

EXPLANATORY STATEMENT – MODEL WORK HEALTH AND SAFETY REGULATIONS AMENDMENT (DIVING WORK) 2018 – Model Provisions

The *Model Work Health and Safety Regulations Amendment (Diving Work) 2018* (Diving Work Amendments) amends Part 4.8 (Diving Work) of the model WHS Regulations to correct minor errors and inconsistencies in drafting and update references to standards.

Details of the Model Work Health and Safety Regulations Amendment (Diving Work) 2018

Regulation 1 – Name of model provisions

This regulation sets out the name of the Diving Work Amendments.

Regulation 2 – Legislation amended

This regulation provides that Schedule 1 amends the model WHS Regulations.

Schedule 1 – Amendments to the model WHS Regulations

Item [1] Regulation 5 Definitions

This item updates the definition of “fitness criteria” by replacing the references to “AS/NZS 2299.1:2007 - *Occupational diving operations*” with the most up-to-date standard “AS/NZS 2299.1:2015 - *Occupational diving operations*”.

Item [2] Regulation 171, heading

This item amends the title of regulation 171 by omitting the word “general” from “general qualifications”. This amendment clarifies that regulation 171 requires a person to have a certificate that demonstrates the person has competencies relevant to the type of general diving work to be carried out, rather than a general qualification relevant to all types of diving work.

Item [3] Regulation 171(2)

This item amends regulation 171(2) by replacing the words “limited diving work” with the words “limited scientific diving work”. This amendment corrects an accidental omission of the word “scientific”.

Item [4] Regulation 171(3)

This item amends regulation 171(3) by omitting the words “AS/NZ 4005.2: 2000 (Training and certification of recreational divers) or”. Recreational diving standard AS/NZ 4005.2 has been withdrawn by Standards Australia. In the absence of a clear equivalent, the relevant competencies for general diving work are specified in AZ/NZS 2815 (Training and certification of occupational divers).

Item [5] Regulation 171A, heading

This item amends regulation 171A by omitting the word “additional” from the title of regulation 171A, to reflect that regulation 171A requires that all persons carrying out general diving work must have acquired certain knowledge and skill.

Item [6] Regulation 171A(1)

This item amends sub-regulation 171A(1) by replacing the words “In addition to regulation 171, a person”, with the words “A person”. Sub-regulation 171A(1) requires that all persons carrying out general diving work must have acquired certain knowledge and skill. This amendment clarifies that the knowledge and skill is not always additional to the qualification requirement for general diving work in regulation 171(1).

Item [7] Regulation 171A(2)

This item omits existing sub-regulation 171A(2). The wording of existing regulation 171A(2) exempted incidental diving work and limited scientific diving work from the knowledge and skill requirement in regulation 171A(1). This was an error and inconsistent with regulations 172 and 173, which specifically apply the requirements in regulation 171A to incidental diving work and limited scientific diving work.

Item [8] Regulation 173

This item omits and replaces regulation 173. Sub-regulation 173(1)(a) requires that a person must not carry out limited scientific diving work unless they have 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). Non-resident divers undertaking limited scientific diving work must also satisfy the competency requirements set out in sub-regulation 173(1)(b). This amendment clarifies the requirement for non-resident divers to have additional diving experience.

Item [9] Regulation 183

This item updates diving standards for high risk diving work by replacing references to “AS/NZS 2299.1:2007 - *Occupational diving operations*” with the most up-to-date standard “AS/NZS 2299.1:2015 - *Occupational diving operations*”.

Item [10] Regulation 184

This item updates diving standards for high risk diving work by replacing references to “AS/NZS 2299.1:2007 - *Occupational diving operations*” with the most up-to-date standard “AS/NZS 2299.1:2015 - *Occupational diving operations*”.