation 325 provides that the regulator to enter into an agreement with an RTO to exercise the powers of the regulator under regulations 318, 319, 320 and 321. Under such an agreement, the exercise of the powers and functions by an RTO has the same effect as if they had been exercised by the regulator (sub-regulation 325(3)). Sub-regulation 325(4) clarifies that nothing in an agreement made under the regulation prevents the regulator from exercising its functions and powers under Division 2.

Division 3 Duties of workers

Duties of workers

Regulation 326 provides that workers carrying out construction work must:

- keep general construction induction training cards or the appropriate certification as set out in sub-regulation 319(5) available for inspection under the Act; and
- return the general construction induction training card to the regulator on receiving a cancellation notice under regulation 324(2) (sub-regulation 326(2)).

The maximum penalty for contravening sub-regulation 326 is $3 600 for an individual and $18 000 for a body corporate.

Alteration of general construction induction training card

Regulation 327 provides that a person who holds a general construction induction training card must not intentionally or recklessly alter the card.

The maximum penalty for contravening regulation 327 is $3 600 for an individual and $18 000 for a body corporate.

Chapter 7 Hazardous chemicals

This chapter imposes duties on importers and manufacturers of hazardous chemicals about classification, packing and labelling, safety data sheets and disclosure of chemical identities. It imposes complementary duties on suppliers of hazardous chemicals about packing, labelling and safety data sheets and prohibits supply of certain carcinogenic substances.

It imposes duties on PCBUs at a workplace about the use, handling and storage of hazardous chemicals, control of risk, and information, training and supervision for workers. It requires health monitoring by a PCBU in respect of workers carrying out specified work for the business or undertaking. It imposes duties on owners, builders and operators of certain pipelines.

Duty-holders under this chapter may also have health and safety duties under clauses 19, 20, 21, 22, 23, 24, 25 or 26 of the Act, and duties under Part 5 Division 1 and Division 2 of the Act to consult with other duty-holders and workers about matters in this Part. This Part prescribes requirements for authorisation of work for clause 43 of the Act. clause 27 of the Act applies to officers in respect of this Part.

Schedules 7-14 of the regulations apply to this chapter. There are additional regulations about managing risk in Part 2.1 – Risk management, about provision of information in Part 2.2 – General workplace management, about construction work which may involve hazardous chemicals in Chapter 6 – Construction Work and about hazardous chemicals in Chapter 9 - Major Hazard Facilities.

Defined terms in Chapter 1 which are relevant to this Part include ADG Code, class, fire risk hazardous chemical, flammable gas, flammable liquid, GHS, hazard category, hazard class, hazard pictogram, hazard statement, hazardous area, hazardous chemical, Hazchem Code, health monitoring, intermediate bulk container (IBC), packaged hazardous chemicals and quantity.

Part 7.1 Hazardous Chemicals

Division 1 Application of Part 7.1

Application of Part 7.1—

Regulation 328 sets out the application of part 7.1 to the use, handling and storage of hazardous chemicals at a workplace. It also applies to the generation of hazardous substances at a workplace. The application of part 7.1 extends to pipelines which convey hazardous chemicals but does not apply to a pipeline which is regulated under the [insert relevant jurisdictional Act here].

This regulation also sets out the areas which are exempt from part 7.1 including the transport of hazardous chemicals and explosives by road, rail, sea or air which are regulated under the [insert relevant jurisdictional Acts here].

This regulation except for regulations 329, 330, 339, 344, and 345 which do not apply to substances or articles categorised only as explosives under the GHS (sub-regulation 328(5)). It also does not apply to food and beverage within the meaning of foods standards Australia New Zealand Foods standards code that are in a package and form included for human consumption (sub-regulation 328(6)).

Division 2 Obligations relating to safety data sheets and other matters

This Division imposes duties on importers, manufacturers, suppliers of hazardous chemicals about classification, packing and labelling, safety data sheets and disclosure of chemical identities and it imposes obligations on PCBUs in respect of labelling and safety data sheets..

Subdivision 1 Obligations of manufacturers and importers

Classification of hazardous chemicals

Regulation 329 requires a manufacturer or importer to determine whether a substance, mixture or article manufactured or imported is a hazardous chemical and, if so, to correctly classify the hazardous chemical as required under Part 1 of Schedule 9 before supplying it to a workplace.

The maximum penalty for contravening regulation 329 is $6 000 for an individual and $30 000 for a body corporate.

Manufacturer or importer to prepare and provide safety data sheets

Regulation 330 provides that a manufacturer or importer of a hazardous chemical must prepare a safety data sheet before manufacturing or importing the hazardous chemical or, as soon as practicable before supplying it to a workplace. Sub-regulation 330(2) states that the safety data sheet must include the information outlined in clause 1 of Schedule 7 unless the hazardous chemical is a research chemical, waste product or sample for analysis when regulation 331 applies. The manufacturer or importer is responsible for reviewing the safety data sheet every 5 years and amending it as required under this regulation and must provide the current safety data sheet for the hazardous chemical to any person if they are likely to be effected by the chemical or they request it (sub-regulations 330(3) and 330(4)).

The maximum penalty for contravening regulation 330 is $6 000 for an individual and $30 000 for a body corporate.

Safety data sheets—research chemical, waste product or sample for analysis

Regulation 331 requires the manufacturer or importer of a hazardous chemical which is a research chemical, waste product or sample for analysis to prepare a safety data sheet that complies with clause 2 of Schedule 7 if it is not reasonably practicable to comply with clause 1 of Schedule 7 (sub-regulation 331(2)).

The maximum penalty for contravening regulation 331 is $6 000 for an individual and $30 000 for a body corporate

Emergency disclosure of chemical identities to registered medical practitioner

Regulation 332 places a responsibility on the manufacturer or importer of a hazardous chemical to provide specific information on the hazardous chemical to a registered medical practitioner as soon as practicable if the medical practitioner believes a patient has been exposed to a hazardous chemical in the workplace and requests information in writing for the purpose of treating the patient.

The maximum penalty for contravening regulation 332 is $6 000 for an individual and $30 000 for a body corporate

Emergency disclosure of chemical identities to emergency service worker

Regulation 333 requires the manufacturer or importer of a hazardous chemical to provide the chemical identity of an ingredient of the hazardous chemical to an emergency service worker as soon as practicable after the worker requests it.

The maximum penalty for contravening regulation 333 is $6 000 for an individual and $30 000 for a body corporate

Packing hazardous chemicals

Regulation 334 provides that the manufacturer or importer of a hazardous chemical must ensure that it is correctly packed in accordance with Part 2 of Schedule 9 on classification, packaging and labelling requirements as soon as practicable after the hazardous chemical is manufactured or imported.

The maximum penalty for contravening regulation 334 is $6 000 for an individual and $30 000 for a body corporate

Labelling hazardous chemicals

Regulation 335 requires the manufacturer or importer of a hazardous chemical to ensure that the hazardous chemical is correctly labelled as soon as practicable after manufacturing or importing the hazardous chemical.

Sub-regulation 335(2) sets out two ways in which a hazardous chemical can be 'correctly labelled. Firstly a hazardous chemical can be correctly labelled if the section and use of the label elements is in accordance with the GHS and it complies with Part 3 of Schedule 9. Alternatively, a hazardous chemical can be correctly labelled if the label includes content that complies with another labelling requirement, provided the content is the same, or substantially the same, as the content that is required by Part 3 of Schedule 9.

This regulation also sets out the specific circumstances in which this regulation does not apply to a hazardous chemical (sub-regulation 335(3)).

Sub-regulation 335(5) exempts hazardous chemicals from this regulation which are:

- consumer products and labelled in accordance with the Standard for the Uniform Scheduling of Medicines and Poisons 2011 which comply with the provisions in this regulation;
- hazardous chemicals in transit; and
- hazardous chemical which is a therapeutic agent under the Therapeutic Goods Act 1989 and is intended for human consumption or for the administration or use by a person and is labelled according to that Act.

Sub-regulation 335(6) excludes toiletries and cosmetics from the regulation.

Sub-regulation 335(7) exempts hazardous chemicals from this regulation that are:

- a veterinary chemical product within the meaning of the Agvet Code,
- a hazardous chemical that is listed in the Poisons Standard Part 4, Schedule 4, if the chemical product is packaged and supplied in a form intended for direct administration to an animal for therapeutic purposes,
- a hazardous chemical listed in the Poisons Standard Part 4, Schedule 8.

Sub-regulation 335(8) defines 'Poisons Standard' as the Standard for the Uniform Scheduling of Medicines and Poisons published by the Commonwealth, as in force or remade from time to time. At the time of the commencement of this sub-regulation, the applicable Standard was the Standard for the Uniform Scheduling of Medicines and Poisons November 2016.

The maximum penalty for contravening regulation 335 is $6 000 for an individual and $30 000 for a body corporate

Subdivision 2 Obligations of suppliers

Restriction on age of person who can supply hazardous chemicals

Regulation 336 prohibits a PCBU from directing or allowing a worker to supply a hazardous chemical that is a flammable gas or flammable liquid to another person, such as refuelling a car or decanting fuel into a fuel container, unless the worker is at least 16 years of age.

Retailer or supplier packing hazardous chemicals

Regulation 337 prevents a supplier of a hazardous chemical from supplying that chemical to another workplace if the supplier knows or should know that the hazardous chemical is not correctly packed. This regulation requires that a retailer who supplies a hazardous chemical in a container provided by a person must ensure that the hazardous chemical is correctly packed.

The maximum penalty for contravening regulation 336 is $3 600 for an individual and $18 000 for a body corporate

Supplier labelling hazardous chemicals

Regulation 338 prevents a supplier of a hazardous chemical from supplying that chemical to another workplace if the supplier knows or should know that the hazardous chemical is not correctly labelled in accordance with regulation 335.

The maximum penalty for contravening regulation 338 is $3 600 for an individual and $18 000 for a body corporate.

Supplier to provide safety data sheets

Regulation 339 requires that the supplier of a hazardous chemical to a workplace ensure that the current safety data sheet for the hazardous chemical is provided at the time the hazardous chemical is first supplied to the workplace. If the safety data sheet is amended, it must be provided at the time when the hazardous chemical is first supplied to the workplace after the amendment.

Sub-regulation 339(2) states that a hazardous chemical is taken to be first supplied to a workplace if the supply is the first supply of the hazardous chemical for 5 years. In addition, a supplier of a hazardous chemical must provide a current safety data sheet to a person at the workplace on request (sub-regulation 339(3)). A supplier of a hazardous chemical is exempt from this regulation if the hazardous chemical is a consumer product or the supplier is a retailer.

The maximum penalty for contravening regulation 339 is $6 000 for an individual and $30 000 for a body corporate.

Supply of prohibited and restricted carcinogens

Regulation 340 prevents the supplier of a prohibited or restricted carcinogenic substance from supplying the substance unless evidence is provided that the substance is to be used, handled or stored for genuine research or analysis. In addition, the person to be supplied with the substance must apply and receive authorisation from the regulator to use, handle or store the substance under regulation 384 or the regulator has granted an exemption to the person under Part 11.2 for this purpose.

Sub-regulation 340(2) prevents the supplier of a prohibited or restricted carcinogenic substance from supplying the substance for restricted use under unless evidence is provided that the person has applied to and received from the regulator authorisation to use, handle or store the substance under regulation 384 or the regulator has granted an exemption to the person under Part 11.2 for this purpose.

The maximum penalty for contravening sub- regulation 340(1) and 340(2) is $6 000 for an individual and $30 000 for a body corporate

Sub-regulation 340(3) and 340(4) requires the supplier under sub-regulations 340(1) and 340(2) to keep a record of the name of the person supplied and the name and quantity of the substance supplied for a period of 5 years after the substance was supplied.

The maximum penalty for contravening sub-regulations 340(3) and 340(4) is $6 000 for an individual and $30 000 for a body corporate

Subdivision 3 Obligations of persons conducting businesses or undertakings

Labelling hazardous chemicals—general requirement

Sub-regulation 341 requires the PCBU to ensure that a hazardous chemical used, stored or handled at the workplace is correctly labelled as required under regulation 335.

Sub-regulation 341(2) provides that a PCBU is not required to ensure that a hazardous chemical used, handled or stored at the workplace is correctly labelled in accordance with regulation 335 if the chemical:

- was supplied to the PCBU before 1 January 2017, and
- was, at the time it was supplied, labelled in accordance with the *National Code of Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)]* as in force at that time.

The maximum penalty for contravening regulation 341 is $6 000 for an individual and $30 000 for a body corporate

Labelling hazardous chemicals—containers

Sub-regulation 342(1) provides that a PCBU at a workplace must ensure that a hazardous chemical is correctly labelled in accordance with regulation 335 if the hazardous chemical is manufactured at the workplace or transferred or decanted from its original container at the workplace. Sub-regulation 342(1A) provides that a PCBU is not required to ensure that a hazardous chemical is correctly labelled in accordance with regulation 335 if the chemical:

- was manufactured, or transferred or decanted from its original contained at the workplace, before 1 January 2017, and
- was at the time it was manufactured, or transferred or decanted from its original contained at the workplace, labelled in accordance with the *National Code of Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)]* as inforce at that time.

Sub-regulation 342(1A) ensures that there is no requirement to relabel a hazardous chemical if that hazardous chemical was correctly labelled in accordance with the *National Code of Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)]* when it was applied to the PCBU prior to 1 January 2017. Sub-regulation 342(1A) does not apply if the hazardous chemical is supplied by the PCBU to another workplace after 1 January 2017.

Sub-regulation 342(2) provides that a PCBU must ensure, so far as is reasonably practicable, that a container that stores a hazardous chemical is correctly labelled in accordance with regulation 335 while the container contains the hazardous chemical. Sub-regulation 342(2A) provides that a PCBU is not required to ensure, so far as is reasonably practicable, that a container that stores a hazardous chemical is correctly labelled in accordance with regulation 335 (while the container contains a hazardous chemical) if the container:

- was supplied before 1 January 2017, and
- was, at the time it was supplied, labelled in accordance with the *National Code of Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)]* as in force at that time.

Sub-regulation 342(2A) ensures that there is no requirement to relabel a container that stores a hazardous chemical if that container was correctly labelled in accordance with the *National Code of Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)]* when it was applied to the PCBU prior to 1 January 2017. Sub-regulation 342(2A) does not apply if the hazardous chemical is supplied by the PCBU to another workplace after 1 January 2017.

Sub-regulation 342(3) requires that a container labelled for a hazardous chemical be used only for the use, handling or storage of the hazardous chemical.

Sub-regulation 342(4) provides that the requirements in regulation 342 do not apply if the hazardous chemical in the container is used immediately after it is put into the container and the container is

thoroughly cleaned immediately after use to remove any trace of the hazardous chemical (sub-regulation 342(4)).

The maximum penalty for contravening regulation 342 is $6 000 for an individual and $30 000 for a body corporate

Labelling hazardous chemicals—pipe work

Regulation 343 requires a PCBU at a workplace to ensure that a hazardous chemical in pipe work is identified as far as is reasonably practicable by a label, sign or by another method on or near the pipe work.

The maximum penalty for contravening regulation 343 is $6 000 for an individual and $30 000 for a body corporate

Person conducting business or undertaking to obtain and give access to safety data sheets

Regulation 344 provides that a PCBU must obtain the current safety data sheet for a hazardous chemical prepared by an Australian manufacturer, importer or supplier of the hazardous chemical when or before the hazardous chemical is first supplied to the workplace or as soon as practicable after the hazardous chemical has been supplied but before it is used in the workplace. If the safety data sheet has been amended, it must be obtained when or before the hazardous chemical is first supplied to the workplace after the amendment. A hazardous chemical is considered to be first supplied to a workplace where it is the first supply for 5 years (sub-regulation 344(2)).

Sub-regulation 344(3) requires a current safety data sheet for a hazardous chemical to be accessible to a worker involved in using, handling or storing a hazardous chemical at a workplace and an emergency service worker or anyone else who is likely to be exposed to the hazardous chemical at the workplace.

Sub-regulation 344(4) provides that the requirements in sub-regulations 344(1) and 344(2) do not apply to a hazardous chemical in transit or where the PCBU is a retailer and the hazardous chemical is a consumer product intended for supply to other premises only or to be used in the workplace in quantities and methods that are consistent with domestic use. In this case, information about the safe use, handling and storage of the hazardous chemical including the current safety data sheet must be accessible to a worker in the workplace and to an emergency service worker or anyone likely to be exposed to the hazardous chemical in the workplace.

The maximum penalty for contravening regulation 344 is $3 600 for an individual and $18 000 for a body corporate

Changes to safety data sheets

Regulation 345 prevents a PCBU from changing a safety data sheet for a hazardous chemical unless the person is an importer or manufacturer and amends the safety data sheet as allowed under regulation 330.

The maximum penalty for contravening regulation 345 is $6 000 for an individual and $30 000 for a body corporate

Division 3 Register and manifest of hazardous chemicals

Subdivision 1 Hazardous chemicals register

Hazardous chemicals register

Regulation 346 requires a PCBU to prepare, keep and update a register of hazardous chemicals used, handled or stored at the workplace.

The maximum penalty for contravening regulation 346 is $6 000 for an individual and $30 000 for a body corporate

Sub-regulation 346(2) and 346(3) provides that the register must include the current safety data sheet for each hazardous chemical listed and be made available to a worker involved in using, handling or storing a hazardous chemical and to anyone else likely to be affected by a hazardous chemical at the workplace.

The maximum penalty for contravening regulation 346(3) is $3 600 for an individual and $18 000 for a body corporate

Sub-regulation 346(4) exempts hazardous chemicals in transit from this regulation or the hazardous chemical is a consumer product and the person is not required to obtain a safety data sheet under regulation 344.

Subdivision 2 Manifest of Schedule 11 hazardous chemicals

Manifest of hazardous chemicals

Regulation 347 states that a PCBU must prepare a manifest of hazardous chemicals if the hazardous chemicals used, handled or stored at the workplace are identified as a Schedule 11 chemical or group of chemicals that exceed the manifest quantity threshold in Schedule 11. The manifest must be amended to reflect any change in the type or quantity of Schedule 11 chemicals, must comply with Schedule 12 and be available for inspection and kept in a place acceptable to the emergency service organisation for the emergency service organisation's ready access (sub-regulations 347(3) and 347(4)).

The maximum penalty for contravening regulation 347 is $3 600 for an individual and $18 000 for a body corporate.

Regulator must be notified if manifest quantities to be exceeded

Regulation 348 requires the PCBU to provide the regulator with a written notice if the quantity of a Schedule 11 hazardous chemical or group of chemicals used, handled or stored at the workplace exceeds the manifest quantity threshold in Schedule 11.

Sub-regulation 348(2) requires written notice to be given to the regulator immediately after it is first known that a Schedule 11 chemical or group of chemicals will be used, handled or stored at the workplace or at least 14 days before Schedule 11 chemicals are first used. In addition, notice must be given immediately after it is known that there is a significant change in the risk of using, handling or storing Schedule 11 chemicals at a workplace or at least 14 days before the change takes effect.

Sub-regulation 348(4) also requires notice to be given as soon as practicable if a Schedule 11 chemical or group of chemicals is no longer used, handled or stored at the workplace and is unlikely to be used, handled or stored at the workplace in the future. The regulation also outlines the specific details to be included in the notice (sub-regulation 348(5)). The regulation also requires the PCBU to provide further information to the regulator on request (sub-regulation 348(6)).

The maximum penalty for contravening regulation 348 is $6 000 for an individual and $30 000 for a body corporate

Division 4 Placards

Outer warning placards—requirement to display

Regulation 349 states that a PCBU must ensure that an outer warning placard is displayed prominently at a workplace if the total quantity of a Schedule 11 chemical or group of chemicals exceeds the placard quantity for Schedule 11 hazardous chemicals. The outer warning placard must comply with Schedule 13 covering placard requirements (sub-regulation 349(2)). Sub-regulation 349(3) states when regulation 349 does not apply to a workplace that is a retail outlet and Schedule 11 hazardous chemicals is used refuel a vehicle and is either a flammable gas or flammable liquid.

The maximum penalty for contravening regulation 349 is $6 000 for an individual and $30 000 for a body corporate

Placard—requirement to display

Regulation 350 requires a PCBU to ensure that a placard is displayed prominently at a workplace if the total quantity of a Schedule 11 chemical or group of chemicals exceeds the placard quantity for Schedule 11 hazardous chemicals. The placard must comply with Schedule 13 covering placard requirements (sub-regulation 350(2)). This regulation does not apply where Schedule 11 hazardous chemicals are in bulk in a container intended for transport or where Schedule 11 hazardous chemical is a flammable liquid stored in an underground tank at a retail outlet and used to refuel a vehicle (sub-regulation 350(3)).

The maximum penalty for contravening regulation 350 is $6 000 for an individual and $30 000 for a body corporate

Division 5 Control of risk—obligations of persons conducting businesses or undertakings

Subdivision 1 General obligations relating to management of risk

Management of risks to health or safety

Regulation 351 requires a PCBU to manage the risks to health and safety associated with using, handling, generating or storing a hazardous chemical at a workplace. Sub-regulation 351(2) outlines the things which a PCBU must take into account when managing risks including the hazardous properties of the chemicals, any potential chemical or physical reaction between the chemical and another substance or mixture, the nature of the work to be carried out with the hazardous chemical or any other matter set out in this regulation.

Review of control measures

Regulation 352 states that a PCBU must ensure that measures implemented to control risks in relation to hazardous chemicals in the workplace are reviewed and, as necessary, revised in circumstance outlined under this regulation. Control measures should be reviewed and revised in response to the circumstances set out in this regulation. Control measures should also be reviewed and revised if monitoring carried out under regulation 50 determines that the airborne concentration of hazardous chemicals at the workplace exceeds the relevant exposure standard. Otherwise control measures should be reviewed and revised every 5 years.

The maximum penalty for contravening regulation 352 is $6 000 for an individual and $30 000 for a body corporate

Safety signs

Regulation 353 applies if a safety sign is required to control an identified risk in relation to using, handling, generating or storing hazardous chemicals at a workplace. Sub-regulation 353(2) requires a PCBU to display a safety sign at a workplace to warn of a particular hazard associated with hazardous chemicals at the workplace or to indicate the responsibilities of a particular person in relation to the hazardous chemicals. Sub-regulation 353(3) requires the safety sign to be located next to the hazard and clearly visible to a person approaching the hazard. A safety sign in this regulation does not include a placard (sub-regulation 353(4)).

The maximum penalty for contravening regulation 354 is $6 000 for an individual and $30 000 for a body corporate

Identification of risk of physical or chemical reaction

Regulation 354 states that a PCBU must identify any risk of a physical or chemical reaction in relation to hazardous chemicals used, handled, generated or stored at the workplace unless the hazardous chemical undergoes a physical or chemical reaction due to a manufacturing process or as part of a deliberate process or activity at the workplace (sub-regulation 354(2)).

The maximum penalty for contravening regulation 354(1) is $6 000 for an individual and $30 000 for a body corporate

Sub-regulation 354(3) requires a PCBU to take reasonable steps to ensure that a hazardous chemical is used, stored or handled to prevent contamination of food, food packaging or personal use products such as cosmetics. This regulation does not apply to the use of hazardous chemical for agricultural purposes when used in accordance with [insert relevant enactment here] (sub-regulation 354(4)).

Specific control—fire and explosion

Regulation 355 means that, where there is a possibility of fire or explosion in a hazardous area caused by an ignition source being introduced into the area, a PCBU at a workplace must exclude the ignition source from the area either outside or within the space.

The maximum penalty for contravening regulation 355 is $6 000 for an individual and $30 000 for a body corporate.

Keeping hazardous chemicals stable

Regulation 356 requires a PCBU at a workplace to ensure as far as is reasonably practicable that a hazardous chemical does not become unstable, decompose or change in a way that would create a hazard which is different to the original hazard created by the hazardous chemical or which would significantly increase the risk associated with any hazard in relation to the hazardous chemical as outlined in this regulation.

Sub-regulation 356(2) means that, where the stability of a hazardous chemical at a workplace is dependent on the maintenance of the proportions of ingredients of the hazardous chemical, the PCBU must maintain the proportions as stated in the safety data sheet or by the manufacturer of the hazardous chemical. Where a hazardous chemical is known to be unstable above a particular temperature, the PCBU must ensure that the hazardous chemical is used, handled or stored at the workplace below that temperature.

Sub-regulation 356(3) clarifies that this regulation does not apply if the hazardous chemical is allowed to change or become unstable without risk to health and safety as part of a deliberate process or activity at the workplace or undergoes a chemical reaction in a manufacturing process.

The maximum penalty for contravening regulation 356 is $6 000 for an individual and $30 000 for a body corporate

Subdivision 2 Spills and damage

Containing and managing spills

Regulation 357 means that, where there is a risk of a spill or leak of a hazardous chemical in a solid or liquid form, the PCBU must ensure, so far as is reasonably practicable, that a spill containment system is provided to contain the spills or leaks within the workplace including any resulting effluent as outlined in this regulation. In addition, the person must ensure that the spill containment system provides for the clean-up and disposal of a hazardous chemical that spills or leaks and any resulting effluent (sub-regulation 357(3)). The spill containment system provided by the PCBU must not create a hazard by bringing together incompatible hazardous chemicals to cause a fire, explosion, harmful reaction or flammable, toxic or corrosive vapour (sub-regulation 357(2)).

Sub-regulation 357(4) defines compatible for the purpose of sub-regulation (357(2) +of this regulation.

The maximum penalty for contravening regulation 357 is $6 000 for an individual and $30 000 for a body corporate

Protecting hazardous chemicals from damage

Regulation 358 states that a PCBU must ensure that containers of hazardous chemicals and any associated pipe work or attachments are protected against damage caused by an impact or excessive load so far as is reasonably practicable.

The maximum penalty for contravening regulation 358 is $6 000 for an individual and $30 000 for a body corporate

Subdivision 3 Emergency plans and safety equipment

Fire protection and firefighting equipment

Regulation 359 means that a PCBU must ensure that the workplace is provided with fire protection and firefighting equipment designed and built for the types and amounts of hazardous chemicals at the workplace. The fire protection and firefighting equipment must take account of the matters set out in this regulation. The equipment must also be properly installed, tested and maintained with a dated record kept of the latest testing results and maintenance.

Sub-regulation 359(2) states that, if a part of the fire protection and firefighting equipment provided at the workplace becomes unserviceable or inoperative, the PCBU must assess the implications, implement alterative measures to manage the risks and ensure that the equipment is returned to full operation as soon as practicable.

The maximum penalty for contravening regulation 359 is $6 000 for an individual and $30 000 for a body corporate

Emergency equipment

Regulation 360 requires a PCBU at a workplace that uses, handles, generates or stores hazardous chemicals to ensure that equipment is always available at the workplace to use in an emergency.

The maximum penalty for contravening regulation 360 is $6 000 for an individual and $30 000 for a body corporate.

Emergency plans

Regulation 361 states that, where the quantity of a Schedule 11 hazardous chemical at a workplace exceeds the manifest quantity, the PCBU must give a copy of an emergency plan prepared under Division 4 of Part 3.2 to the primary emergency services organisation and revise the plan in response to a written recommendation from the organisation about the content or effectiveness of the plan.

The maximum penalty for contravening regulation 361 is $6 000 for an individual and $30 000 for a body corporate.

Safety equipment

Regulation 362 means that, where safety equipment is required to control an identified risk regarding using, handling, generating or storing hazardous chemicals at a workplace, the PCBU must ensure that the safety equipment is provided, maintained and readily accessible to persons at the workplace (sub-regulation 362(2)).

The maximum penalty for contravening regulation 362 is $6 000 for an individual and $30 000 for a body corporate.

Subdivision 4 Storage and handling systems

Control of risks from storage or handling systems

Regulation 363 requires a PCBU to ensure that a system used at the workplace for the handling, use or storage of hazardous chemicals is used only for the purpose for which it was designed, manufactured, modified, supplied or installed. The regulation also requires the system to be operated, tested, maintained, installed, repaired and decommissioned having regard to the health and safety of workers and other people at the workplace.

Sub-regulation 363(2) requires sufficient information, training and instruction must be given to the person who operates, tests, maintains or decommissions a system used for hazardous chemicals at a workplace in order to ensure that the Activity is carried out safely.

The maximum penalty for contravening regulation 362 is $6 000 for an individual and $30 000 for a body corporate

Containers for hazardous chemicals used, handled or stored in bulk

Regulation 364 requires a PCBU to ensure that a container, in which a hazardous chemical is used, handled or stored in bulk, and any associated pipe work or attachments, have stable foundations and supports to which they are secured in order to prevent any damage to, or movement between, the container, pipe work and attachments and to prevent a notifiable incident.

The maximum penalty for contravening regulation 364 is $1 250 for an individual and $6 000 for a body corporate

Stopping use and disposing of handling systems

Regulation 365 provides that a PCBU intending to stop using or to dispose of a system used for hazardous chemicals at a workplace must ensure, so far as is reasonably practicable, that the system is free of the hazardous chemicals or is disposed of (sub-regulation 365(2)). If it is not reasonably practicable to remove the hazardous chemicals from the system, the PCBU must correctly label the system (sub-regulation 365(3)).

The maximum penalty for contravening regulation 365 is $6 000 for an individual and $30 000 for a body corporate

Stopping use of underground storage and handling systems

Regulation 366 provides that a PCBU intending to stop using or to dispose of a system used for hazardous chemicals underground must ensure, so far as is reasonably practicable, that the system is removed or disposed of (sub-regulation 366(2)). If it is not reasonably practicable to remove the underground system, the PCBU must ensure that the system is without risk to health and safety (sub-regulation 366(3)).

The maximum penalty for contravening regulation 366 is $6 000 for an individual and $30 000 for a body corporate

Notification of abandoned tank

Regulation 367 applies to a PCBU at a workplace if the person controls or manages an underground, partially underground or fully mounded tank. It states that a tank used to store flammable gases and flammable liquids at a workplace, is deemed to be abandoned if the tank has not been used for this purpose for 2 years or it is not intended that the tank be used in this way again (sub-regulation 367(2)). Sub-regulation 367(3) requires the PCBU to notify the regulator of the abandonment of the tank as soon as practicable. Sub-regulation 367(4) defines a tank as including fittings, closures and other equipment attached to the container.

The maximum penalty for contravening regulation 367 is $6 000 for an individual and $30 000 for a body corporate

Division 6 Health monitoring

Duty to provide health monitoring

Regulation 368 requires a PCBU to ensure that health monitoring is provided to a worker using, handling, generating or storing hazardous chemicals at a workplace in the circumstances set out in this regulation.

The maximum penalty for contravening regulation 368 is $6 000 for an individual and $30 000 for a body corporate

Duty to inform of health monitoring

Regulation 369 states that a PCBU required to provide health monitoring to a worker must give information about the health monitoring requirements both to a person carrying out work using,

handling, generating or storing a hazardous chemical and to a worker before the worker commences work using, handling or storing a hazardous chemical.

The maximum penalty for contravening regulation 369 is $3 600 for an individual and $18 000 for a body corporate

Duty to ensure that appropriate health monitoring is provided

Regulation 370 states that a PCBU, who must provide health monitoring to a worker under regulation 368, should adopt the type of health monitoring referred to in Schedule 14, table 14.1, column 3 unless an equal or better type of health monitoring procedure is available and recommended by a medical practitioner with experience in health monitoring.

The maximum penalty for contravening regulation 370 is $6 000 for an individual and $30 000 for a body corporate

Duty to ensure health monitoring is supervised by registered medical practitioner with experience

Regulation 371 requires a PCBU to ensure that the health monitoring of a worker referred to in Regulation 368 is carried out under the supervision of a registered medical practitioner with experience in health monitoring.

The maximum penalty for contravening sub-regulation 371(1) is $6 000 for an individual and $30 000 for a body corporate

Sub-regulation 371(2) requires the PCBU must consult the worker in relation to the selection of the medical practitioner.

The maximum penalty for contravening sub-regulation 371(2) is $6 000 for an individual and $30 000 for a body corporate

Duty to pay costs of health monitoring

Regulation 372 provides for a PCBU to pay all expenses related to health monitoring referred to in regulation 368. This regulation also provides for an agreement to be made about sharing costs where more than one PCBU has a duty to provide health monitoring for a worker (sub-regulation 372(2)).

Information that must be provided to registered medical practitioner

Regulation 373 states that a PCBU commissioning health monitoring for a worker must provide the information outlined in this regulation, including the name and address of the PCB and the name and date of birth of the worker to the registered medical practitioner supervising the health monitoring.

The maximum penalty for contravening regulation 373 is $3 600 for an individual and $18 000 for a body corporate

Duty to obtain health monitoring report

Regulation 374 states that a PCBU who commissioned health monitoring referred to in regulation 368 is responsible for obtaining a health monitoring report from the registered medical practitioner who supervised the monitoring as soon as practicable after the monitoring has been carried out. Sub-regulation 374(2) prescribes the information to be provided in the health monitoring report.

The maximum penalty for contravening regulation 374 is $6 000 for an individual and $30 000 for a body corporate.

Duty to give health monitoring report to worker

Regulation 375 requires the PCBU who commissions health monitoring to give a copy of the health monitoring report to the worker as soon as practicable after the PCBU obtains the report.

The maximum penalty for contravening regulation 375 is $6 000 for an individual and $30 000 for a body corporate

Duty to provide health monitoring report to regulator

Regulation 376 sets out specific circumstances in which a PCBU who commissioned the health monitoring for a worker must give a copy of the health monitoring report to the regulator.

The maximum penalty for contravening regulation 376 is $6 000 for an individual and $30 000 for a body corporate

Duty to provide health monitoring report to relevant persons conducting business or undertakings

Regulation 377 provides that a PCBU who commissions health monitoring for a worker under regulation 368 must give a copy of the health monitoring report to all other PCBUs who have a duty to provide health monitoring for the worker as soon as practicable after obtaining the report.

The maximum penalty for contravening regulation 377 is $6 000 for an individual and $30 000 for a body corporate

Health monitoring records

Regulation 378 requires the PCBU to ensure that health monitoring reports in relation to a worker are kept as a confidential record for at least 30 years after the record is made and must not be disclosed to someone else without the worker's written consent except for purposes set out in the regulation (sub-regulation 378(3)).

The maximum penalty for contravening regulation 378 is $1 250 for an individual and $6 000 for a body corporate.

Division 7 Induction, information, training and supervision

Duty to provide supervision

Regulation 379 requires a PCBU to provide any supervision to a worker necessary to protect them from risks to health and safety arising from circumstances set out in this regulation. Sub-regulation 379(2) requires the PCBU to ensure that the supervision of the worker is suitable and adequate in terms of the nature of the risks associated with the hazardous chemical and that the information, training and instruction provided is compliant with clause 39 and subclause 19(3)(f) of the Act.

Division 8 Prohibition, authorisation and restricted use

Using, handling and storing prohibited carcinogens

Regulation 380 prevents a PCBU from using, handling or storing or directing or allowing a worker to use, handle or store a prohibited carcinogen referred to in parts of Schedule 10 except in circumstances set out in this regulation. The prohibited carcinogen is allowed if it is used handled or stored for genuine research and analysis and the regulator has authorised the use, handling or storing of the prohibited carcinogen under regulation 384. The regulation notes clause 43 of the Act regarding requirements for the authorisation of work.

Using, handling and storing restricted carcinogens

Regulation 381 prevents a PCBU from using, handling or storing or directing or allowing a worker to use, handle or store a restricted carcinogen referred to in specific clauses of Schedule 10 unless the restricted carcinogen is used handled or stored for genuine research and analysis and the regulator has authorised the use, handling or storing of the restricted carcinogen under regulation 384. The regulation notes clause 43 of the Act regarding requirements for the authorisation of work.

Using, handling and storing restricted hazardous chemicals

Regulation 382 prevents a PCBU from using, handling or storing or directing or allowing a worker to use, handle or store a restricted hazardous chemical referred to in specific parts of Schedule 10 for the purpose outlined in that Schedule.

Sub-regulation 382(2) prevents a PCBU from using, handling or storing or directing or allowing a worker to use, handle or store polychlorinated biphenyls (PCBs) unless the use, handling or storing is in relation to specific circumstances set out in the sub-regulation. The regulation refers to clause 43 of the Act regarding requirements for the authorisation of work.

Application for authorisation to use, handle or store prohibited and restricted carcinogens

Regulation 383 outlines the requirements for the PCBU to apply in writing to the regulator for authorisation to use, handle or store a prohibited or restricted carcinogen referred to in Schedule 10 at the workplace. Sub-regulation 383(2) outlines what must be included in the application.

Authorisation to use, handle or store prohibited and restricted carcinogens

Regulation 384 states that a regulator may grant an authorisation to a PCBU who applies under regulation 383 to use, handle or store a prohibited or restricted carcinogen at the workplace only if the carcinogen will be used, handled or stored for genuine research or analysis. In addition the regulator may authorise a PCBU to use, handle or store a restricted carcinogen at the workplace if the carcinogen will be used for the purpose referred to in Schedule 10.

Sub-regulation 384(2) and 384(5) allows the regulator to refuse to authorise the use, handling or storage of the carcinogen for a use not referred to in the regulation or to impose any conditions necessary to achieve the objectives of the Act or the regulations. The decision to refuse an authorisation is a reviewable decision under regulation 676.

A decision to cancel an authorisation is a reviewable decision under regulation 676.

Changes to information in application to be reported

Regulation 385 states that a PCBU applying under regulation 383 for authorisation to use, handle or store a prohibited or restricted carcinogen must give the regulator written notice of any change in information given in the application as soon as practicable after the PCBU becomes aware of the change.

The maximum penalty for contravening regulation 385 is $3 600 for an individual and $18 000 for a body corporate

Regulator may cancel authorisation

Regulation 386 allows the regulator to cancel an authorisation to use, handle or store a prohibited or restricted carcinogen if the PCBU has not complied with a condition of the authorisation or the risk to the health and safety of a worker from the prohibited or restricted carcinogen has changed since the authorisation was granted.

A decision to cancel an authorisation is a reviewable decision under regulation 676.

Statement of exposure to be given to workers

Regulation 387 requires a PCBU, authorised under regulation 384 to use, handle or store a prohibited or restricted carcinogen at the workplace, to provide the worker using, handling or storing the carcinogen a written statement at the end of their engagement containing the information required under this regulation.

The maximum penalty for contravening regulation 387 is $3 600 for an individual and $18 000 for a body corporate

Records to be kept

Regulation 388 states that a PCBU, authorised under regulation 384, must record details of each worker likely to be exposed to the carcinogen during the authorisation period and must keep a copy of each authorisation including conditions imposed on the authorisation. The PCBU must keep the records for 30 years after the authorisation ends (sub-regulation 388(3)).

The maximum penalty for contravening regulation 388 is $3 600 for an individual and $18 000 for a body corporate

Division 9 Pipelines

Management of risk by pipeline owner

Regulation 389 requires the owner of a pipeline used to transfer hazardous chemicals to manage the risks associated with the transfer of the hazardous chemical through the pipeline. This includes risks associated with the testing, installation, commissioning, operation, maintenance and decommissioning of the pipeline.

Sub-regulation 389(2) requires the owner of a pipeline used to transfer hazardous chemicals to ensure, so far as is reasonably practicable, that an activity, structure, equipment or substance that is not part of the pipeline does not affect the hazardous chemicals or the pipeline in a way that increases risk. General risk management requirements are outlined in part 2.1 of the regulations.

The maximum penalty for contravening regulation 389 is $6 000 for an individual and $30 000 for a body corporate.

Pipeline builder's duties

Regulation 390 requires a builder of a pipeline that will cross into a public place and be used to transfer Schedule 11 hazardous chemicals to provide the regulator, before building commences, with information outlined in sub-regulation 390(2). The circumstances in which information must be provided to the regulator is set out in the sub-regulation 390(3). The maximum penalty for contravening regulation 390 is $1 250 for an individual and $6 000 for a body corporate

Management of risk to health and safety by pipeline operator

Regulation 391 requires a PCBU who operates a pipeline used to transfer hazardous chemicals to manage risks to health and safety arising from the Activity as outlined under general risk management requirements in part 3.1. The PCBU operating the pipeline must ensure that the hazardous chemical is identified by a label, sign or another method on or near the pipeline (sub-regulation 391(2)).

The maximum penalty for contravening sub-regulation 391(2) is $6 000 for an individual and $30 000 for a body corporate

Sub-regulation 391(3) states that the operator of the pipeline that transfers a Schedule 11 hazardous chemical into a public place must notify the regulator of the supplier and receiver of the hazardous chemical and its correct classification.

The maximum penalty for contravening sub-regulation 391(3) is $1 250 for an individual and $6 000 for a body corporate

Part 7.2 Lead

This Part applies where lead processes, within the meaning of regulation 392 are carried out at a workplace. It imposes duties on a PCBU at a workplace to provide information to workers about a lead process, to control risk of lead contamination using specified measures, to identify and notify the regulator of lead risk work, within the meaning of regulation 394, and provide health monitoring of workers in respect of lead risk work.

Duty-holders under this Part may also have health and safety duties under clause 19, 20 or 21 of the Act, or duties under Part 5 Division 2 of the Act to consult with workers about matters in this Part. clause 27 of the Act applies to officers in respect of this Part.

Part 7.1 of the regulations applies in addition to this Part. Schedule 14 to the regulations applies to this Part. There are additional regulations about management of risk in Part 2.1 – Risk management and about provision of information in Part 2.2 – General workplace management.

Defined terms in Chapter 1 which are relevant to this Part include biological monitoring, health monitoring.

Division 1 Lead process

Meaning of lead process

Regulation 392 outlines the Activities in a workplace which are defined as a lead process.

Regulator may decide lead process

Regulation 393 allows the regulator to decide that a process at a workplace is a lead process if the regulator decides on reasonable grounds that the process creates a risk to the health of a worker in relation to blood lead levels of workers or airborne lead levels at the workplace. Sub-regulation 393(3) requires the regulator to give written notice of the decision made in relation to a lead process to the PCBU within 14 days of making that decision.

A decision that a process is a lead process is a reviewable decision under regulation 676.

Meaning of lead risk work

Regulation 394 states that lead risk work means work carried out in a lead process which is likely to cause the blood lead level of a worker to exceed the thresholds outlined in this regulation.

Duty to give information about health risks of lead process

Regulation 395 requires a PCBU carrying out a lead process to give information about the lead process to a person before being engaged as a worker to carry out the lead process or to a worker in the circumstances set out in this regulation. The information must contain the health risks and toxic effects of exposure to lead and the need for and details of health monitoring under Division 4 of part 7.2 (sub-regulation 395(2)).

The maximum penalty for contravening regulation 395 is $6 000 for an individual and $30 000 for a body corporate.

Division 2 Control of risk

Containment of lead contamination

Regulation 396 requires the PCBU to ensure, as far as is reasonably practicable, that contamination by lead is confined to a lead process area at the workplace.

The maximum penalty for contravening regulation 396 is $6 000 for an individual and $30 000 for a body corporate.

Cleaning methods

Regulation 397 states that the PCBU must ensure that a lead process area at the workplace is kept clean and that the cleaning methods do not create a risk to the health of persons in the immediate vicinity of the area and do not have the potential to spread the contamination of lead.

The maximum penalty for contravening regulation 397 is $6 000 for an individual and $30 000 for a body corporate.

Prohibition on eating, drinking and smoking

Regulation 398 provides that a PCBU must take reasonable steps to ensure that a person does not eat, drink, chew gum, smoke or carry materials used for smoking in a lead process area at the workplace. Sub-regulation 398(2) requires the PCBU to provide workers with an eating and drinking area that, so far as is reasonably practicable, cannot be contaminated with lead from a lead process.

The maximum penalty for contravening regulation 398 is $3 600 for an individual and $18 000 for a body corporate.

Provision of changing and washing facilities

Regulation 399 requires a PCBU to provide and maintain changing rooms, washing, showering and toilet facilities in good working order at the workplace to minimise secondary lead exposure from contaminated clothing, to minimise the ingestion of lead and to avoid the spread of lead contamination. Sub-regulation 399(2) requires the PCBU to ensure, so far as is reasonably practicable, that workers remove clothing and equipment contaminated with lead, and wash their hands and faces, before entering an eating or drinking area at the workplace.

The maximum penalty for contravening regulation 399 is $6 000 for an individual and $30 000 for a body corporate.

Laundering, disposal and removal of personal protective equipment

Regulation 400 provides that a PCBU must ensure that personal protective equipment likely to be contaminated with lead dust must be sealed in a container and disposed of at the completion of the lead process work at a site equipped to accept lead-contaminated equipment. If it is not reasonably practicable to dispose of the personal protective equipment that is clothing, the clothing should be laundered at a laundry equipped to launder lead-contaminated clothing or be kept in a sealed container until it is re-used for lead process work. If it is not reasonably practicable to dispose of the personal protective equipment that is not clothing, such as work boots, the personal protective equipment should be decontaminated before it is removed from the lead process area or be kept in a sealed container until it is re-used for lead process work.

The maximum penalty for contravening sub-regulation 400(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub regulation 400(2) states that the PCBU must ensure that the sealed container referred to in subclause 400(1) is decontaminated before being removed from the lead process area. Under regulation 335, the container must also be labelled to indicate the presence of lead.

The maximum penalty for contravening sub-regulation 400(2) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 400(3) provides that a PCBU must take all reasonable steps to ensure that clothing contaminated with lead-dust is not removed from the workplace unless it is to be laundered in accordance with this regulation or disposed of.

Review of control measures

Regulation 401 requires a PCBU to review and, if necessary, revise any measures implemented to control the health risks from exposure to lead at the workplace in the circumstances set out in this regulation A control measure should be revised if it does not control the risks it was implemented to control and in response to the situations described in this regulation. Otherwise a review of risk control measures should occur every 5 years.

The maximum penalty for contravening regulation 401 is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulation 401(2) clarifies what change at the workplace includes for the purpose of 401(1) d).

Sub-regulation 401(3) allows a health and safety representative to request a review of a control measure if they reasonably believe that any of the circumstances outlined in sub-regulation 401(1) affects or may affect the health and safety of a member of the work group and the PCBU has not adequately reviewed the control measure in response to the circumstance.

Division 3 Lead risk work

Identifying lead risk work

Regulation 402 states that a PCBU must assess each lead process carried out at the workplace to determine whether lead risk work is carried out in the process. The assessment of lead process must have regard to the matters listed in sub-regulation 402(2). The assessment of a lead process must

not take into account the effect of using personal protective equipment on the health and safety of workers (sub-regulation 402(3)). Sub-regulation 402(4) confirms that if the PCBU is unable to determine whether lead risk work is carried out, the process is taken to include lead risk work unless determined otherwise.

Notification of lead risk work

Regulation 403 requires a PCBU who has determined that lead risk work is carried out at the workplace must give the regulator written notice within 7 days of the determination. Sub-regulation 403(2) requires the notice to state the type of lead process that includes lead risk work. The PCBU must keep a copy of the notice given to the regulator and ensure a copy is readily accessible to a worker likely to be exposed to lead and to the worker's health and safety representative (sub-regulation 403(3)).

Sub-regulation 403(5) requires an emergency service organisation to give notice to the regulator as soon as practicable after determining, in the course of work carried out by an emergency service worker in rescuing a person or providing first aid to a person, that the work is lead risk work.

The maximum penalty for contravening sub-regulations 403(1) or 403(3) is $3 600 for an individual and $18 000 for a body corporate.

Changes to information in notification of lead risk work

Regulation 404 states that a PCBU must give the regulator written notice of any change in the information provided in the original notice under regulation 403 before the change or as soon as practicable after the PCBU is aware of the change. Sub-regulation 404(2) requires the PCBU to keep a copy of the notice given to the regulator while the lead risk work is carried out and ensure a copy is readily accessible to a worker likely to be exposed to lead and to the worker's health and safety representative.

The maximum penalty for contravening regulation 404 is $1 250 for an individual and $6 000 for a body corporate.

Division 4 Health monitoring

Duty to provide health monitoring before first commencing lead risk work

Regulation 405 requires a PCBU to ensure that health monitoring is provided to a worker before the worker first commences lead risk work with the PCBU and 1 month after the worker commences lead risk work.

If work is identified as lead risk work after a worker commences work, the PCBU must ensure that health monitoring of the worker is provided as soon as practicable after the lead risk work is identified and 1 month after the first monitoring of the worker (sub-regulation 405(2)).

The maximum penalty for contravening regulation 405 is $6 000 for an individual and $30 000 for a body corporate.

Duty to ensure that appropriate health monitoring is provided

Regulation 406 means that a PCBU must ensure that health monitoring of a worker referred to in regulation 405 includes health monitoring of the type referred to in Schedule 14, table 14.2 unless equal or better type of health monitoring is available and its use is recommended by a registered medical practitioner with experience in health monitoring.

The maximum penalty for contravening regulation 405 is $6 000 for an individual and $30 000 for a body corporate.

Frequency of biological monitoring

Regulation 407 requires a PCBU to arrange biological monitoring of each worker carrying out lead risk work over specific periods. The frequency of biological monitoring and the measurement of blood lead threshold levels for different categories of workers are outlined in this regulation.

Sub-regulation 407(2) states that the PCBU must increase the frequency of biological monitoring of a worker who carries out lead risk work if that activity is likely to significantly change the nature or increase the duration or frequency of the worker's lead exposure.

Sub-regulation 407(3) allows the regulator to determine a different frequency for biological monitoring of workers carrying out lead risk work under the circumstances set out in this regulation. The regulator must give the PCBU written notice of this determination under sub-regulation 407(3) within 14 days after making the determination (sub-regulation 407(4)).

Sub-regulation 407(5) requires the PCBU must arrange biological monitoring to be carried out at the frequency stated in the determination from the regulator under sub-regulation 407(4). A determination of a different frequency for biological monitoring is a reviewable decision under regulation 676.

The maximum penalty for contravening regulation 407 is $6 000 for an individual and $30 000 for a body corporate.

Duty to ensure health monitoring is supervised by registered medical practitioner with relevant experience

Regulation 408 requires the PCBU to ensure that the health monitoring of a worker referred to in this Division is carried out under the supervision of a registered medical practitioner with experience in health monitoring. The PCBU must consult the worker in relation to the selection of the registered medical practitioner (sub-regulation 408(2)).

The maximum penalty for contravening regulation 408 is $6 000 for an individual and $30 000 for a body corporate.

Duty to pay costs of health monitoring

Regulation 409 provides for a PCBU to pay all expenses related to health monitoring referred to in this Division. This regulation also provides for an agreement to be made about sharing costs where more than one PCBU has a duty to provide health monitoring for a worker (sub-regulation 409(2)).

The maximum penalty for contravening regulation 409 is $3 600 for an individual and $18 000 for a body corporate.

Information that must be provided to registered medical practitioner

Regulation 410 states that a PCBU commissioning health monitoring for a worker must provide the information outlined in this regulation to the registered medical practitioner supervising the health monitoring.

The maximum penalty for contravening regulation 410 is $6 000 for an individual and $30 000 for a body corporate.

Duty to obtain health monitoring report

Regulation 411 states that a PCBU who commissioned health monitoring referred to in this Division must take all reasonable steps to obtain a health monitoring report from the registered medical practitioner who supervised the monitoring as soon as practicable after the monitoring has been carried out. The information to be included in the health monitoring report is outlined in sub-regulation 411(2).

The maximum penalty for contravening regulation 411 is $6 000 for an individual and $30 000 for a body corporate.

Duty to provide health monitoring report to worker

Regulation 412 provides that the PCBU who commissioned the health monitoring report must give a copy of the report to the worker as soon as practicable after the PCBU obtains the report.

The maximum penalty for contravening regulation 412 is $6 000 for an individual and $30 000 for a body corporate.

Duty to provide health monitoring report to regulator

Regulator 413 sets out the circumstances in which a PCBU who commissioned health monitoring for a worker must give a copy of the health monitoring report to the regulator.

The maximum penalty for contravening regulation 413 is $6 000 for an individual and $30 000 for a body corporate.

Duty to provide health monitoring report to relevant persons conducting business or undertakings

Regulation 414 states that the PCBU commissioning the health monitoring report under this Division must give a copy to all other PCBUs who have a duty to provide health monitoring.

The maximum penalty for contravening regulation 414 is $6 000 for an individual and $30 000 for a body corporate.

Removal of worker from lead risk work

Regulation 415 requires a PCBU to immediately remove a worker from carrying out lead risk work if biological monitoring of the worker shows that the worker's blood lead level is at or more than:

- for females not of reproductive capacity and males—30µg/dL (1.45µmol/L); or
- for females of reproductive capacity—10µg/dL (0.48µmol/L).

The maximum penalty for contravening sub-regulation 415(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 415(2) provides that the PCBU must immediately remove the worker if the registered medical practitioner recommends that the worker must be removed from lead risk work or there is an indication that a risk control measure has failed and the worker's blood lead level is likely to reach the relevant level for the worker identified in the regulation. The PCBU must notify the regulator as soon as practicable if a worker is removed from carrying out lead risk work under sub-regulation 415(1).

The maximum penalty for contravening regulation 415(2) is $3 600 for an individual and $18 000 for a body corporate.

Duty to ensure medical examination if worker removed from lead risk work

Regulation 416 requires the PCBU to arrange for a worker who is removed from lead risk work under regulation 415 to be medically examined by a registered medical practitioner with experience in health monitoring within 7 days after the day the worker is removed (sub-regulation 416(2)).

Sub-regulation 416(3) requires the PCBU to consult the worker in the selection of the registered medical practitioner.

The maximum penalty for contravening regulation 416 is $6 000 for an individual and $30 000 for a body corporate.

Return to lead risk work after removal

Regulation 417 states that a PCBU who expects a worker, removed from lead risk work under regulation 415, to return to lead risk work must arrange for health monitoring to take place by a registered medical practitioner with experience in health monitoring.

Sub-regulation 417(2) requires the frequency of health monitoring is decided by the practitioner to determine whether the worker's blood lead level is low enough for the worker to return to carrying out lead risk work.

Sub-regulation 417(3) prevents the PCBU from allowing the working to return to lead risk work until the worker's blood lead level is less than:

- for females not of reproductive capacity and males—20µg/dL (0.97µmol/L); or

- for females of reproductive capacity—5µg/dL (0.24µmol/L).

In addition, the registered medical practitioner with experience in health monitoring must be satisfied that the worker is fit to return to lead risk work.

The maximum penalty for contravening regulation 417 is $6 000 for an individual and $30 000 for a body corporate.

Health monitoring records

Regulation 418 requires the PCBU to ensure that health monitoring reports in relation to a worker are kept as a confidential record for at least 30 years after the record is made and must not be disclosed to someone else without the worker's written consent except in the circumstances set out in the regulation (sub-regulation 418(2)).

The maximum penalty for contravening regulation 418 is $1 250 for an individual and $18 000 for a body corporate.

Chapter 8 Asbestos

This Chapter prohibits a PCBU from carrying out, or directing or allowing a worker to carry out, work involving asbestos, other than in circumstances permitted under the regulations. It imposes a general duty upon PCBUs at a workplace to eliminate or minimise exposure to airborne asbestos at the workplace so far as is reasonably practicable.

It imposes duties upon a person with management or control of a workplace to identify asbestos or asbestos containing material (ACM) at the workplace, to prepare and keep an asbestos register and an asbestos management plan and, prior to demolition or refurbishment of certain structures and plant, to identify and remove asbestos so far as is reasonably practicable. It imposes duties upon a PCBU about training workers and ensuring that health monitoring is provided to certain workers. It requires notification to the regulator about licensed asbestos removal work, and requires licensed asbestos removal work to be carried out by licensed asbestos removalists.

Duty-holders under this Chapter may have health and safety duties under clauses 19, 20, 21 or 29 of the Act, and duties under Part 5 Division 1 and Division 2 of the Act to consult with other duty-holders and workers about matters under this Chapter. This Chapter prescribes requirements for authorisation of work for clause 43 of the Act and required qualifications for clause 44 of the Act. clause 27 of the Act applies to officers in respect of this Chapter.

There are additional regulations about management of risk in Part 3.1 – Managing Risks to Health and Safety, about general workplace management and provision of information in Part 3.2 – General workplace management and about construction work that involves or is likely to involve asbestos in Chapter 6 – Construction Work.

Defined terms in Chapter 1 which are relevant to this Chapter include asbestos removalist, independent, competent person, licensed asbestos removalist, asbestos containing material (ACM), asbestos contaminated dust or debris (ACD), asbestos-related work, asbestos waste, friable asbestos, non-friable asbestos, health monitoring, in-situ asbestos, licence holder, certified safety management system, Class A asbestos removal work and Class B asbestos removal work.

Part 8.1 Prohibitions and authorised conduct

This part gives effect to the national prohibition on the use of asbestos or asbestos containing material (ACM) unless it is provided for in one of the exceptions.

Work involving asbestos or ACM—prohibitions and exceptions

Regulation 419 prescribes the prohibition on work involving asbestos and exceptions where the prohibition does not apply. PCBUs and their workers must not carry out work involving asbestos unless it is in circumstances permitted by one or more of the exceptions. These exceptions include genuine research and analysis, the transport and disposal of asbestos waste in accordance with relevant legislation, and laundering asbestos contaminated clothing in accordance with the regulations.

The maximum penalty for contravening regulation 419 is $6 000 for an individual and $30 000 for a body corporate.

Part 8.2 General duty

This part provides a general duty to ensure the exposure standard for asbestos is not exceeded at a workplace.

Exposure to airborne asbestos at workplace

Regulation 420 provides that a PCBU must ensure that exposure of persons at a workplace to airborne asbestos is eliminated or minimised so far as is reasonably practicable. Sub-regulation 420(2) requires the PCBU to ensure the exposure standard for asbestos is not exceeded at the workplace. The exposure standard is contained in the Workplace Exposure Standard for Airborne Contaminants.

Sub-regulation 420(3) provides for the instances where the regulation does not apply in relation to an asbestos removal area.

The maximum penalty for contravening regulation 420 is $6 000 for an individual and $30 000 for a body corporate.

Part 8.3 Management of asbestos and associated risks

This part sets out requirements for duty holders to manage the risk associated with any asbestos at a workplace other than naturally occurring asbestos. This part has requirements for identifying asbestos, indicating the presence of asbestos in the workplace, and maintaining asbestos registers and asbestos management plans for workplaces.

Application of Part 8.3

Regulation 421 specifies that part 8.3 does not apply to naturally occurring asbestos. Specific provisions dealing with naturally occurring asbestos are contained in Part 8.4.

Asbestos to be identified or assumed at workplace

Regulation 422(1) requires a person with management or control of a workplace to ensure, so far as is reasonably practicable, that all asbestos or ACM at the workplace is identified by a competent person. In this provision, a 'competent person' means a person who has acquired through training, qualification or experience the knowledge and skills to carry out the task.

Sub-regulation 422(2) also provides that if the material cannot be identified but the competent person reasonably believes the material is asbestos or ACM, the person with management or control of the workplace must assume the material is asbestos. Inaccessible parts of the workplace likely to contain asbestos or ACM must also be assumed to have asbestos present.

Sub-regulation 422(3) provides that the requirement to identify asbestos as prescribed in regulation 422(1) does not apply if the person with management or control of the workplace assumes that asbestos or ACM is present, or alternatively, has reasonable grounds to believe that asbestos or ACM is not present.

A 'person with management or control of a workplace' has the same meaning as clause 20 of the Act.

The maximum penalty for contravening regulation 422 is $6 000 for an individual and $30 000 for a body corporate.

Analysis of sample

Regulation 423 provides that asbestos may be identified by analysing a sample. Where a sample is analysed, this can only be performed by laboratories specified in sub-regulation 423(2).

The maximum penalty for contravening regulation 423 is $1 250 for an individual and $6 000 for a body corporate.

Presence and location of asbestos to be indicated

Regulation 424 sets out requirements for a PCBU to ensure the presence and location of asbestos at the workplace is clearly indicated, and if it is reasonably practicable, to indicate the presence and location of asbestos or ACM by a label.

The maximum penalty for contravening regulation 424 is $6 000 for an individual and $30 000 for a body corporate.

Asbestos register

Regulation 425 prescribes that a person with management or control of a workplace must ensure that an asbestos register is prepared and kept at the workplace.

Sub-regulation 425(3) also specifies what must be recorded in the asbestos register including any asbestos or ACM that has been identified at the workplace or is likely to be present at the workplace, or that no asbestos or ACM is identified at the workplace if the person knows that no asbestos or ACM is present or likely to be present. Sub- regulation 425(4) states that the duty holder is not required to prepare an asbestos register for a workplace if a register has already been prepared for that workplace.

Regulation 425(6) specifies that these requirements do not apply to a workplace if:

- the workplace is a building that was constructed after 31 December 2003; and
- no asbestos has been identified at the workplace; and
- no asbestos is likely to be present at the workplace from time to time.

The maximum penalty for contravening regulation 425 is $3 600 for an individual and $18 000 for a body corporate.

Review of asbestos register

Regulation 426 requires a person with management or control of a workplace where an asbestos register is kept to ensure the register is reviewed and revised in specified circumstances including if further asbestos is identified at the workplace or if asbestos is removed from, or disturbed, sealed or enclosed at the workplace.

The maximum penalty for contravening regulation 426 is $3 600 for an individual and $18 000 for a body corporate.

Access to asbestos register

Regulation 427 provides that a person with management or control of a workplace where an asbestos register is kept must ensure that the register is readily accessible to certain persons identified in sub-regulation 427(1) such as workers who have carried out or intend to carry out work at the workplace or a person conducting a business or undertaking who has carried out or intends to carry out work at the workplace. Sub-regulation 427(2) requires the person with management or control of the workplace to ensure that a person conducting a business or undertaking who carries out or intends to carry out work at a workplace that involves a risk of exposure to airborne asbestos is given a copy of the asbestos register.

The maximum penalty for contravening regulation 427 is $3 600 for an individual and $18 000 for a body corporate.

Transfer of asbestos register by person relinquishing management or control

Regulation 428 provides that if a person with management or control of a workplace plans to relinquish management or control of the workplace, the person must ensure, so far as is reasonably practicable, that the asbestos register is given to any new person assuming management or control of the workplace.

The maximum penalty for contravening regulation 428 is $3 600 for an individual and $18 000 for a body corporate.

Asbestos management plan

Regulation 429 provides that a person with management or control of a workplace where asbestos or ACM is identified or likely to be present at a workplace must prepare and keep up to date an asbestos management plan for the workplace (sub-regulations 429(2) and 429(3)). Sub-regulation 429(4) stipulates that the plan must include specific information including the identification of asbestos ACM, decisions and reasons for decisions about the management of asbestos at the workplace, the procedures for detailing incidents or emergencies involving asbestos or ACM at the workplace, and workers carrying out work involving asbestos.

The maximum penalty for contravening sub-regulations 429(2) and 429(3) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 429(5) prescribes that the person conducting business or undertaking must ensure access to the plan to specified persons.

The maximum penalty for contravening sub-regulation 429(5) is $3 600 for an individual and $18 000 for a body corporate.

Review of asbestos management plan

Regulation 430 requires a person with management or control of a workplace that has an asbestos management plan to ensure that the plan is reviewed and revised as necessary in specified circumstances including where there is a review of the asbestos register, asbestos is removed from, or disturbed, sealed or enclosed at the workplace, or where the plan is no longer adequate for managing asbestos or ACM at the workplace.

Sub-regulation 430(2) stipulates that an HSR may request a review of an asbestos management plan if the HSR has reasonable beliefs that it is requires based on circumstances outlined in the regulations.

The maximum penalty for contravening regulation 430 is $3 600 for an individual and $18 000 for a body corporate.

Part 8.4 Management of naturally occurring asbestos

This part sets out the requirements for duty holders at workplaces where naturally occurring asbestos is likely to be encountered. This part provides for asbestos management plans and training for workers in these circumstances.

Naturally occurring asbestos

Regulation 431 requires a person with management or control of a workplace to manage, in accordance with part 3.1 of the regulations, risks associated with naturally occurring asbestos at the workplace. ‘Naturally occurring asbestos’ is defined in regulation 5.

Asbestos management plan

Regulation 432 provides that an asbestos management plan must be prepared if naturally occurring asbestos is identified at a workplace or is likely to be present at a workplace. Sub-regulation 432(3) requires the person with management or control of the workplace to ensure the asbestos management plan is maintained so to ensure the information in the plan is up to date. Sub-regulation 432(4) requires the plan to contain relevant information including the identification of naturally occurring asbestos, the decisions and reasons for decisions about the management of naturally occurring asbestos, and the workers carrying out work involving naturally occurring asbestos.

The maximum penalty for contravening sub-regulation 432(2) and 432(3) and is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulation 432(5) provides that the plan must be readily accessible to specific persons including a worker who has carried out, carries out or intends to carry out, work at the workplace and a person conducting a business or undertaking who has carried out or intends to carry out work at the workplace

The maximum penalty for contravening sub-regulation 432(5) is $6 000 for an individual and $30 000 for a body corporate.

Review of asbestos management plan

Regulation 433 requires a person with management or control of a workplace to have an asbestos management plan about naturally occurring asbestos and to ensure that the plan is reviewed and revised if the plan is no longer adequate for managing naturally occurring asbestos at the workplace.

The maximum penalty for contravening regulation 433 is $3 600 for an individual and $18 000 for a body corporate.

Training in relation to naturally occurring asbestos

Regulation 434 provides for a PCBU to ensure that training required under regulation 445 also includes training in the hazards and risks associated with naturally occurring asbestos for workers who carry out work where naturally occurring asbestos is likely to be found.

The maximum penalty for contravening regulation 434 is $6 000 for an individual and $30 000 for a body corporate.

Part 8.5 Asbestos at the workplace

This part sets out requirements for duty holders in relation to health monitoring for certain workers. This part also provides for training for workers who are performing asbestos removal work or asbestos-related work not covered within training requirements for licensed asbestos removal work. This part also places prohibitions and limitations on use of certain equipment on asbestos or ACM.

Division 1 Health monitoring

Duty to provide health monitoring

Regulation 435 prescribes the circumstances when a PCBU must ensure that health monitoring is provided to certain workers carrying out licensed asbestos removal work, other ongoing asbestos removal work or asbestos-related work and is at risk of exposure to asbestos when carrying out the work. The PCBU is required to provide the health monitoring before the worker carries out licensed asbestos removal work.

The maximum penalty for contravening sub-regulation 435(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 435(3) requires the PCBU to ensure that the worker is informed of any health monitoring requirements before the worker carries out any work that may expose the worker to asbestos.

The maximum penalty for contravening sub-regulation 436(3) is $6 000 for an individual and $30 000 for a body corporate.

Duty to ensure that appropriate health monitoring is provided

Regulation 436 provides that health monitoring provided to workers includes a consideration of the workers demographic, medical and occupational history and records of the workers exposure, and involves a physical examination of the worker. However, an alternative type of health monitoring may be used if a registered medical practitioner recommends another type of health monitoring.

The maximum penalty for contravening regulation 436 is $6 000 for an individual and $30 000 for a body corporate.

Duty to ensure health monitoring is supervised by registered medical practitioner with relevant experience

Regulation 437 requires the PCBU to ensure the health monitoring referred to in regulation 435 is carried out under the supervision of a registered medical practitioner with experience in health monitoring.

The maximum penalty for contravening sub-regulation 437(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 437(2) requires the PCBU to consult the worker in relation to selecting the registered medical practitioner.

The maximum penalty for contravening sub-regulation 437(2) is $6 000 for an individual and $30 000 for a body corporate.

Duty to pay costs of health monitoring

Regulation 438 provides that a PCBU must pay all expenses relating to health monitoring provided under regulation 435.

The maximum penalty for contravening sub-regulation 438(1) is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulation 438(2) provides for an agreement to be made about sharing costs where more than one PCBU has a duty to provide health monitoring for a worker.

The maximum penalty for contravening sub-regulation 438(2) is $3 600 for an individual and $18 000 for a body corporate.

Information that must be provided to registered medical practitioner

Regulation 439 requires the PCBU commissioning health monitoring for a worker to provide certain information to the registered medical practitioner supervising the health monitoring including the name and date of birth of the worker, the work the worker is or will be carrying out that has triggered the requirement for health monitoring, and how long the worker has been carrying out the work if the work has already been commenced.

The maximum penalty for contravening regulation 439 is $3 600 for an individual and $18 000 for a body corporate.

Duty to obtain health monitoring report

Regulation 440 provides that the PCBU commissioning health monitoring for a worker must take all reasonable steps to obtain a health monitoring report from the registered medical practitioner as soon as practicable after the monitoring is carried out.

Sub-regulation 440(2) also specifies the information to be included in the health monitoring report including the name and registration number of the registered medical practitioner, any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of the work, and whether medical counselling is required for the worker in relation to the work that triggered the requirement for health monitoring.

Duty to provide health monitoring report to worker

Regulation 441 requires the PCBU who commissioned the health monitoring for a worker to give a copy of the health monitoring report to the worker as soon as practicable after the person obtains the report.

The maximum penalty for contravening regulation 441 is $6 000 for an individual and $30 000 for a body corporate.

Duty to provide health monitoring report to Regulator

Regulation 442 sets out the circumstances in which a PCBU who commissioned health monitoring for a worker must give a copy of the health monitoring report to the regulator. This includes circumstances where the report contains any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the work that triggered the requirement for health monitoring.

The maximum penalty for contravening regulation 442 is $6 000 for an individual and $30 000 for a body corporate.

Duty to provide health monitoring report to relevant persons conducting business or undertakings

Regulation 443 requires the PCBU who commissioned health monitoring for a worker to give a copy of the health monitoring report to all other PCBUs who have a duty to provide health monitoring for the worker as soon as practicable after obtaining the report.

The maximum penalty for contravening regulation 443 is $6 000 for an individual and $30 000 for a body corporate.

Health monitoring records

Regulation 444 places requirements on the PCBU in relation to confidentiality of health monitoring reports and keeping records for at least 40 years after the record is made.

The maximum penalty for contravening sub-regulation 444(1) is $1 250 for an individual and $6 000 for a body corporate.

Sub-regulation 444(2) provides that the PCBU must ensure that health monitoring reports or results of a worker are not disclosed to another person without the worker's written consent.

The maximum penalty for contravening sub-regulation 441(2) is $1 250 for an individual and $6 000 for a body corporate.

Division 2 Training

Duty to train workers about asbestos

Regulation 445 places specific requirements on PCBUs regarding training for certain workers about identification, safe handling and suitable control measures for asbestos. The training is required for workers who may be involved in asbestos removal work or carrying out asbestos-related work outside the scope of licensed asbestos removal work. Training requirements for workers carrying out licensed asbestos removal work are specified in regulation 460 (sub-regulation 445(2)).

The maximum penalty for contravening regulation 445 (1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 445(3) specifies record keeping requirements in relation to the training undertaken by the worker and that the PCBU must ensure that a record of the training is kept while the workers is carrying out the work and for 5 years after the day the worker ceases working for the person.

The maximum penalty for contravening sub-regulation 445(3) is $1 250 for an individual and $6 000 for a body corporate.

Sub-regulation 445(4) provides that the PCBU must keep the records available for inspection under the Act.

The maximum penalty for contravening regulation 445 (5) is $1 250 for an individual and $6 000 for a body corporate.

Division 3 Control on use of certain equipment

Duty to limit use of equipment

Regulation 446 prohibits PCBUs and their workers from using either high-pressure water spray or compressed air on asbestos or ACM. Sub-regulation 446(3) also places limitations on the use of power tools, brooms and other implements that cause the release of airborne asbestos. A PCBU must not use, or direct or allow a worker to use this equipment on asbestos or ACM unless the equipment is controlled in a way specified in sub-regulation 446(4).

The maximum penalty for contravening regulation 446 is $3 600 for an individual and $18 000 for a body corporate.

Part 8.6 Demolition and refurbishment

This part sets out requirements for duty holders in relation to the demolition or refurbishment of structure or plant constructed or installed before 31 December 2003.

Application—Part 8.6

Regulation 447 provides that this part applies to the demolition or refurbishment of a structure or plant constructed before 31 December 2003. Sub-regulation 447(2) specifies that 'demolition or refurbishment' does not include minor or routine maintenance work, or other minor work.

Review of asbestos register

Regulation 448 sets out the requirements for the person with management or control of a workplace to review and revise an asbestos register for the workplace before demolition or refurbishment is carried out.

The maximum penalty for contravening regulation 448 is $3 600 for an individual and $18 000 for a body corporate.

Duty to provide asbestos register

Regulation 449 requires the person with management or control of a workplace to ensure the PCBU who is carrying out demolition or refurbishment is given a copy of the asbestos register before demolition or refurbishment work starts.

The maximum penalty for contravening regulation 449 is $6 000 for an individual and $30 000 for a body corporate.

Duty to obtain asbestos register

Regulation 450 requires the PCBU who is carrying out demolition or refurbishment work at a workplace to obtain a copy of the asbestos register before the work starts.

The maximum penalty for contravening regulation 450 is $6 000 for an individual and $30 000 for a body corporate.

Determining presence of asbestos or ACM

Regulation 451 provides that where there is no asbestos register for a structure or plant to be demolished or refurbished at a workplace, the demolition or refurbishment must not start until the structure or plant has been inspected by a competent person to determine whether asbestos or ACM is fixed or installed in the structure or plant.

The maximum penalty for contravening regulation 451(2) and (3) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 451(5) provides that if asbestos is determined or assumed to be fixed or installed in the structure or plant, the PCBU who is to carry out the demolition or refurbishment must inform the person with management or control of the workplace. If the workplace is domestic premises, the PCBU must inform the occupier and owner of the domestic premises.

The maximum penalty for contravening regulation 451(5) is $3 600 for an individual and $18 000 for a body corporate.

Identification and removal of asbestos before demolition

Regulation 452 sets out the requirements for identifying and, as far as practicable, removing asbestos before demolition starts.

Sub-regulation 452(2) provides that the provision does not apply to an emergency to which regulation 454 applies or demolition of domestic premises.

Sub-regulation 452(3) requires a person with management or control of a workplace, or of the structure of plant must ensure that all asbestos is likely to be disturbed by the demolition is identified, and so far as is reasonably practicable, that the asbestos is removed before the demolition is commenced.

The maximum penalty for contravening regulation 452 is $6 000 for an individual and $30 000 for a body corporate.

Identification and removal of asbestos before demolition of domestic premises

Regulation 453 provides that a PCBU carrying out demolition of domestic premises must ensure that asbestos that is likely to be disturbed by the demolition is identified, and so far as is reasonably practicable, removed before demolition starts. Sub-regulations 453(2) and 453(3) stipulate the instances in which the regulation does not apply.

The maximum penalty for contravening regulation 453 is $6 000 for an individual and $30 000 for a body corporate.

Emergency procedure

Regulation 454 prescribes what must happen where a structure or plant is structurally unsound and asbestos is fixed to or installed in the structure or plant. Sub-regulation 454(2) specifies the responsibilities of the person with management or control of the workplace, which includes notifying the regulator before demolition starts. The provision does not apply to domestic premises as demolition of domestic premises in an emergency is dealt with in regulation 455.

The maximum penalty for contravening regulation 454 is $3 600 for an individual and $18 000 for a body corporate.

Emergency procedure—domestic premises

Regulation 455 specifies what must happen if a structure or plant at domestic premises must be demolished and asbestos is fixed to or installed in the structure or plant before the emergency.

Sub-regulation 455(3) sets out the responsibilities of the PCBU who is to carry out the demolition, which includes notifying the regulator before demolition starts.

The maximum penalty for contravening regulation 455 is $3 600 for an individual and $18 000 for a body corporate.

Identification and removal of asbestos before refurbishment

Regulation 456 sets out the requirements for a person with management or control of a workplace, or structure or plant, if the structure or plant is to be refurbished.

Sub-regulation 456(2) provides that regulation 456 does not apply to domestic premises, which are dealt with in regulation 457.

Sub-regulation 456(3) provides that the person must ensure all asbestos likely to be disturbed by the refurbishment is identified, and so far as is reasonably practicable, removed before refurbishment starts.

The maximum penalty for contravening regulation 456 is $6 000 for an individual and $30 000 for a body corporate.

Refurbishment of domestic premises

Regulation 457 requires a PCBU who is to carry out refurbishment of domestic premises to ensure that all asbestos likely to be disturbed by the refurbishment is identified, and so far as is reasonably practicable, removed before refurbishment starts.

The maximum penalty for contravening regulation 457 is $6 000 for an individual and $30 000 for a body corporate.

Part 8.7 Asbestos removal work

This part sets out requirements for duty holders in relation to carrying out asbestos removal work at a workplace.

Duty to ensure asbestos removalist is licensed

Regulation 458 sets out the requirements for a PCBU commissioning the removal of asbestos to ensure that certain asbestos removal work is carried out by a licensed asbestos removalist.

The maximum penalty for contravening sub-regulation 458(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 458(2) provides that sub-regulation 458(1) does not apply if the asbestos to be removed is 10 square metres or less of non-friable asbestos or ACD associated with the removal of that amount of non-friable asbestos, or ACD that isn't associated with the removal of friable or non-friable asbestos and is only a minor contamination.

Sub-regulation 458(3) provides that where the asbestos is not required to be removed by a licensed asbestos removalist, the PCBU must ensure the work is carried out by a competent person who has been trained in accordance with the regulation.

The maximum penalty for contravening sub-regulation 458(3) is $6 000 for an individual and $30 000 for a body corporate.

Asbestos removal supervisor must be present or readily available

Regulation 459 sets out the requirements for a licensed asbestos removalist to ensure asbestos removal work is supervised by a nominated asbestos removal supervisor. For asbestos removal work requiring a Class A asbestos removal licence, the supervisor must be present at the asbestos removal area whenever the asbestos removal work is being carried out. For asbestos removal work requiring a Class B asbestos removal licence, the supervisor must be readily available to a worker carrying out the asbestos removal work whenever the work is being carried out.

The maximum penalty for contravening regulation 459 is $6 000 for an individual and $30 000 for a body corporate.

Asbestos removal worker must be trained

Regulation 460 specifies the requirements for licensed asbestos removalists to ensure workers do not carry out licensed asbestos removal work unless the worker holds a certification in relation to the specified VET course for asbestos removal relevant to the class of licensed asbestos removal work being carried out. In addition, this regulation requires a licensed asbestos removalist to provide appropriate training to a worker carrying out licensed asbestos removal work to ensure it is carried out in accordance with the asbestos removal control plan.

The maximum penalty for contravening regulation 460 is $6 000 for an individual and $30 000 for a body corporate.

Licensed asbestos removalist must keep training records

Regulation 461 requires a licensed asbestos removalist to keep records of a worker's training while the worker is carrying out the licensed asbestos removal work and for 5 years after the worker stopped carrying out licensed asbestos removal work for the removalist.

The maximum penalty for contravening sub-regulation 461(1) is $1 250 for an individual and $ 6 000 for a body corporate.

Sub-regulation 461(2) provides that the licensed asbestos removalist must ensure training records are readily accessible at the asbestos removal area. Sub-regulation 461(3) defines appropriate training for the purpose of the regulation.

The maximum penalty for contravening sub-regulation 461(2) is $1 250 for an individual and $6 000 for a body corporate.

Duty to give information about health risks of licensed asbestos removal work

Regulation 462 provides that a licensed asbestos removalist must give information about health risks and health monitoring to a person before the person is engaged to carry out licensed asbestos removal work.

The maximum penalty for contravening regulation 462 is $6 000 for an individual and $30 000 for a body corporate.

Asbestos removalist must obtain register

Regulation 463 requires an asbestos removalist to obtain a copy of an asbestos register for a workplace before the removalist carries out asbestos removal work.

Sub-regulation 463(2) provides that regulation 463 does not apply if the asbestos removal work is to be carried out at domestic premises.

The maximum penalty for contravening regulation 463 is $6 000 for an individual and $30 000 for a body corporate.

Asbestos removal control plan

Regulation 464 specifies the requirements for a licensed asbestos removalist to prepare an asbestos removal control plan for licensed asbestos removal work.

The maximum penalty for contravening regulation 464(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 464(2) prescribes what an asbestos control plan must include such as the details of how the asbestos removal will be carried out and the details of the asbestos to be removed including the location, type and condition of the asbestos.

Sub-regulation 464(3) provides that the licensed asbestos removalist to give a copy of the plan to the person who commissioned the licensed asbestos removal work.

The maximum penalty for contravening regulation 464 (3) is $3 600 for an individual and $18 000 for a body corporate.

Asbestos removal control plan to be kept and available

Regulation 465 sets out the requirements regarding keeping an asbestos removal control plan for two years and that it must be kept until the asbestos removal work to which it relates is completed, however, if there is a notifiable incident to whom a copy of the plan must be made readily accessible.

The maximum penalty for contravening regulation 465 is $3 600 for an individual and $18 000 for a body corporate.

Regulator must be notified of asbestos removal

Regulation 466 specifies the requirements for licensed asbestos removalists to notify the regulator at least 5 days before starting licensed asbestos removal work.

The maximum penalty for contravening sub-regulation 466(1) is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulation 466(2) provides that despite sub-regulation 466(1), licensed asbestos removal work can start immediately if there is a sudden and unexpected event that may cause persons to be exposed to respirable asbestos fibres or an unexpected breakdown of an essential service that requires immediate rectification.

Sub-regulation 466(3) provides that if asbestos must be removed in the circumstances prescribed in sub-regulation 466(2), the licensed asbestos removalist must give notice to the regulator immediately by telephone and in writing within 24 hours after notification by telephone.

The maximum penalty for contravening sub-regulation 466(3) is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulation 466(4) prescribes the information that the licensed asbestos removalist must provide when notifying the regulator of licensed asbestos removal work.

Licensed asbestos removalist must tell certain persons about intended asbestos removal work

Regulation 467 identifies the persons who must be informed about intended asbestos removal work by the licensed asbestos removalist and the information that must be provided including that licensed asbestos removal work is to be carried out at the workplace and when the work is to commence.

The maximum penalty for contravening regulation 467 is $6 000 for an individual and $30 000 for a body corporate.

Person with management or control of workplace must tell persons about asbestos removal work

Regulation 468 provides that if a person with management or control of a workplace has been informed about intended asbestos removal work, the person must advise certain persons about the asbestos removal work including workers or any other person at the workplace and the person who commissioned the asbestos removal work, and when it will start.

The maximum penalty for contravening sub-regulation 468(2) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 468(3) provides that the person must take reasonable steps to ensure the same information is provided to anyone conducting a business or undertaking, at or in the immediate vicinity of the workplace or to anyone occupying premises in the immediate vicinity of the workplace.

The maximum penalty for contravening regulation 468(3) is $6 000 for an individual and $30 000 for a body corporate.

Signage and barricades for asbestos removal work

Regulation 469 sets out the responsibilities of an asbestos removalist in relation to signs and barricades when asbestos removal work is being carried out.

The maximum penalty for contravening regulation 469 is $6 000 for an individual and $30 000 for a body corporate.

Limiting access to asbestos removal area

Regulation 470 places requirements on certain duty holders to ensure, so far as is reasonably practicable, that only certain persons have access to an asbestos removal area (sub-regulation 470(2)).

Sub-regulation 470(5) also requires persons who have access to an asbestos removal area to comply with directions by the licensed asbestos removalist carrying out the licensed asbestos removal work.

The maximum penalty for contravening regulation 470 is $6 000 for an individual and $30 000 for a body corporate.

Decontamination facilities

Regulation 471 places requirements on an asbestos removalist to ensure facilities are available to decontaminate the asbestos removal area, plant used in that area, workers carrying out asbestos removal work, and any other persons who have authorised access to the asbestos removal area.

The maximum penalty for contravening sub-regulation 471(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 471(2) requires an asbestos removalist to ensure that anything which is likely to be contaminated with asbestos is not removed from the asbestos removal area unless it is decontaminated first or properly sealed in a container that has been decontaminated and labelled in accordance with the GHS.

The maximum penalty for contravening sub-regulation 471(2) is $6 000 for an individual and $30 000 for a body corporate.

Disposing of asbestos waste and contaminated personal protective equipment

Regulation 472 sets out requirements for an asbestos removalist to dispose of asbestos waste properly. It also specifies the requirements for an asbestos removalist in relation to the disposal of personal protective equipment, and in specified circumstances, the storage of personal protective equipment in sealed containers until it is re-used for asbestos removal work (sub-regulations 472(2) and 472(3)).

The maximum penalty for contravening sub-regulation 472 is $6 000 for an individual and $30 000 for a body corporate.

Clearance inspection

Regulation 473 sets out requirements for a clearance inspection of an asbestos removal area. For licensed asbestos removal work at a workplace, the person who commissioned the licensed asbestos removal work must ensure that a clearance inspection is carried out. However, for licensed asbestos removal work at domestic premises, the licensed asbestos removalist is required to ensure that a clearance inspection is carried out (sub-regulation 473(2)).

For Class A asbestos removal work, the clearance inspection must be carried out by an independent licensed asbestos assessor. For Class B asbestos removal work, the clearance inspection must be carried out by an independent competent person. ‘Independent’ and ‘competent person’ are defined terms. If it is not reasonably practicable for the licensed asbestos assessor or competent person to be independent, the person or licensed asbestos removalist may apply to the regulator for an exemption from the requirement that the assessor or competent person be independent.

The maximum penalty for contravening regulation 473 is $6 000 for an individual and $30 000 for a body corporate.

Clearance certificates

Regulation 474 sets out requirements in relation to issuing a clearance certificate following a clearance inspection carried out under regulation 473 including that the licensed asbestos assessor must not issue a clearance certificate unless satisfied that the asbestos removal area and the area immediately surrounding it are free from visible asbestos contamination.

The maximum penalty for contravening regulation 474 is $6 000 for an individual and $30 000 for a body corporate.

Part 8.8 Asbestos removal requiring Class A asbestos removal licence

This part has specific requirements for asbestos removal work requiring a Class A asbestos removal licence. These include air monitoring requirements and the action that duty holders must take if air monitoring shows specified levels are exceeded.

Air monitoring—asbestos removal requiring Class A asbestos removal licence

Regulation 475 specifies the air monitoring requirements associated with asbestos removal work requiring a Class A asbestos removal licence. This includes when air monitoring must be carried out and to whom results of air monitoring must be given to (sub-regulation 475(3)).

Sub-regulation 475(6) provides that the independent licensed assessor must undertake air monitoring using the membrane filter method, which is defined in regulation 5.

The maximum penalty for contravening sub-regulation 475 is $6 000 for an individual and $30 000 for a body corporate.

Action if respirable asbestos fibre level too high

Regulation 476 prescribes what the licensed asbestos removalist must do if respirable asbestos fibre levels exceed specified levels during asbestos removal work requiring a Class A asbestos removal licence.

The maximum penalty for contravening sub-regulation 476 is $6 000 for an individual and $30 000 for a body corporate.

Removing friable asbestos

Regulation 477 provides that a licensed asbestos removalist must take specific measures, so far as is reasonably practicable, when removing friable asbestos.

Sub-regulation 477(2) requires a licensed asbestos removalist to test an enclosure used in removing friable asbestos for leaks.

Sub-regulation 477(3) stipulates that sub-regulations 477(1)(b) and d) do not apply if glove bags are used in class A asbestos removal work.

Sub-regulation 477(5) also sets out requirements regarding any enclosures used in removing friable asbestos.

The maximum penalty for contravening sub-regulation 477 is $6 000 for an individual and $30 000 for a body corporate.

Part 8.9 Asbestos-related work

This part sets out requirements for duty holders in relation to asbestos-related work carried out at a workplace.

Application of Part 8.9

Regulation 478 provides that this Part applies to asbestos-related work. Asbestos-related work is defined in regulation 5.

Uncertainty as to presence of asbestos

Regulation 479 provides that a PCBU who is unsure whether work to be carried out is asbestos-related work to either assume that asbestos is present or ensure a sample is analysed to determine if asbestos is present.

The maximum penalty for contravening regulation 479 is $6 000 for an individual and $30 000 for a body corporate.

Duty to give information about health risks of asbestos-related work

Regulation 480 places responsibilities on a PCBU to give information about health risks and health monitoring to a person before the person is engaged to carry out asbestos-related work for the business or undertaking.

The maximum penalty for contravening regulation 480 is $6 000 for an individual and $30 000 for a body corporate.

Asbestos-related work to be in separate area

Regulation 481 sets out requirements for the PCBU involved in carrying out asbestos-related work to ensure the asbestos-related work area is separated from other work areas, and that signs and barricades are used to indicate where the asbestos-related work is being carried out.

The maximum penalty for contravening regulation 481 is $6 000 for an individual and $30 000 for a body corporate.

Air monitoring

Regulation 482 prescribes the requirements for air monitoring of an asbestos-related work area if there is uncertainty as to whether the exposure standard is likely to be exceeded.

The maximum penalty for contravening sub-regulation 482(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 482(2) requires the PCBU to take action in providing specific information to workers, and so far as is reasonably practicable, to other persons who were in the work area at the time if it is determined that the exposure standard has been exceeded.

The maximum penalty for contravening sub-regulation 482(2) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 482(3) provides that the PCBU must ensure that information about exposure to respirable asbestos fibres is readily accessible to the workers and other persons referred to in sub-regulation 482(2).

The maximum penalty for contravening sub-regulation 482(3) is $3 600 for an individual and $18 000 for a body corporate.

Decontamination facilities

Regulation 483 requires a PCBU carrying out asbestos-related work to ensure facilities are available to decontaminate the asbestos-related work area, the plant used in that area, and workers carrying out asbestos-related work.

The maximum penalty for contravening sub-regulation 483(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 483(2) requires the PCBU to ensure that anything likely to be contaminated with asbestos is not removed from the asbestos-related work area unless it is decontaminated first or properly sealed in a container that has been decontaminated and labelled in accordance with the GHS.

The maximum penalty for contravening sub-regulation 483(2) is $6 000 for an individual and $30 000 for a body corporate.

Disposing of asbestos waste and contaminated personal protective equipment

Regulation 484 sets out the requirements for a PCBU carrying out asbestos-related work to dispose of asbestos waste properly. Sub-regulation 484(2) prescribes the requirements for the PCBU in relation to the disposal of personal protective equipment, and in specific circumstances, the storage of personal protective equipment in sealed containers until it is re-used for asbestos removal work (Regulation 484(3)).

The maximum penalty for contravening regulation 484 is $6 000 for an individual and $30 000 for a body corporate.

Part 8.10 Licensing of asbestos removalists and asbestos assessors

This part provides for licences for carrying out certain asbestos removal work. This part outlines how to apply for a licence and places certain requirements on the regulator in relation to granting or refusing an application. This part also contains provisions covering the replacement, surrender, renewal and suspension of licences. These are administrative procedures which provide clarity and transparency in the administration of asbestos removal and asbestos assessor licences.

Division 1 Asbestos removalists—requirement to be licensed

Requirement to hold Class A asbestos removal licence

Regulation 485 provides that a person must not carry out certain friable asbestos removal work at a workplace unless authorised by a Class A asbestos removal licence.

Sub-regulation 485(2) provides that a PCBU must not direct or allow a worker to carry out certain friable asbestos removal work unless the PCBU holds a Class A asbestos removal licence.

Exception to requirement to hold Class A asbestos removal licence

Regulation 486 provides an exception permitting removal of asbestos-contaminated dust or debris in specific circumstances without holding a Class A asbestos removal licence.

Requirement to hold Class B asbestos removal licence

Regulation 487 provides that a person must not carry out certain non-friable asbestos removal work at a workplace unless authorised by either a Class A or Class B asbestos removal licence.

Sub-regulation 487(2) provides that a PCBU must not direct or allow a worker to carry out certain non-friable asbestos removal work unless the PCBU holds a Class A or Class B asbestos removal licence.

Recognition of asbestos removal licences in other jurisdictions

Regulation 488 specifies that equivalent asbestos removal licences issued by corresponding regulators under a corresponding WHS law are recognised as asbestos removal licences under this regulation. Sub-regulation 488(2) specifies that this regulation does not apply to a licence that is suspended or cancelled or has expired in the corresponding jurisdiction.

Division 2 Asbestos assessors—requirement to be licensed

Requirement to hold asbestos assessor licence

Regulation 489 provides that certain functions associated with Class A asbestos removal work can only be carried out by a person who holds an asbestos assessor licence. These functions are air monitoring, clearance inspections and clearance certificates in relation to Class A asbestos removal work. Sub-regulation 489(2) specifies that this regulation does not apply to a licence that is suspended or cancelled or has expired in the corresponding jurisdiction.

Recognition of asbestos assessor licences in other jurisdictions

Regulation 490 specifies that equivalent asbestos assessor licences issued by corresponding regulators under a corresponding WHS law are recognised as asbestos assessor licences under this regulation.

Division 3 Licensing process

Who may apply for a licence

Regulation 491 provides that only a PCBU may apply for an asbestos removal licence. Sub-regulation 491(2) provides that only an individual who holds the prescribed qualifications set out in the regulations may apply for an asbestos assessor licence.

Application for asbestos removal licence or asbestos assessor licence

Regulation 492 sets out the requirements for a person to apply for an asbestos removal licence or an asbestos assessor licence. Sub-regulation 492(2) specifies the information which the application must include.

Content of application—Class A asbestos removal licence

Regulation 493 prescribes the information that must be contained in an application for a Class A asbestos removal licence. Sub-regulation 493(2) requires that if the applicant is an individual who proposes to supervise the carrying out of the Class A asbestos removal work, the statement and information referred to in sub-regulations 493(1)(b), 493(1)(c) and 493(1)(d) must relate to the applicant. This includes:

- evidence, that each named supervisor is at least 18 years of age,
- a copy of a certification issued to each named supervisor for the specified VET course for the supervision of asbestos removal work, and
- evidence that each named supervisor has at least 3 years relevant industry experience.

Content of application—Class B asbestos removal licence

Regulation 494 specifies the information that must be contained in an application for a Class B asbestos removal licence.

Content of application—asbestos assessor licence

Regulation 495 specifies the information that must be contained in an application for an asbestos assessor licence.

Additional information

Regulation 496 enables the regulator to ask applicants to provide additional information so that the regulator is able to make a decision on whether or not to grant a licence.

Sub-regulation 496(2) provides that if the applicant does not provide the additional information by the date specified, the application is taken to be withdrawn.

Decision on application

Regulation 497 specifies the circumstances in which the regulator must grant or refuse an asbestos removal licence or asbestos assessor licence.

Class A asbestos removal licence—regulator to be satisfied about additional matters

Regulation 498 sets out the additional matters the regulator must be satisfied about in relation to an application for a Class A asbestos removal licence.

Class B asbestos removal licence—regulator to be satisfied about additional matters

Regulation 499 sets out the additional matters the regulator must be satisfied about in relation to an application for a Class B asbestos removal licence.

Matters to be taken into account

Regulation 500 specifies matters the regulator must take into account in determining if the applicant is able to ensure that work or other activities to which the licence relates are carried out safely and competently, and if the applicant is able to ensure compliance with any conditions that will apply to the licence. These include whether the applicant has been convicted or found guilty of any offence under the Act or a corresponding WHS law and whether any equivalent licence held under a corresponding WHS has been suspended or cancelled.

Refusal to grant licence—process

Regulation 501 sets out what the regulator must do if an application for an asbestos removal licence or asbestos assessor licence is refused.

A decision to refuse to grant a licence is a reviewable decision under regulation 676.

Conditions of licence

Regulation 502 provides for the regulator to impose any conditions, including specifically listed conditions, on an asbestos removal licence or asbestos assessor licence when granting or renewing the licence.

Duration of licence

Regulation 503 provides that an asbestos removal licence or asbestos assessor licence takes effect on the day it is granted and, unless cancelled earlier, expires 5 years after that day.

Licence document

Regulation 504 sets out requirements for the licence document to be issued by the regulator when granting an asbestos removal licence or asbestos assessor licence.

Licence document to be available

Regulation 505 requires a licence holder to keep the licence document available for inspection under the Act other than when the licence has been returned to the regulator in accordance with regulation 512 or if the licence holder has applied for, but not received a replacement licence document under regulation 513.

Division 4 Changes to licence and licence document

Changes to information

Regulation 506 requires a licence holder to notify the regulator in writing about a change to any information given by the licence holder to the regulator within 14 days of the licence holder becoming aware of the change.

The maximum penalty for contravening regulation 506 is $1 250 for an individual and $6 000 for a body corporate.

Change to nominated supervisor

Regulation 507 sets out the requirements for an asbestos removal licence holder to notify the regulator regarding a change in nominated supervisors.

Sub-regulation 507(2) provides that a supervisor is not a nominated supervisor for the purposes of the regulations until the regulator has approved the nomination.

The maximum penalty for contravening regulation 507 is $1 250 for an individual and $6 000 for a body corporate.

Amendment imposed by regulator

Regulation 508 enables the regulator, on its own initiative, to amend an asbestos removal licence or asbestos assessor licence, including varying, deleting or imposing a condition on a licence. Sub-regulation 508(2) and 508(3) also specifies the process to be followed by the regulator.

A decision to amend a licence is a reviewable decision under regulation 676.

Amendment on application by licence holder

Regulation 509 provides for the regulator to amend an asbestos removal licence or asbestos assessor licence on request of the licence holder.

Sub-regulation 509(2) and 509(3) specifies the process to be followed by the regulator when proposing to refuse to amend a licence.

Minor corrections to licence

Regulation 510 allows the regulator to make minor amendments to a licence, for example, correcting an obvious error or a change of address.

Regulator to provide amended licence

Regulation 511 requires the regulator to give the licence holder an amended licence document if the regulator considers a change to a licence requires the licence document to be amended.

Licence holder to return licence

Regulation 512 requires the licence holder of an asbestos removal or asbestos assessor licence that has been amended to return the licence document to the regulator for amendment when requested by the regulator in writing.

The maximum penalty for contravening regulation 512 is $1 250 for an individual and $6 000 for a body corporate.

Replacement licence document

Regulation 513 sets out the requirements for notifying the regulator if an asbestos removal or asbestos assessor licence document is lost, stolen or destroyed.

Sub-regulation 513(2) provides that if the licence is lost, stolen or destroyed the licence holder may apply to the regulator for a replacement document.

Sub-regulations 513(5) and 513(6) allows the regulator to issue or refuse to issue a replacement licence.

The maximum penalty for contravening regulation 513 is $1 250 for an individual and $6 000 for a body corporate.

Voluntary surrender of licence

Regulation 514 provides that a licence holder may voluntarily surrender the licence document to the regulator.

Sub-regulation 514(2) stipulates that the licence expires on the surrender of the licence document.

Division 5 Renewal of licence

Regulator may renew licence

Regulation 515 enables the regulator to renew an asbestos removal licence or asbestos assessor licence on application by the licence holder.

Application for renewal

Regulation 516 sets out the requirements for renewing an asbestos removal licence or asbestos assessor licence.

Provisions relating to renewal of licence

Regulation 517 allows other regulations in this part to apply to an application, renewal or refusal of an asbestos removal licence or asbestos assessor licence. Sub-regulation 517(3) also enables the regulator to renew a licence granted to a person under a corresponding WHS law if the licence has not been renewed under that law.

Renewal of asbestos removal licence—regulator to be satisfied about certain matters

Regulation 518 requires the regulator to be satisfied about certain matters before renewing an asbestos removal licence. These matters relate to the qualifications and experience of supervisors and whether authorised asbestos removal work has been carried out during the term of the licence.

Status of licence during review

Regulation 519 provides for the status of an asbestos removal licence or asbestos assessor licence if the regulator notifies the licence holder that it proposes to refuse to renew the licence.

Sub-regulations 519(2) to 519(5) outlines the process for a licence holder to request internal or external review of the refusal of the licence by the regulator.

Division 6 Suspension and cancellation of licence

Suspension or cancellation of licence

Regulation 520 sets out the requirements enabling the regulator to suspend or cancel an asbestos removal licence or asbestos assessor licence.

A decision to suspend or cancel a licence or disqualify the licence holder from applying for a further licence is a reviewable decision under regulation 676.

Matters taken into account

Regulation 521 specifies the matters a regulator must take into account, including when the licence holder is an individual and when it is a body corporate, when making a decision to suspend or cancel an asbestos removal licence or asbestos assessor licence.

Notice to and submissions by licence holder

Regulation 522 sets out the requirements for the regulator to give written notice to the licence holder before suspending or cancelling an asbestos removal licence or an asbestos assessor licence.

Sub-regulation 522(b) requires the regulator to give the licence holder not less than 28 days to make submissions to the regulator in relation to the proposed suspension or cancellation and any proposed disqualification.

Notice of decision

Regulation 523 sets out the requirements for the regulator to follow when giving notice of a decision to cancel or suspend an asbestos removal licence or an asbestos assessor licence.

Immediate suspension

Regulation 524 provides for circumstances when the regulator may suspend an asbestos removal licence or an asbestos assessor licence without giving the notice required under regulation 522. A process for the regulator to follow is also specified in sub-regulation 524(2) to 524(5).

Licence holder to return licence document

Regulation 525 provides that a licence holder, when given notice under regulation 523, must return the licence to the regulator.

The maximum penalty for contravening regulation 525 is $1 250 for an individual and $6 000 for a body corporate.

Regulator to return licence document after suspension

Regulation 526 requires the regulator to return the licence document to the licence holder within 14 days after the suspension of a licence ends.

Division 7 General

Asbestos removal licence register

Regulation 527 requires the regulator to keep a register of persons holding an asbestos removal licence and the supervisors named to the regulator for each asbestos removal licence.

Asbestos assessors register

Regulation 528 requires the regulator to keep a publicly available register of each person holding an asbestos assessor licence.

Work must be supervised by named supervisor

Regulation 529 requires a person who holds an asbestos removal licence to ensure that asbestos removal work permitted under the licence is supervised by a supervisor named to the regulator by the licence holder.

The maximum penalty for contravening regulation 529 is $3 600 for an individual and $18 000 for a body corporate.

Chapter 9 Major hazard facilities

This Chapter regulates the operation of major hazard facilities, as defined in regulation 5. It requires the operator of a facility or proposed facility at which specified quantities of Schedule 15 chemicals are present to notify the regulator.

It imposes duties upon operators of a determined major hazard facility during the determination period about preparation of safety case outlines, hazard identification and risk control, emergency plans, safety management systems, consultation with workers and determination of a safety role for workers. It requires major hazard facilities to be licensed, other than in the determination period.

It imposes complimentary duties upon operators of a licensed major hazard facility about safety case outlines, hazard identification and risk control, emergency plans and safety management systems, and additional duties to provide information to visitors and the local community. It imposes duties upon workers at licensed major hazard facilities.

Duty-holders under this Chapter may have health and safety duties under clauses 20 or 28 of the Act, and duties under Part 5 Division 2 of the Act to consult with workers about matters in this Chapter. clause 27 of the Act applies to officers in respect of this Chapter. This Chapter prescribes requirements for authorisation of workplaces for clause 41 of the Act.

Schedules 15 to 18 of the regulations apply to this Chapter. There are additional regulations about management of risk in Part 2.1 – Risk management, about provision of information in Part 2.2 – General workplace management and about hazardous chemicals in Part 7.1 – Hazardous chemicals.

Defined terms in Chapter 1 which are relevant to this Chapter include facility, major hazard facility, major hazard facility licence, Schedule 15 chemical, threshold quantity.

Part 9.1 Preliminary

Division 1 Application and interpretation

This Chapter does not apply to certain facilities.

Regulation 530 states this Chapter does not apply in relation to a facility that is regulated by the National Offshore Petroleum Safety and Environmental Management Authority under the [Insert relevant jurisdictional regulation here].

Regulation 530(2) states that this chapter does not apply in relation to explosives magazines on mine leases regulated under the [insert relevant jurisdictional regulation here]

Meaning of major incident

Regulation 531 states that a major incident at a major hazard facility is an occurrence that results from an uncontrolled event at the facility involving, or potentially involving, Schedule 15 chemicals and exposes a person to a serious risk to health and safety emanating from an immediate or imminent exposure to the occurrence.

Sub-regulation 531(2) describes an occurrence as including an escape, spillage or leakage, or an implosion, explosion or fire. For example, an occurrence may be initiated by equipment such as a furnace or boiler that of itself does not involve schedule 15 materials but could indirectly cause a loss of containment of such materials from nearby equipment at the facility by fire or explosion damage.

Meaning of hazardous chemicals that are present or likely to be present

Regulation 532 refers to the quantity of hazardous chemicals including Schedule 15 chemicals that would meet the maximum capacity of the facility including the maximum capacity of the items listed in .the maximum quantity of hazardous chemicals which could escape into the facility in the event of a failure of a pipeline located off the premises but connected to the facility and the maximum quantity of hazardous chemicals loaded or unloaded into or from vehicles, trailers, rolling stock and ships that are present at the facility from time to time.

Sub-regulation 532(2) clarifies that sub-regulation 532(1) applies with any necessary changes to hazardous chemicals that are likely to be present at a proposed facility.

Sub-regulation 532(3) exempts Schedule 15 chemicals present or likely to be present in the tailings dam of a mine from being considered in determining whether a mine is a major hazard facility.

Meaning of operator of a facility or proposed facility

Regulation 533 means that the operator of the facility is the PCBU who has management or control of the facility or power to direct that the whole facility be shut down. The operator of a proposed facility includes the operator of an existing workplace or the operator of facility being designed or constructed or, if more than one person is an operator of the facility, one operator must be nominated for the purpose of this Chapter and their details given to the regulator.

Sub-regulation 533(4) requires the nominated person to inform the regulator and may include it in a notification under regulation 536. If a nomination is not made, the operator of the facility is taken to be each operator with management or control of the facility under regulation 533(1) who is an individual and each officer of the body corporate where the operator under regulation 533(1) is a body corporate.

Meaning of modification of a facility

Regulation 534 refers to a change or proposed change at the major hazard facility that has or could have the effect of creating a new major incident hazard or increasing the likelihood or severity of a major incident.

Sub-regulation 534(2) defines a change or proposed change at the facility as including a change to any plant, structure, process, chemical or other substance used in a process including the introduction of new plant, a new structure, a new process or a new chemical. It includes a change in the quantity of Schedule 15 chemicals at the facility or a change in its operator or nature of its operation; a change in the workers' safety role; a change to the facility's safety management system or an organisational change at the facility including a change in senior management.

Division 2 Requirement to be licensed

A major hazard facility must be licensed

Regulation 535 states that a facility in which Schedule 15 chemicals are present or likely to be present in the quantity that exceeds their threshold quantity must be licensed under Part 9.7 and a facility that is determined to be a major hazard facility under regulation 541 must be licensed under Part 9.7. Clause 41 of the Act does not permit a workplace which must be licensed under the regulations to operate without the licence. The operator of a licensed major hazard facility must hold the licence for the facility.

Sub-regulations 535(3) and 535(5) allows a determined major hazard facility to operate during the exemption period without a licence if the operator of the facility is considered to be a suitable person to operate the facility. The exemption period means the period between the determination of the facility as a major hazard facility and the grant of a license part 9.7.

Part 9.2 Determinations about Major Hazard Facilities

Operators of certain facilities must notify regulator

Regulation 536 requires the operator of a facility at which Schedule 15 chemicals are present or likely to be present in a quantity that exceeds 10 per cent of their threshold quantity to notify the regulator. For example, a facility that is being designed and likely to be constructed and where the quantity of schedule 15 chemicals is likely to exceed 10 per cent of their threshold quantity must notify the regulator under this regulation.

The maximum penalty for contravening sub-regulation 536(1) is $6 000 for an individual and $30 000 for a body corporate.

Regulation 536(2) provides that notification should occur as soon as practicable but no more than three months after the operator becomes aware of the circumstances in which the regulator must be notified or a longer period if the regulator is satisfied on application by the operator of a reasonable excuse for the delayed notification.

Notification—proposed facilities

Regulation 537 allows the operator of a proposed facility at which Schedule 15 chemicals are likely to be present in a quantity that exceeds 10 per cent of their threshold quantity to notify the regulator. A proposed facility is defined regulation 5 and the meaning of likely to be present is described in regulation 532.

Sub-regulation 537(2) states that the notification must include information required by regulation 538 with any necessary changes to enable timely interaction between the regulator and the operator before the facility commences operations.

Content of notification

Regulation 538 provides information on the content of the notification required under regulation 536.

Sub-regulation 538(2) details the information that must be contained in the notification including information about the facility and the operator of the facility and whether the operator is an individual or a body corporate.

When regulator may conduct inquiry

Regulation 539 allows the regulator to conduct an inquiry under this Division if notification under regulation 536 or 537 discloses, or the regulator reasonably suspects, that the quantity of Schedule 15 chemicals present or likely to be present at a facility exceeds 10 per cent of their threshold quantity but does not exceed their threshold quantity, or where the operator of the facility may not be a suitable person to operate the facility.

Inquiry procedure

Regulation 540 prescribes the procedure for the regulator when proposing to conduct an inquiry.

Determination in relation to facility, on inquiry

Regulation 541 sets out the basis on which the regulator may determine a facility to be a major hazard facility if the inquiry discloses that the quantity of Schedule 15 chemicals at the facility or proposed facility exceeds 10 per cent of their threshold quantity but does not exceed their threshold quantity.

Sub-regulation 541(2) allows the determination to be made if the regulator considers there is a potential for a major incident to occur due to the quantity or combination of Schedule 15 chemicals present or likely to be present and the type of activity involving Schedule 15 chemicals at the facility and the land use and other activities in the surrounding area.

A determination that a facility or a proposed facility is a major hazard facility is a reviewable decision under regulation 676.

Determination in relation to over-threshold facility

Regulation 542 requires the regulator to make a determination that a facility is a major hazard facility if notification under regulation 536 or 537 discloses that the quantity of Schedule 15 chemicals present or likely to be present at a facility exceeds their threshold quantity.

A determination that a facility is a major hazard facility is a reviewable decision under regulation 676.

Suitability of facility operator

Regulation 543 allows the regulator to determine that the operator of the major hazard facility or proposed major hazard facility is not a suitable person to operate the major hazard facility if the regulator is satisfied on reasonable grounds that, after conducting an inquiry under regulation 540,

the operator is not a suitable person to operate the major hazard facility or proposed major hazard facility.

Sub-regulation 543(3) states that the operator of the major hazard facility or proposed major hazard facility is taken to be a suitable person to operate the major hazard facility and to apply for a major hazard facility licence if no determination is made under this regulation.

A determination that a person is not a suitable operator is a reviewable decision under regulation 676.

Conditions on determination of major hazard facility

Regulation 544 allows the regulator to impose conditions on a determination made under regulations 541 or 542. Examples of conditions that may be imposed include:

- additional control measures that must be implemented in relation to the carrying out of work or activities at the determined major hazard facility
- the provision of additional information to the regulator
- the recording or keeping of additional information

Sub-regulation 544(3) provides that the operator of a determined major hazard facility is required to ensure that the conditions imposed by the regulator under this regulation are complied with.

A decision to impose a condition on a determination is a reviewable decision (see regulation under regulation 676.

Notice and effect of determinations

Regulation 545 sets out the processes that the regulator must follow when making a determination under this part, including the reasons for the determination, the timeframe for the determination to take effect and any conditions on the determination under regulation 544.

Sub-regulation 545(2) requires the notice to be given within 14 days of making the determination.

Sub-regulation 545(3) states that the effect of a determination under regulation 543 means that the operator is not taken to be a suitable person to operate the determined major hazard facility and the exemption provided by sub-regulation 535(3) does not apply to the determined major hazard facility. The effect of a determination under regulations 541 or 542, is prescribed in the definition of determined major hazard facility.

Sub-regulations 545(4) and 545(5) specify when a determination takes effect and that the determination is of unlimited duration unless it is revoked.

When regulator may revoke a determination

Regulation 546 allows the regulator to revoke a determination under this part if, after consultation with the major hazard facility's contact person or operator, the regulator is satisfied that the reasons for the determination no longer apply.

Re-notification if quantity of Schedule 15 chemicals increases

Regulation 547 applies to a facility which provided notification under regulations 536 or 537 that the Schedule 15 chemicals present or likely to be present exceeds 10 per cent of their threshold quantity but did not exceed their threshold quantity and was determined not to be a major hazard facility under regulation 541.

Sub-regulation 547(2) requires the operator of the facility or proposed facility to re-notify the regulator under regulations 536 or 537 if the quantity of Schedule 15 chemicals present or likely to be present at the facility increases, or is likely to increase, to a level that exceeds the level previously notified to the regulator.

The maximum penalty for contravening regulation 547 is $3 600 for an individual and $18 000 for a body corporate.

Notification by new operator

Regulation 548 applies to a new operator of a facility, determined to be a major hazard facility by the regulator under regulation 543 under a previous operator.

Sub-regulation 548(2) prescribes that the new operator is required to notify the regulator of relevant information prescribed in sub-regulation 538(2).

The maximum penalty for contravening sub-regulation 548(2) is $3 600 for an individual and $18 000 for a body corporate.

Time in which major hazard facility licence must be applied for

Regulation 549 provides that the operator of a determined major hazard facility must apply for a major hazard facility licence within 24 months after the determination of the facility.

Sub-regulation 549(2) provides that the regulator may extend the time in which the operator of a determined major hazard facility must apply for a licence if satisfied, on application by the operator, that there has not been sufficient time to comply with Part 9.3.

Part 9.3 Duties of Operators of Determined Major Hazard Facilities

The operator of a determined major hazard facility is required to comply with this Part for a specified period and to prepare a safety case in order to apply for a major hazard facility licence. The Act and Chapter 7 of the Regulations (Hazardous Chemicals) continue to apply to a determined major hazard facility.

Division 1 Application of Part 9.3

Application of Part 9.3

Regulation 550 means that this Part ceases to apply to a determined major hazard facility at the end of the exemption period applying to that facility under regulation 535.

Division 2 Safety case outline

Safety case outline must be provided

Regulation 551 requires the operator of a determined major hazard facility to provide the regulator with a safety case outline for the major hazard facility within 3 months after the facility is determined to be a major hazard facility.

The maximum penalty for contravening regulation 551 is $3 600 for an individual and $18 000 for a body corporate.

Content

Regulation 552 specifies the content that a safety case outline provided under regulation 551 must cover.

Alteration

Regulation 553 allows the regulator to require the operator to alter the outline of the safety case if the regulator is not satisfied that a safety case outline provided by the operator of a determined major hazard facility will lead to the development of a safety case that complies with regulation 561.

Sub-regulations 553(2) and 553(3) prescribe the procedure for the regulator to inform and advise the operator of the requirement to alter a safety case outline, to consider any submission made by the operator and the timeframe for the regulator to inform the operator of the decision on the alteration.

Sub-regulations 553(4), 553(5) and 553(6) provide that the operator must alter the outline as required and give the regulator a copy of the safety case outline that has been altered under this regulation

or that has been altered by the operator under the operator's initiative. The safety case outline as altered becomes the safety case outline for the major hazard facility.

The maximum penalty for contravening sub-regulation 553(4) and 553(5) is $3 600 for an individual and $18 000 for a body corporate.

Division 3 Management of risk

Identification of major incidents and major incident hazards

Regulation 554 requires the operator of a determined major hazard facility to identify all major incidents that could occur in the course of the operation of the major hazard facility and all major incident hazards for the major hazard facility including major incident hazards relating to the security of the major hazard facility.

Sub-regulation 554(2) states that, in complying with regulation 554, the operator must have regard to any advice and recommendations given by the relevant emergency service organisations and any government department or agency with a regulatory role in relation to major hazard facilities.

Sub-regulation 554(3) provides that the operator must document all identified major incidents and major incident hazards, the criteria and methods used in identifying these hazards and any external conditions under which the major incident hazards might give rise to the major incidents, including those relating to the security of the major hazard facility.

The maximum penalty for contravening regulation 554 is $6 000 for an individual and $30 000 for a body corporate.

Safety assessment

Regulation 555 requires the operator of a determined major hazard facility to conduct a safety assessment in relation to operation of the major hazard facility.

Sub-regulation 555(2) outlines the detail that must be contained in the safety assessment including the requirement to analyse all aspects of risks to health and safety associated with major incidents and the range of control measures to be implemented in response to the identified risks.

Sub-regulation 555(3) provides that in conducting a safety assessment, the operator must consider major incidents and major incident hazards cumulatively as well as individually and use assessment methods (whether quantitative or qualitative, or both), that are suitable for the major incidents and major incident hazards being considered.

The maximum penalty for contravening sub-regulations 555(1) and 555(4) is $1 250 for an individual and $6 000 for a body corporate.

Sub-regulation 555(5) provides that the operator is required to document all aspects of the safety assessment including the methods used in investigation and analysis and the reasons for deciding which control measures to implement.

The maximum penalty for contravening sub-regulation 555(5) is $3 600 for an individual and $18 000 for a body corporate.

Control of risk

Regulation 556 requires the operator of a determined major hazard facility to implement control measures that eliminate, as far as is reasonably practicable, the risk of a major incident occurring or, if it is not reasonably practicable to eliminate that risk, to minimise that risk.

Sub-regulation 556(2) provides that the operator of a determined major hazard facility must implement risk control measures designed to minimise, in the event of a major incident occurring, its magnitude and the severity of its consequences to persons both on-site and off-site.

The maximum penalty for contravening regulation 556 is $6 000 for an individual and $30 000 for a body corporate.

Emergency plan

Regulation 557 states that the operator of a determined major hazard facility must prepare an emergency plan that addresses all health and safety consequences of a major incident occurring and includes all matters specified in Schedule 16 and provides for the testing of emergency procedures including the frequency of testing.

The maximum penalty for contravening sub-regulation 557(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 557(2) states that, in preparing an emergency plan, the operator must consult with the relevant emergency service organisations and the local authority in relation to the off-site health and safety consequences of a major incident.

Sub-regulation 557(3) requires the operator to ensure that the emergency plan addresses any recommendations made by the emergency service organisations in relation to the testing of the emergency plan, the frequency and method of testing, the incidents or events at the major hazard facility which should be notified to the emergency service organisations and any other requirements listed in this regulation.

Sub-regulation 557(4) provides that the operator must have regard to any other recommendation or advice given by a person consulted under this regulation.

Sub-regulation 557(5) requires the operator to keep a copy of the plan at the major hazard facility and provide a copy to the emergency service organisations consulted under this regulation and any other relevant emergency service organisations.

The maximum penalty for contravening sub-regulation 557(5) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 557(6) requires the operator to test the emergency plan in accordance with recommendations made by the emergency service organisations before applying for a licence for the major hazard facility.

The maximum penalty for contravening sub-regulation 557(6) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 556(7) provides that the operator must implement the emergency plan as soon as possible if a major incident occurs during the operation of the major hazard facility or an event occurs that could reasonably be expected to lead to a major incident.

The maximum penalty for contravening sub-regulation 557(7) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 557(8) provides that the operator must notify the emergency service organisations consulted under regulation 557(2) of the occurrence of an incident or event referred to under this regulation.

The maximum penalty for contravening sub-regulation 557(8) is $3 600 for an individual and $18 000 for a body corporate.

Safety management system

Regulation 558 means that an operator of a determined major hazard facility must establish a safety management system for the operation of the major hazard facility, in accordance with this regulation and implement the safety management system so far as is reasonably practicable.

The maximum penalty for contravening sub-regulation 558(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 558(2) states that the safety management system must provide a comprehensive and integrated system for the management of all aspects of risk control in relation to the occurrence and potential occurrence of major incidents at the major hazard facility and be designed to be used by the operator as the primary means of ensuring the safe operation of the major hazard facility.

The maximum penalty for contravening sub-regulation 558(2) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 558(4) requires the safety management system to be documented and contain information on the operators safety policy, broad aims and specific objectives on safety and matters specified in Schedule 17. The safety management system must be readily accessible to persons who use it.

Review of risk management

Regulation 559 requires the operator of a determined major hazard facility to review and, if necessary, revise the safety assessment conducted under regulation 555 to ensure the adequacy of control measures, the emergency plan and the safety management system.

Sub-regulation 559(2) requires the operator to conduct a review and revision in specific circumstances including where a health and safety representatives requests a review or where a modification to the major hazard facility is proposed.

Sub-regulation 559(3) provides that, in reviewing and revising the emergency plan, the operator must consult with the emergency service organisations with which the operator consulted under regulation 557 when the plan was prepared.

Sub-regulation 559(4) allows the health and safety representative to request a review if the representative reasonably believes that the circumstances referred to in regulation 559(2) affects or may affect the health and safety of a member of the work group represented by the health and safety representative and the operator has not adequately conducted a review in response to the circumstance.

Division 4 Safety case

Safety case must be provided

Regulation 560 requires the operator of a determined major hazard facility to provide the regulator with a completed safety case for the major hazard facility within 24 months after the facility was determined to be a major hazard facility.

The maximum penalty for contravening regulation 560 is $6 000 for an individual and $30 000 for a body corporate.

Content

Regulation 561 means that the operator must prepare the safety case in accordance with the safety case outline prepared or altered under this Division.

Sub-regulation 561(2) details the information to be contained in the safety case.

Sub-regulations 561(3) and 561(4) state that the safety case must include any further information necessary to ensure that all information contained in the safety case is accurate and up to date. The safety case must demonstrate that the major hazard facility's safety management system will, once implemented, control risks arising from major incidents and major incident hazards, be adequate to control risks associated with the occurrence and potential occurrence of major incidents and meet other requirements outlined in this regulation.

Sub-regulation 561(5) requires the operator to provide a signed statement that the information is accurate and up-to-date and demonstrates a detailed understanding of all aspects of risk to health and safety, the adequacy of the control measures, the knowledge and skills of the people responsible for the safety management system among other requirements outlined in this regulation.

Sub-regulation 561(6) provides that, in the event that the operator is a body corporate, that the safety case be signed by the most senior executive officer of the body corporate who resides in [jurisdiction].

Co-ordination

Regulation 562 allows the regulator to require the operators of two or more major hazard facilities to co-ordinate the preparation of the safety cases if the regulator is satisfied on reasonable grounds that such co-ordination is necessary in the interests of the safe operation and effective safety management of any or all of those major hazard facilities.

Sub-regulation 562(2) provides that if the regulator requires the co-ordinated preparation of safety cases, each operator must provide the other operators with information concerning any circumstances at the operator's facility that could constitute a major incident hazard in relation to any of the other major hazard facilities.

The maximum penalty for contravening sub-regulation 562(2) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 562(3) provides that in complying with regulation 562, the operator is not required to disclose information that may expose the major hazard facility to a major incident hazard in relation to the security of the major hazard facility.

Review

Regulation 563 requires the operator of a determined major hazard facility to review and, as necessary, revise the major hazard facility's safety case after any review is conducted under regulation 559.

The maximum penalty for contravening regulation 563 is $3 600 for an individual and $18 000 for a body corporate.

Part 9.4 Licensed Major Hazard Facilities—Risk Management

This Part applies to a major hazard facility that is licensed under Part 9.7

Identification of major incidents and major incident hazards

Regulation 564 requires the operator of a licensed major hazard facility to identify all major incidents that could occur in the course of the operation of the major hazard facility and all major incident hazards including major incident hazards relating to the security of the major hazard facility.

The maximum penalty for contravening sub-regulation 564(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 564(2) states that, in complying with regulation 564, the operator must have regard to any advice and recommendations given by the relevant emergency service organisations and any government department or agency with a regulatory role in relation to major hazard facilities.

Sub-regulation 564(3) states that the operator must document all identified major incidents and major incident hazards, the criteria and methods used in identifying the major incidents and major incident hazards and any external conditions under which the major incident hazards might give rise to the major incidents, including those relating to the security of the major hazard facility..

The maximum penalty for contravening regulation 564(3) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 564(4) states that all major incidents and major incident hazards identified and documented under regulation 554 in relation to the major hazard facility are taken to have been identified and documented under this regulation.

Safety assessment

Regulation 565 provides that the operator of a licensed major hazard facility must keep a copy of the safety assessment documented under regulation 555 as revised under Part 9.3 and this Part at the facility.

The maximum penalty for contravening regulation 565 is $6 000 for an individual and $30 000 for a body corporate.

Control of risk

Regulation 566 requires the operator of a licensed major hazard facility to implement control measures that eliminate, as far as is reasonably practicable, the risk of a major incident occurring or, if it is not reasonably practicable to eliminate that risk, to minimise that risk.

Sub-regulation 566(2) provides that the operator of a licensed major hazard facility must implement risk control measures designed to minimise, in the event of a major incident occurring, its magnitude and the severity of its consequences to persons both on-site and off-site.

Emergency plan

Regulation 567 states that the operator of a licensed major hazard facility must keep a copy of the major hazard facility's emergency plan prepared under regulation 557 as revised under Part 9.3 and this Part at the facility.

The maximum penalty for contravening sub-regulation 567(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 567(2) requires the operator to test the emergency plan in accordance with recommendations made by the emergency service organisations consulted under regulation 557 when the plan was prepared.

The maximum penalty for contravening sub-regulation 567(2) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 567(3) provides that the operator must implement the emergency plan as soon as possible if a major incident occurs in the course of the operation of the major hazard facility or an event occurs that could reasonably be expected to lead to a major incident.

The maximum penalty for contravening sub-regulation 567(3) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 567(4) provides that the operator must notify the emergency service organisations consulted under sub-regulation 557(2) of the occurrence of an incident or event referred to in regulation 557(3) as soon as practicable after the incident or event.

The maximum penalty for contravening sub-regulation 567(4) is $3 600 for an individual and $18 000 for a body corporate.

Safety management system

Regulation 568 states that the operator of a licensed major hazard facility must implement the major hazard facility's safety management system established under regulation 558 as revised under Part 9.3 and this Part.

The maximum penalty for contravening regulation 568 is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 568(2) requires the operator to use the safety management system as the primary means of ensuring the health and safety of workers engaged or at work in the operation of the major hazard facility in the circumstances set out in this regulation.

Review of risk management

Regulation 569 requires the operator of a licensed major hazard facility to review and, if necessary, revise the safety assessment to ensure the adequacy of control measures, the emergency plan and the safety management system.

The maximum penalty for contravening regulation 569 is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 569(2) provides that the operator must conduct a review and revision in specific circumstances including when a health and safety representative requests a review or where a modification to the major hazard facility is proposed. In conducting the review and revision of the safety assessment, the operator must comply with the requirements set out in sub-regulations 555(2), 555(3) and 555(4).

Sub-regulation 569(4) provides that, in reviewing and revising the emergency plan, the operator must consult with the emergency service organisations with which the operator consulted under regulation 557 when the plan was prepared. The health and safety representative may request a review if the representative reasonably believes that the circumstances referred to in sub-regulation 559(2) affects or may affect the health and safety of a member of the work group represented by the health and safety representative and the operator has not adequately conducted a review in response to the circumstance.

Safety case—review

Regulation 570 states that the operator of a licensed major hazard facility must review and as necessary revise the safety case after any review is conducted under regulation 569. The operator of a licensed major hazard facility is required to tell the regulator about any change in relation to certain information about the licence under regulation 588.

The maximum penalty for contravening regulation 570 is $3 600 for an individual and $18 000 for a body corporate.

Information for visitors

Regulation 571 provides that the operator of a licensed major hazard facility must ensure that a person who enters the major hazard facility, other than a worker, is informed, as soon as practicable, about hazards at the major hazard facility that may affect the person. The person must be instructed in safety precautions and the actions the person should take if the emergency plan is implemented while the person is on-site

The maximum penalty for contravening regulation 571 is $6 000 for an individual and $30 000 for a body corporate.

Information for local community—general

Regulation 572 sets out the information that the operator of a licensed major hazard facility must provide to the community and the local authority.

Sub-regulation 572(2) prescribes the information must be readily accessible and understandable, reviewed and revised if any modification of the major hazard facility occurs and sent out in writing to any community or public library serving the local community.

Sub-regulation 572(3) provides that in complying with regulation 572(1), the operator is not required to disclose information that may expose the major hazard facility to a major incident hazard in relation to the security of the major hazard facility.

Sub-regulation 572(4) requires the operator of a licensed major hazard facility, after receiving a written request from a person who reasonably believes that that the occurrence of a major incident at the major hazard facility may adversely affect his or her health or safety, to provide a copy of the information provided to the local community under this regulation to the person.

The maximum penalty for contravening sub-regulation 572(4) is $1 250 for an individual and $6 000 for a body corporate.

Information for local community—major incident

Regulation 573 states that the operator of a major hazard facility must, as soon as practicable after a major incident occurs, take all reasonable steps to provide the persons specified in sub-regulation 573(2) with information about the major incident. The information must include a general description of the major incident, a description of the actions the operator has taken and proposes to take to prevent any recurrence of the major incident or the occurrence of a similar major incident and

recommended actions that the local authority and members of the local community should take to eliminate or minimise risks to health and safety.

The maximum penalty for contravening sub-regulation 573(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 573(2) also requires information about the major incident to be given to the local community, if a member of the local community was affected by the major incident, to the local authority, and to any government department or agency with a regulatory role in relation to major hazard facilities.

Part 9.5 Consultation and Workers' Safety role

Safety role for workers

Regulation 574 requires the operator of a determined major hazard facility to implement, within the time specified in the safety case outline for the major hazard facility, a safety role for the workers at the major hazard facility to enable them to respond to certain circumstances set out in this regulation.

The maximum penalty for contravening sub-regulation 574(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 574(2) states that the operator of a licensed major hazard facility must implement a safety role for workers at the facility so as to enable them to contribute to the conduct of a review under regulation 569.

The maximum penalty for contravening sub-regulation 574(2) is $6 000 for an individual and $30 000 for a body corporate.

Operator of major hazard facility must consult with workers

Regulation 575 requires the operator of a determined major hazard facility to consult with workers at the major hazard facility in relation to the areas outlined under this regulation. The duty to consult with workers is covered under clause 49 of the Act.

The maximum penalty for contravening sub-regulation 575(1) is $6 000 for an individual and $30 000 for a body corporate.

Sub-regulation 575(2) requires the operator of a licensed major hazard facility to consult with workers at the major hazard facility in relation to the areas outlined in this regulation.

Part 9.6 Duties of Workers at Licensed Major Hazard Facilities

Duties

Regulation 576 sets out the duties of a worker at a licensed major hazard facility as outlined under this regulation.

The maximum penalty for contravening sub-regulation 576(1) is $3 600 for an individual and $18 000 for a body corporate.

Sub-regulation 576(2) states that a worker is not required to comply with sub-regulation 576(1) if to do so would risk the health or safety of the worker or of another worker or other person.

Part 9.7 Licensing of major hazard facilities

Division 1 Licensing process

Who may apply for a licence

Regulation 577 means that only an operator of a determined major hazard facility who is taken to be a suitable operator under regulation 543 may apply for a major hazard facility licence for that facility.

Application for major hazard facility licence

Regulation 578 sets out that a major hazard facility licence must be made in the manner and form prescribed by the regulator. Sub-regulation 578(2) sets out the information required in the application for a major hazard facility licence.

Additional information

Regulation 579 outlines the procedure for the regulator to request further information from the operator if the application does not contain sufficient information to enable the regulator to make a decision whether or not to grant the licence.

Sub-regulations 579(3) and 579(4) state that if the operator does not provide the additional information by the date specified, the application is to be taken to have been withdrawn. The regulator may make more than one request for additional information under this regulation.

Decision on application

Regulation 580 states that the regulator must grant a major hazard facility licence if satisfied that the application has been made in accordance with the regulations, the safety case for the facility has been prepared in accordance with Division 4 of Part 9.3, the operator is able to operate the major hazard facility safely and competently and the operator is able to comply with any conditions that will apply to the licence.

Sub-regulation 580(3) allows the regulator to refuse to grant a major hazard facility licence if it becomes aware of circumstances that satisfy it that the operator (if the operator is an individual) or an officer of the body corporate (if the operator is a body corporate) is not a suitable person to exercise management or control over the major hazard facility.

Sub-regulation 580(4) requires the regulator to refuse to grant a major hazard facility licence if satisfied that the operator, in making the application, has given information that is false or misleading in a material way or failed to give any material information that should have been given.

Sub-regulations 580(5) and 580(6) set out the timeframe for the regulator to notify the operator of the decision to grant a license. If the regulator does not make a decision within 6 months after receiving the application or the additional information requested under regulation 579, the regulator is taken to have refused to grant the licence.

A decision to refuse to grant a major hazard facility licence including under sub-regulation 580(6) is a reviewable decision under regulation 676.

Matters to be taken into account

Regulation 581 outlines the relevant matters that the regulator must take into account when considering whether to refuse a licence to an operator under regulation 580(3) where the operator is an individual.

Sub-regulation 581(2) sets out the relevant matters that the regulator must take into account when considering whether to refuse a licence to an operator under regulation 580(3) if the operator is a body corporate.

When decision is to be made

Regulation 582 states that the regulator must make a decision in relation to an application for a major hazard facility licence within 6 months after receiving the application or the additional information requested under regulation 579.

Refusal to grant major hazard facility licence—process

Regulation 583 sets out the procedure for the regulator to refuse to grant a major facility licence. Sub-regulation 583(2) requires, in the event that the operator makes a submission in response to the regulator's decision, the regulator to consider the submission, decide whether to grant or refuse

the licence and provide the decision to the operator, including the reasons for the decision, in writing within 14 days of making the decision.

Conditions of licence

Regulation 584 allows the regulator to impose conditions on a major facility licence when granting or renewing the licence in relation to the matters outlined in sub-regulation 584(2).

This regulation notes that a person must comply with the conditions of a licence under clause 45 of the Act.

A decision to impose a condition on a licence is a reviewable decision under regulation 676.

Duration of licence

Regulation 585 provides that, subject to this Part, a major hazard facility licence takes effect on the day it is granted and, unless cancelled earlier, expires on the day determined by the regulator, which must be not more than 5 years after the day the licence was granted.

Licence document

Regulation 586 sets out the form of the licence document issued by the regulator to the operator if the regulator grants a major hazard facility licence. The licence document must include the information outlined in sub-regulation 586(2).

Licence document to be available

Regulation 587 requires the operator of the major hazard facility to keep the licence document available for inspection under the Act unless the licence document has been returned to the regulator under regulation 593.

Sub-regulation 587(2) outlines the instances in which sub-regulation 587(1) does not apply.

The maximum penalty for contravening sub-regulation 587(1) is $1 250 for an individual and $6 000 for a body corporate.

Division 2 Amendment of licence and licence document

Changes to information

Regulation 588 requires the operator of a licensed major hazard facility to give the regulator written notice of any change to any material particular in any information provided by the operator at any time to the regulator in relation to the licence within 14 days after the operator becomes aware of the change. Example include changes to the content of the safety case such as modifications, new risk assessments and changes to the safety management system or management structure

The maximum penalty for contravening sub-regulation 588(1) is $1 250 for an individual and $6 000 for a body corporate.

Amendment imposed by regulator

Regulation 589 allows the regulator on its own initiative to amend a major hazard facility licence, including to vary or delete a condition or to impose a new condition on the licence. The procedure for the regulator to amend the licence and to inform the operator of this decision is outlined in sub-regulations 589(2) and 589(3).

Amendment on application by operator

Regulation 590 allows the regulator to amend the licence on application by the operator of a licensed major hazard facility. The process for the regulator to either amend or refuse to amend the licence is set out in sub-regulation 590(2) to 590(5).

Minor corrections to major hazard facility licence

Regulation 591 allows the regulator to make minor corrections to a major hazard facility licence.

Regulator to provide amended licence document

Regulation 592 provides that, if the regulator amends a major hazard facility licence and considers that the licence document requires amendment, the regulator must give the operator an amended licence document within 14 days

Operator to return licence

Regulation 593 means that if a major hazard facility licence is amended, the operator of the licensed major hazard facility must return the licence document to the regulator for amendment at the written request of the regulator and within the time specified in the request.

The maximum penalty for contravening sub-regulation 593 is $1 250 for an individual and $6 000 for a body corporate.

Replacement licence document

Regulation 594 prescribes the requirements for an operator to apply for a replacement licence in the event that the licence is lost, stolen or destroyed.

Sub-regulation 594(4) sets out what must be included in the application for a replacement licence document.

The maximum penalty for contravening sub-regulation 594(1) is $1 250 for an individual and $6 000 for a body corporate.

Division 3 Renewal of major hazard facility licence

Regulator may renew licence

Regulation 595 allows the regulator to renew a major hazard facility licence on application by the operator.

Application for renewal

Regulation 596 sets out the procedures for the operator of a licensed major hazard facility to apply to the regulator to renew a major hazard facility licence.

Licence continues in force until application is decided

Regulation 597 provides that, if the operator of a licensed major hazard facility applies under regulation 596 for the renewal of a major hazard facility licence, the licence is taken to continue in force from the day it would have ended until the operator is given notice of the decision on the application.

Provisions relating to application

Regulation 598 outlines the provisions relating to the application to renew a licence.

A decision to refuse to renew a licence is a reviewable decision under regulation 676.

Status of major hazard facility licence during review

Regulation 599 states that if, before a major hazard facility licence expires, the regulator gives the operator written notice that it proposes to refuse to renew the licence, the licence continues to have effect under this regulation.

Sub-regulation 599(2) requires that if the operator does not apply for an external review, the licence continues to have effect until the expiry of the licence or the end of the period for applying for an external review.

Sub-regulation 599(3) outlines what happens to a licence if the operator applies for an external review, the licence continues to have effect until the operator withdraws the application for review or until the external review body, [body] makes a decision on the review. Sub-regulation 599(4) notes that the licence continues to have effect under this regulation even if its expiry date passes.

Division 4 Transfer of major hazard facility licence

Transfer of major hazard facility licence

Regulation 600 allows the regulator, on the application of the operator of a major hazard facility, to transfer a major hazard facility licence to another person who is to become the operator of the major hazard facility. The regulator must be satisfied that the proposed operator will achieve a standard of health and safety in the operation of the facility that is at least equivalent to the standard that the current operator has achieved. This could be achieved, for example, by a signed document committing the operator to adopting the safety case and safety management system in use when the original licence was granted or a safety case and safety management system that provides the same or better level of safety. The process for the regulator to transfer the licence is set out in sub-regulation 600(2) to 600(4).

Division 5 Suspension and cancellation of major hazard facility licence

Cancellation of major hazard facility licence—on operator's application

Regulation 601 sets out the process for the operator to apply to the regulator to suspend or cancel a major hazard facility licence.

Sub-regulation 601(3) requires the regulator to conduct an inquiry into the inventory and operations of the facility before deciding on an application to cancel a licence.

A decision to refuse to cancel a licence is a reviewable decision under regulation 676

Suspension or cancellation of licence—on regulator's initiative

Regulation 602 allows the regulator on its own initiative to suspend or cancel a major hazard facility licence if satisfied on grounds set out in sub-regulation 601(1).

Sub-regulation 602(2) provides the regulator with the ability to disqualify the operator from applying for a further major hazard facility licence if the regulator suspends or cancels a major hazard facility licence.

A decision to suspend a licence, to cancel a licence or to disqualify the operator from applying for a further licence is a reviewable decision under regulation 676.

Matters to be taken into account

Regulation 603 sets out the matters that the regulator must take into account when making the decision to suspend or cancel a major hazard facility licence.

Sub-regulations 603(2) and 603(3) sets out additional matters the matter must have regard to if the operator is an individual or a body corporate.

Notice to and submissions by operator

Regulation 604 outlines the procedures to be followed by the regulator before suspending or cancelling a major hazard facility licence.

Notice of decision

Regulation 605 outlines the method of delivery and the information to be provided in the notice of the decision by the regulator to the operator in relation to the suspension or cancelation of a major hazard facility licence.

Immediate suspension

Regulation 606 allows the regulator to suspend a major hazard facility licence on a ground referred to in regulation 602 without giving notice under regulation 603 on grounds outlined in sub-regulation 606(1). The process for the regulator to inform the operator of the suspension of the major hazard facility licence is set out in sub-regulations 606(2) to 606(5).

Operator to return licence document

Regulation 607 requires an operator, on receiving a notice under regulation 605, to return the licence document to the regulator in accordance with the notice.

The maximum penalty for contravening regulation 607 is $1 250 for an individual and $6 000 for a body corporate.

Regulator to return licence document after suspension

Regulation 608 states that the regulator must return the licence document to the operator within 14 days after the suspension ends.

Chapter 11 General

Chapter 11 sets out the requirements for the processes of internal review and external review of reviewable decisions. It also outlines how the regulator may grant an exemption to a person or a class of persons from complying with a provision of the regulation. It also prescribes the list of the prescribed serious illnesses requiring notification under clause 36 of the Act.

Part 11.1 Review of Decisions

Division 1 Reviewable decisions

Which decisions are reviewable

Regulation 676 sets out all the decisions made under the regulations that are reviewable and who is eligible to apply for a review of each reviewable decision.

Division 2 Internal review

Application

Regulation 677 provides that the internal review process does not apply to a reviewable decision made under chapter 9 (Major Hazardous Facilities) or under part 11.2 (Exemptions) of the regulations.

Application for internal review

Regulation 678 sets out the requirements for an application for an internal review of a reviewable decision.

Internal reviewer

Regulation 679 allows the regulator to appoint a person or a body to review decisions on applications about internal review.

Sub-regulation 679(2) clarifies that the person who made the reviewable decision cannot be an internal reviewer in relation to that decision.

Decision of internal reviewer

Regulation 680 prescribes the timeframes and processes the internal reviewer must follow when reviewing a reviewable decision. This includes reviewing the reviewable decision and making a decision as soon as practicable and within 14 days after the application is received or receipt of any additional information requested by the internal reviewer.

Sub-regulation 680(3) provides that the regulator may ask the applicant to provide additional information in support of the application for review. If the internal reviewer requests additional information, the applicant must provide the information within the time specified by the internal reviewer (sub-regulation 680(4)). Once the additional information is received, the internal reviewer must make a decision as soon as practicable and within 14 days. If the additional information is not provided by the applicant, the reviewable decision is taken to have been confirmed at the end of the time period (sub-regulation 680(5)).

Sub-regulation 680(6) states that if the reviewable decision is not varied or set aside within the 14 day time period, the reviewable decision is taken to have been confirmed by the internal reviewer.

Decision on internal review

Regulation 681 provides that the internal reviewer must give written notice of the decision on the internal review and the reasons for the decision to the applicant within 14 days of making the decision.

Internal review—reviewable decision continues

Regulation 682 clarifies that an application for an internal review does not affect the operation of the reviewable decision or prevent the taking of any lawful action to implement or enforce the decision.

Division 3 External review

Application for external review

Regulation 683 sets out the requirements for an application for an external review of a reviewable decision made by the regulator under chapter 9 (Major Hazardous Facilities) or under part 11.2 (Exemptions) of the regulation, or a decision made in relation to an internal review.

Sub-regulation 683(2) outlines the time limits which the application must be made within.

Part 11.2 Exemptions

Division 1 General

General power to grant exemptions

Regulation 684 provides that the regulator may exempt a person or class of persons from compliance with any of these regulations either on the regulator's own initiative or on the written application of one or more persons. The exemption may be subject to certain limitations, but does not apply to an exemption from:

- a provision requiring a person to hold a high risk work licence; or
- a provision of chapter 9 relating to a major hazard facility or proposed major hazard facility.

Matters to be considered in granting exemptions

Regulation 685 prescribes a non-exhaustive list of the matters that the regulator must consider before granting an exemption under regulation 684.

Division 2 High risk work licences

High risk work licence—exemption

Regulation 686 provides that the regulator may exempt a person or a class of persons from a requirement to hold a high risk work licence. Sub-regulation 686(2) provides that the exemption may be granted on the written application of any person concerned. The note to regulation 686 provides that a decision to refuse to grant an exemption is a reviewable decision.

High risk work licence—regulator to be satisfied about certain matters

Regulation 687 specifies the matters that the regulator must be satisfied about before granting an exemption in relation to holding a high risk work licence under regulation 686.

Sub-regulation 687(2) specifies the matters which the regulator must have regard to for the purpose of regulation 687.

Division 3 Major hazard facilities

Major hazard facility—exemption

Regulation 688 provides that the regulator may exempt the operator of a major hazard facility or proposed major hazard facility from any regulatory provision relating to that facility. The exemption may be granted on the written application of the operator of the major hazard facility or proposed major hazard facility. The note to regulation 688 provides that a decision to refuse to grant an exemption is a reviewable decision.

Major hazard facility—regulator to be satisfied about certain matters

Regulation 689 specifies the matters that the regulator must be satisfied about, and have regard to, before granting an exemption in relation to a major hazard facility or proposed major hazard facility under regulation 688.

Division 4 Exemption process

Application for exemption

Regulation 690 provides that an application for an exemption must be made in the manner and form required by the regulator.

Conditions of exemption

Regulation 691 allows the regulator to impose any conditions it considers appropriate on an exemption granted under part 11.2. The conditions imposed on the exemption may require the applicant to do certain things as stated in sub-regulation 691(2). The note to regulation 691 provides that a decision to impose a condition is a reviewable decision.

Form of exemption

Regulation 692 provides that an exemption must be in writing and lists the matters that it must state.

Compliance with conditions of exemption

Regulation 693 specifies that a person who is granted an exemption must comply with the conditions of the exemption. The person must also ensure that any person under the management or control of that person complies with the conditions of the exemption.

Notice to applicant of decision in relation to exemption

Regulation 694 requires the regulator to give the applicant a copy of the exemption within 14 days of making the decision to grant the exemption.

Publication of notice of exemption

Regulation 695 provides that where an exemption relates to a class of persons, the regulator must publish a copy of the exemption in the [jurisdiction] Government Gazette.

Notice of refusal of exemption

Regulation 696 requires that if the regulator refuses to grant an exemption, the regulator must notify the applicant in writing about the refusal within 14 days after making that decision. The notice must state the reasons for the refusal.

Amendment or cancellation of exemption

Regulation 697 provides that the regulator may amend or cancel an exemption at any time. The note to regulation 697 provides that a decision to amend or cancel an exemption is a reviewable decision.

Notice of amendment or cancellation

Regulation 698 sets out what the regulator must do if the regulator decides to amend or cancel an exemption.

The regulator must notify the applicant in writing about the amendment or cancellation within 14 days after making that decision. The notice must state the reasons for the amendment or cancellation. The amendment or cancellation takes effect either on the giving of the notice to the applicant or on a later date specified in the notice.

If the exemption affects a class of persons, the regulator must publish notice of the amendment or cancellation in the [jurisdiction] Government Gazette (sub-regulation 698(2)). The notice must state the reasons for the amendment or cancellation. Sub-regulation 698(4) states that the amendment or

cancellation takes effect either on the publication of the notice or on a later date specified in the notice.

Part 11.3 Miscellaneous

Incident notification—prescribed serious illnesses

Regulation 699 specifies certain conditions to be a serious illness for the purposes of clause 36 of the Act.

Inspectors' identity cards

Regulation 700 lists the matters that an identity card given by the regulator to an inspector for the purposes of subclause 157(1) of the Act must include.

Review of decisions under the Act—stay of decision

Regulation 701 provides that for the purposes of clause 228(6)(a) of the Act, the prescribed period for a sat of decision is [timeframe].

Confidentiality of information- exception relating to administration or enforcement of other laws

Regulation 702 prescribes a corresponding WHS law for the purposes of clause 271(3)(c)(ii) of the Act.

Part 11.4 Transitional and saving provisions

[Jurisdictions to include transitional and savings provisions]

Schedule 1 Revocation of regulations

Schedule 1 prescribes the regulations that will be revoked.

Schedule 2 Fees

Schedule 2 specifies the fees to be paid under the regulations and when they must be paid.

Schedule 3 High risk work licences and classes of high risk work

Schedule 3 sets out the high risk work licences and the classes of high risk work that are within the scope of each licence.

Certain High Risk Work (HRW) licences contained in Schedule 3 to the regulations may encompass licences of a lower level of competency. For example, the holder of a 'Personnel and Materials Hoist HRW licence' can operate a materials hoist without also holding a 'Materials Hoist HRW licence'. This is because the Personnel and Materials Hoist HRW licence requires a higher level of competency, to operate a personnel and materials hoist, compared to the less complex operation of a materials hoist.

The descriptions in column 3 of Schedule 3 clarifies if the HRW licence encompasses lower level competency licences. The hierarchy is made clear by the highest level of competency listed at the top of the class description, with additional lower level competency classes listed beneath. For example, the holder of a 'Slewing Mobile Crane–with capacity up to 60 tonnes' HRW licence can operate a slewing mobile crane with a capacity of 20 tonnes or less- 20 tonnes being much less than 60 tonnes - without separately holding a the lower level of competency 'Slewing Mobile Crane–with capacity up to 20 tonnes' HRW licence.

Schedule 4 High risk work licences—competency requirements

Schedule 4 sets out the qualifications required for a high risk work licence.

Schedule 5 Registration of plant and plant design

Schedule 5 lists the items of plant requiring registration of design under regulation 243. It also lists the items of plant that are required to be registered under regulation 246.

Part 1 Plant requiring registration of design

List of plant items requiring registration of design

Clause 1 identifies the items of plant that are required to be design registered under regulation 243.

Exceptions

Clause 2 prescribes certain items of plant and class 1 structures that are not included in the plant design registration requirements.

Part 2 Plant items requiring registration

List of plant items requiring registration

Clause 3 prescribes the items of plant that are required to be item registered under regulation 246.

Exceptions

Clause 4 prescribes certain items of plant and class 1 structures that are not included in the plant item registration requirements.

Schedule 6 Classification of mixtures

Table 6.1 provides the cut/off values/concentration limits of ingredients of a mixture classified as either a respiratory sensitiser or a skin sensitiser that would trigger classification of the mixture.

Table 6.2 specifies the cut-off values/concentration limits of ingredients of a mixture classified as a carcinogen that would trigger classification of the mixture.

Table 6.3 outlines the cut-off values/concentration limits of ingredients of a mixture classified as a reproductive toxicant or for effects on or via lactation that would trigger classification of the mixture.

Table 6.4 specifies the cut-off values/concentration limits of ingredients of a mixture classified as a specific target organ toxicant that would trigger classification of the mixture.

Table 6.5 provides the cut-off values/concentration limits of ingredients of a mixture classified as a specific target organ toxicant that would trigger classification of the mixture.

Schedule 7 Safety data sheets

Safety data sheets—content

Clause 1 outlines the information to be contained in a safety data sheet. This clause sets out the information about the chemical to be contained in a safety data sheet and states that the safety data sheet must be in English.

Safety data sheets—research chemical, waste product or sample for analysis

Clause 2 outlines the information to be contained in a safety data sheet for a hazardous chemical that is a research chemical, waste product or sample for analysis for the purpose of regulation 331.

Schedule 8 Disclosure of ingredients

Identity of ingredients to be disclosed

Clause 1 applies if an ingredient in a hazardous chemical causes the correct classification of the chemical to include a hazard class and hazard category referred to in table 8.1. The identity of the ingredient must be disclosed in English on the label and safety data sheet of the hazardous chemical.

Generic names used to disclose identity of ingredients

Clause 2 applies if an ingredient of a hazardous chemical must be disclosed under clause 1 and this clause and sets out the grounds on which the ingredient may be disclosed by its generic name.

Disclosing proportions of ingredients

Clause 3 sets out the grounds on which the proportions of the ingredients to the hazardous chemical must be disclosed.

Schedule 9 Classification, packaging and labelling requirements

Part 1 Correct classification

Correct classification of a substance, mixture or article

Regulation 1 states that a substance or mixture (other than a research chemical, sample for analysis or waste product) is **correctly classified** if a determination is made about whether the substance or mixture can be classified into a hazard class under the GHS including a mixture classification referred to in Schedule 6.

Regulation 1(2) states that a substance or mixture that is a research chemical, sample for analysis or waste product is **correctly classified** if, so far as is reasonably practicable having regard to the known or suspected properties of the substance or mixture, a determination is made about the identity of the substance or mixture; and a determination is made about whether the substance or mixture can be classified into a hazard class under the GHS..

Part 2 Correct packing

Correctly packing hazardous chemicals

Clause 2 outlines the requirements for a hazardous chemical to be correctly packed in a container.

Part 3 Correct labelling

Labelling hazardous chemicals—general

Clause 3 sets out the requirements for a hazardous chemical to be correctly labelled if the chemical is packed in a container that has a label in English.

Labelling hazardous chemicals—small container

Clause 4 applies if a hazardous chemical is packed in a container that is too small for a label attached to it to include all the information referred to in clause 1.

Labelling hazardous chemicals—research chemicals or samples for analysis

Clause 5 applies to a hazardous chemical that is a research chemical or sample for analysis. The hazardous chemical is **correctly labelled** if the chemical is packed in a container that has a label in English including the product identifier and a hazard pictogram or hazard statement consistent with the correct classification of the chemical.

Labelling hazardous chemicals—decanted or transferred chemicals

Clause 6 applies if a hazardous chemical is decanted or transferred from the container in which it is packed and either will not be used immediately or is supplied to someone else. The hazardous chemical is correctly labelled if the chemical is packed in a container that has a label in English including the product identifier and a hazard pictogram or hazard statement consistent with the correct classification of the chemical.

Labelling hazardous chemicals—known hazards

Clause 7 applies to a hazardous chemical if the chemical is not being supplied to another workplace and the hazards relating to the chemical are known to the workers involved in using, handling or storing the chemical, the hazardous chemical is **correctly labelled** if the chemical is packed in a container that has a label in English including the product identifier and a hazard pictogram or hazard statement consistent with the correct classification of the chemical.

Labelling hazardous chemicals—waste products

Clause 8 applies to a waste product if it is reasonably likely that the waste product is a hazardous chemical.

Labelling hazardous chemicals—explosives

Clause 9 applies to a hazardous chemical that may be classified in the explosives hazard class.

Labelling hazardous chemicals—agricultural and veterinary chemicals

Clause 10 applies to an agricultural or veterinary chemical which is **correctly labelled** if the chemical is labelled in accordance with the requirements of the Australian Pesticides and Veterinary Medicines Authority.

Schedule 10 Prohibited and restricted hazardous chemicals and carcinogens

Table 10.1 lists prohibited carcinogens

Table 10.2 itemises restricted carcinogens and their restricted use.

Table 10.3 itemises restricted hazardous chemicals and their restricted use.

Schedule 11 Placard and manifest quantities

Determination of classification of flammable liquids

Table 11.1 sets out the placard and manifest quantities of hazardous chemicals.

Schedule 12 Manifest requirements

Clause 1 outlines the general information required in a manifest of hazardous chemicals.

Clause 2 sets out the information required in a manifest for a hazardous chemical stored at a workplace in bulk or in a container.

Clause 3 requires the manifest of hazardous chemicals to include the shipping name, the UN number, the class and division as stated in Table 3.2.3 of the ADG Code and specific information required for a flammable liquid category 4, an unstable explosive, organic peroxide type A or self-reactive substance type A.

Clause 4 applies to a manifest for a storage area for packaged hazardous chemicals if the storage area contains a packaged hazardous chemical or a hazardous chemical in an intermediate bulk container and is required under these regulations to have a placard and the hazardous chemicals are dangerous goods under the ADG Code.

Subclauses 4(2) and 4(3) set out the content of the manifest of hazardous chemicals.

Clause 5 provides the content for the manifest for each area where hazardous chemicals are being manufactured.

Clause 6 applies to information required in a manifest where hazardous chemicals are in transit.

Clause 7 applies to the scale plan required in a manifest of hazardous chemicals in a workplace.

Schedule 13 Placard requirements

Clause 1 sets out the requirements for a PCBU to display placards at a workplace in relation to a hazardous chemical.

Clause 2 outlines the requirements for a PCBU, who must display a placard, to maintain and amend the placard.

Clause 3 sets out when a PCBU must display an outer warning placard at the workplace in relation to a hazardous chemical and the format of the outer warning placard.

Clause 4 outlines the specific hazardous chemicals requiring a placard that are stored in bulk.

Clause 5 applies to placards displayed for unstable explosives, organic peroxides type A or self-reactive substances type A that are stored in bulk.

Clause 5 relates to placards displayed at a workplace for packaged Schedule 11 hazardous chemicals (other than flammable liquids category 4) and IBCs.

Clause 7 applies to placards to be displayed for flammable liquids category 4 packaged or in bulk.

Schedule 14 Requirements for health monitoring

Table 14.1 itemises the hazardous chemicals other than lead requiring health monitoring and the type of health monitoring for each chemical.

Table 14.2 outlines the type of health monitoring required for lead.

Schedule 15 Hazardous chemicals at major hazard facilities (and their threshold quantity)

Clause 1 provides the definitions for this Schedule

Clause 2 states that the hazardous chemicals that characterise a workplace as a facility for the purposes of these regulations are the chemicals specifically referred to in table 15.1 and chemicals that belong to the types, classes and categories referred to in table 15.2.

Clause 3 sets out how the threshold quantity of a hazardous chemical is determined under this Schedule.

Clause 4 outlines the formula to be applied to calculate the threshold where there is more than one hazardous chemical.

Clause 5 outlines how table 15.1 in this Schedule, which specifies the threshold quantity of a hazardous chemical, is to be applied.

Clause 6 outlines how table 15.2 in this Schedule, which specifies the threshold quantities for explosive materials, is to be applied.

Schedule 16 Matters to be included in emergency plan for major hazard facility

Clause 1 outlines the information required on the site and hazard detail.

Clause 2 requires detail of the command structure and site personnel

Clause 3 outlines the responsibilities for notification in the event of a major incident or an event that could be expected to lead to a major incident.

Clause 4 identifies the resources and equipment required to handle on-site and off-site emergencies.

Clause 5 sets out the procedures required for safe evacuation, the control points for utilities, the control of incidents involving Schedule 15 chemicals and for decontamination following an incident.

Schedule 17 Additional matters to be included in safety management system for major hazard facility

Clause 1 outlines the requirement to have a safety policy and objectives

Clause 2 provides for the identification of personnel competent to participate in the safety management system and a description of the command structure in place to support the system.

Clause 3 requires a description of the operational controls for the safe operation of plant

Clause 4 provides for the description of the means by which the operator complies with their duties under the Act and Chapter 9 of the regulations.

Clause 5 requires a description of the procedures for managing change.

Clause 6 provides for a statement of principles concerning design and engineering standards to ensure the safe operation of the major hazard facility.

Clause 7 outlines the requirements for performance standards for measuring the effectiveness of the safety management system.

Clause 8 requires the auditing of performance against the performance standards

Schedule 18 Additional matters to be included in safety case for major hazard facility

Clause 1 requires the safety case to include a brief description of the nature of the facility and its operation, including a description of on-site activities and processes that involve or will involve Schedule 15 chemicals.

Clause 2 requires the safety case to include a scaled plan of the facility and its surrounding area.

Clause 3 requires the safety case to include detailed description of the control measures designed to limit the consequences of major incidents.

Clause 4 states that the safety case must include a detailed description of the performance standards and performance indicators required by item 7 of Schedule 17 to be included in the safety management system.

Clause 5 provides that the safety case must clearly reference the relevant part of the documented safety management system.

Clause 6 requires a description of the steps taken to ensure that safety and reliability are incorporated into the design and construction of all aspects of the major hazard facility itself.

Clause 7 states that a summary of the major incidents that have occurred at the major hazard facility over the previous 5 years must be provided.